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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE
EUROPEAN PARLIAMENT AND THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE**

on a Customs response to latest trends in Counterfeiting and piracy

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1. INTRODUCTION

The health and safety of EU citizens, their jobs, Community competitiveness, trade and investment in research and innovation are all under increasing threat from the industrialised production of fakes.

This Communication sets out an assessment of the present situation, based on an analysis of the most recent EU Customs experience in attempting to stem the flow of fakes in international trade. It also presents a number of concrete initiatives which together form an Action Plan to improve the implementation of anti-counterfeiting policy and legislation, in particular through customs actions.

The Communication details the growth in this traffic as evidenced by the **1000% increase in counterfeit seizures** made by EU customs between 1998 and 2004. These **seizures amount to over 100 million articles annually**¹ but still represent only the tip of the fake iceberg. In addition to the impact on jobs, health, safety and competitiveness, much of this traffic is sold on the black market which means major losses in tax revenues. The fake industry also leads to unlawful employment and is reported to have links to illegal immigration and to trans-national organised crime.

One of the most alarming dimensions of this phenomenon is the increased **risk faced by EU citizens as a result of the growth in dangerous fake goods such as medicines, car parts and foodstuffs**. Twenty years ago, studies indicated that 7 out of 10 firms affected by counterfeiting were in the luxury sector. **In 2004 more than 4.4 million fake foodstuffs and alcoholic drinks were seized at Community borders** (an increase of 196% over the previous year) whilst less than 2% of articles seized by Customs were luxury goods.

In order to substantially reduce global trade in pirated and counterfeit goods, and combat the trans-national networks involved in this trade, counter-measures are required at the national, community and international levels.

A number of Community legal instruments have been adopted and other relevant initiatives and developments already exist in order to combat counterfeiting and piracy.

In the Customs area, the most relevant instruments are Council Regulation (EC) No 1383/2003 of 22 July 2003² concerning customs action against goods suspected of infringing intellectual property rights and the measures to be taken against goods found to have infringed such rights and its implementing regulation, Commission Regulation (EC) No 1891/2004 of 21 October 2004³.

In the Internal market domain there are Directive 2004/48/EC of the European Parliament and Council of 29 April 2004⁴ on the enforcement of intellectual property rights (the so-called Enforcement Directive) and the recently adopted Commission proposals aimed at

¹ Annual EU customs seizures are estimated at between €1 and 2 billion per annum.

² OJ L 196 of 2.8.2003.

³ OJ L 328 of 30.10.2004.

⁴ OJ L 195 of 2.6.2004.

strengthening criminal measures to combat counterfeiting⁵. The Commission also adopted in November 2004 an Intellectual Property Rights (IPR) Enforcement Strategy towards third countries.⁶

However, as explained in Section 3 below, more can be done to improve the fight against counterfeiting and piracy in the customs field.

2. ASSESSMENT - A GROWING PROBLEM

2.1 Customs seizures suggest an increasing and diversified problem

In Davos, Switzerland, in 2003, global business leaders and Government representatives called for "*a massive global effort to combat counterfeiting, now estimated to equal more than 450 billion dollars annually*". Improving border controls was considered to be of key importance.

Already in 1998, according to OECD studies, counterfeits accounted for 5 to 7% of world trade. In the same year, the customs administrations seized around 10 million counterfeit and pirated goods at the EU's external borders. In 2004, EU customs have seized more than 103 million fake goods, a 1000% increase.

Whilst the true extent of the counterfeiting phenomenon is by its very nature impossible to calculate with accuracy, detailed EU Customs' statistics on seizures of fakes do offer a possibility to monitor changing developments in this sector. The reports which Member States' customs administrations transmit to the Commission under Commission Regulation (EC) No 1891/2004 of 21 October 2004 on their interception of fakes at Community borders provide a fairly accurate indication of changing patterns in counterfeiting and piracy in international trade.

It should be noted that the following assessment of the nature and scale of the problem constitutes the annual report by the Commission envisaged in Article 23 of Council Regulation (EC) No 1383/2003.

Annex 1 contains a comparative summary of the global figures for recent years. This summary indicates both the number of articles stopped and the number of cases treated by customs.⁷

A detailed analysis of the EU Customs seizure statistics over the last 5 years shows the following:

⁵ See COM (2005) 276 final, "Proposal for a European Parliament and Council Directive on criminal measures aimed at ensuring the enforcement of intellectual property rights" and "Proposal for a Council Framework Decision to strengthen the criminal law framework to combat intellectual property offences".

⁶ OJ C129 of 26.5.2005,p.3.

⁷ Full details appear on Taxation and Customs Union Directorate-General website.

Quantitative changes:

- Seizures have **increased** by **1000 %** in that period
- Customs now seize more than **100 million articles** per year
- **Asia, China** in particular, is the major producing region
- From 2003 to 2004, the **number of customs cases** involving fakes more than **doubled** to 22 000 cases annually
- Increasing problems linked to the **need for an environmentally-friendly destruction** of large quantities of seized goods

Qualitative changes

- Large increase in fake goods which are **dangerous to health and safety**
- Most products seized are now **household items** rather than luxury goods
- Growing numbers of **sophisticated hi-tech products**
- Production is on an **industrialised scale**
- High quality of fakes often makes identification impossible without technical expertise

In 2004, in addition to the usual types of products retained by customs (such as luxury items, cigarettes, DVDs, CDs, textile goods etc.), fake goods seized by customs at EU borders included: mineral water, jam, mobile phones, coffee, apples, face creams, flowers, car parts, washing powder, pharmaceuticals, razors, toothpaste and brushes etc.

The quality of these fakes is now so good – the copies may have additional security holograms, better packing, etc., than the originals – that it is becoming increasingly difficult for customs authorities and even rightholders themselves to distinguish the real from the fake.

2.2 Reasons for the large increase in trade in fakes

The reasons for this explosion stem essentially from **the high profits and comparatively low risks involved**, particularly when it comes to penalties in some countries, and from a general global growth in industrialised capacity to produce high quality items.

Fake DVDs are a good example: profits are higher than for an equivalent weight in soft drugs whilst the penalties if detected are much lower. Cigarettes are another good example: if a counterfeiter manages to introduce one consignment in 10 of his containers of fake cigarettes, he will still make a successful return on his investment. Counterfeiting on this scale also provides criminals with a useful means of laundering their criminal proceeds.

Increasingly sophisticated industrial production capacity in certain countries (notably China) has provided the fake industry with a massive opportunity. Seizures of fake computer parts, inkjet cartridges, mobile phones and car parts demonstrate the growing capacity to copy anything.

Even where countries have made efforts (such as new laws) to stem production, they find themselves hampered by difficulties in controlling industries which can switch production rapidly and where there may be local enforcement weaknesses.

These trends have been reinforced by the **growing interest of organised crime in taking a share of these high profits**. Consignments often contain not only counterfeit products but also other illegal goods such as illicit drugs. Terrorist groups have also been linked to counterfeiting initiatives.

2.3 New threats

Counterfeiting and piracy are widely reported as **a threat to investment and jobs** in our knowledge-based economies as well as harming the cultural heritage of many countries.

However, because of increasingly industrialised production linked to ruthless operatives we are now also faced with **serious public health and security risks**.

Recent Customs seizures of dangerous goods include counterfeit pharmaceuticals, often on route to least developed areas. Seized fake foodstuffs, washing powder, unsafe toys are other indicators of the need to step up our counter-measures and ensure an effective implementation of the legislation.

The growth in industrialised production of fakes also increases the risk of **serious tax losses** to governments in both producing and consumer countries as counterfeiters operate almost entirely in the black economy. Annual VAT losses in the United Kingdom alone resulting from fakes have been estimated at €2.5 billion per year by the business community.

Some fakes discovered by Customs pose other serious risks to society: examples include false or blank passports, identity cards, marriage certificates, driving licences etc. which may be used to support illegal immigration or threaten security.

Transshipment is of growing concern because fraudsters break routes to disguise the origin of the goods. Countries generally regarded as low risk by Customs, such as Japan and USA, are becoming higher risk due to transit and transshipment traffic in fakes. A seizure in 2004 showed that fake car mechanisms entered the Community from the US although the goods were in reality of Chinese origin. Cases have also occurred where the Community itself is used to disguise the origin of goods (e.g. fake medicines from Asia transhipped through the EU on route to Africa).

Internet sales are an increasing problem. More than 30% of the postal seizures made by customs in 2004 were internet related. The small quantities involved make the use of the simple and low cost destruction procedures now permitted under Article 11 of Council Regulation (EC) No. 1383/2003 of increasing significance.

3. RECOMMENDATIONS – AN ACTION PLAN FOR AN EFFICIENT CUSTOMS RESPONSE TO COUNTERFEITING AND PIRACY

Customs prime role in stopping the international movement of fake goods is shown by the fact that they are responsible for approximately 70% of all seizures of fake products made globally. Customs are also the only enforcement agency assigned with a specific mission under the World Trade Organisation's Trade Related Intellectual Property Rights Agreement (TRIPS Agreement).

However, despite this situation, it is clear that Customs can do more. A more far-reaching and comprehensive approach is required if the problem is going to be kept under control. In particular, it is necessary to look beyond seizures towards investigations to cut off production, distribution and sale of counterfeit items. Co-operation with other actors needs to be enhanced. Whilst this Communication focuses primarily on operational co-operation, in particular with business and customs authorities in third countries, it is also important not to lose sight of the need for close co-operation between law enforcement authorities.

It is important that any comprehensive approach is based on practical measures which can be enforced. Business has shown its willingness to support such concrete customs initiatives.

Actions are considered necessary in 3 key areas: increasing Community level protection, improving the Customs-business partnership and reinforcing international co-operation⁸. The following section looks into those areas and provides a series of recommendations. These, if agreed at political level, would together form an **action plan** whose implementation and impact could be monitored and evaluated by the Commission.

3.1 Increasing Community level protection

There is a strong need to reinforce protection against products posing a risk to the health and security of the EU consumer (fake pharmaceuticals, car parts, foodstuffs etc.) or likely to involve organised crime (cigarettes, alcohol, DVDs etc.).

To do this, it is necessary first of all to improve customs controls on inbound traffic beginning by an examination of the adequacy of the existing legal and operational measures in place and recommending changes where necessary.

3.1.1 Legislation

In the Community, Customs have powers which go well beyond the minimum controls on imports as set out in the TRIPS Agreement, and can stop suspected fakes during import, export, transit or transshipment. In 2004 Customs in the Community made approximately 22000 interventions which resulted in seizures of fake goods (in 2003 the corresponding figure was 10,000).

At the Community level, Customs have worked since 1986 to counter IPR infringements under various legislative instruments. The situation changed significantly with the new Community Customs legislation (Council Regulation (EC) No. 1383/2003) which entered

⁸ Certain actions may be financed under the Customs 2007 programme.

into force on 1 July 2004. This new legislation introduced controls in sectors not previously covered (such as plant variety rights, designation of origin and geographical indications), simplified procedures, reduced business costs and provided the possibility for Member States to allow fake goods to be destroyed with minimum bureaucracy.

EU Customs legislation in this area is now reckoned to be among the strongest in the world (China has now adopted new legislation of a similar type) and is reflected in the fact that Member States' Customs administrations seize considerably more counterfeit goods than is the case elsewhere. With controls on all movements of goods, especially during transshipment, customs protect not only the EU but also other parts of the world and in particular the least developed countries which are often targeted by fraudsters (cf. seizures of fake medicines, condoms and car parts stopped at EU borders on route to Africa).

The completion of the protection of IPR for internationally traded goods will be complemented by similar Community protection for fakes produced and remaining in the Community when the Enforcement Directive adopted in 2004 is implemented in 2006. This Directive, coupled with proposed measures in the criminal law area to strengthen enforcement of intellectual property rights and combat offences, would provide a fairly complete armoury of weapons to tackle this issue within the Community.

IPR is a fast moving sector and **legislators and business need to work together to ensure that legislation continues to meet present and future requirements** and can be adapted quickly where problems arise.

In this context, business is still raising two particular concerns. Firstly, economic operators want Member States to quickly introduce the simplified destruction procedures now allowed under Community law which would reduce costs to business and public administrations alike. The second concern relates to the existing possibility for travellers to import low volume personal use items which may be counterfeit. The business side accepts that Customs cannot tackle every individual case but feels that the legislation sends out the wrong signal and appears to condone counterfeiting. A further legislative concern relates to the attribution of costs, where business considers that more of the onus should be placed on the wrongdoer rather than on the right-holder.

Action points:

Two key issues need to be addressed: low value consignments and simplified destruction procedures.

A business-Customs working group should be created to examine how the treatment of these issues can be improved in practice.

In the light of the group's deliberations, the Commission would report on the need for legislative amendments or other practical proposals to improve the situation.

Target date for group meetings: End 2005.

Target date for report: June 2006.

3.1.2 Improving operational performance

Even more important than updating legislation is **the need to ensure that operational capacity is of a consistent and sufficiently high level.**

Customs have the dual role of facilitating international exchanges whilst applying controls to stop illicit traffic. To do this it is necessary to improve controls further via the use of new instruments and techniques.

There have been many operational initiatives in recent years which have led to good results in terms of increased Customs seizures of counterfeit goods.

The use of operational seminars to bring Customs and business together to examine latest developments and exchange enforcement information are a welcome move to increase co-operation. Similarly the exchange of operational officials and joint operations between Member States are significant steps towards strong enforcement co-operation.

These actions need to be further developed and brought together in a **new operational control plan** based on a Community approach to risk management and using Member States' expertise to spread best practices both in the Community and outside.

One key problem is how to move from the present situation, where seizures are growing but not enough is done to investigate and cut off production and distribution networks, to a situation where the root of the problem is attacked.

Action points:

1. Greater use of risk management

With the recent amendment of the Community Customs Code⁹ putting a greater emphasis on Community risk management, the counterfeit sector is a good candidate to start piloting a Community approach. The completion of a specific **anti-counterfeiting Risk management guide** is the first action to be accomplished.

The guide should be used in practice. This could be done by distributing the guide to risk management centres and via the sharing of risk experience between closed user groups of counterfeit experts. This would enable real time risk information to be exchanged between experts via the new Community Risk management system.¹⁰

Target date for Risk management guide: January 2006.

Target date for creation of Closed user Groups on RIF: January 2006.

2. Establishing a Task Force of Member States Customs experts to improve anti-counterfeiting controls.

Such a Task Force¹⁰ would consist of anti-counterfeiting customs specialists from Member States working together with other Member States experts, notably by monitoring the situation and providing

⁹ Regulation (EC) No 648/2005, OJ L 117 of 4.5.2005, p. 13.

¹⁰ Funded under the Customs 2007 programme.

short term assistance by sharing know-how and practical expertise. Business could be involved in this work as appropriate.

Target date for first actions: October 2005

3. Joint operational controls

Targeted joint customs operations or regional operations on counterfeiting should be carried out as necessary under the co-ordination and with the support of the Commission. This would consist of specific actions to target controls for a limited period on specific counterfeiting issues (high risks areas or goods).

Some third countries for which an EU mutual administrative assistance agreement (or protocol) in customs matters is entered into force should be invited, if necessary, to participate in such joint customs operations

Target date: during 2006

4. Operational Customs/Business seminars

These seminars have previously been extremely successful. Seizures have increased after each event due to more focussed controls. They have also enhanced co-operation between different national authorities and different actors. To be supplemented by training, benchmarking and exchanges as appropriate.

Target date: Ongoing

5. Use of customs laboratories

Little information is available on most of the dangerous products being discovered, the possibility of using Customs or other government laboratories to check unsafe counterfeit products should be examined. A small study group¹¹ of Member States' experts should report on the benefits and practicality (including costs) of doing this.

Target date: during 2006

6. Customs Information System

The maximized use of the European Union's Customs Information System (CIS), which enables the national customs services of MS to exchange, search upon and disseminate information on smuggling activities and requests for action (sighting, reporting, discreet surveillance or specific checks), should be also promoted in the fight against piracy and counterfeiting.

This will increase the impact of controls, and in particular help cut off distribution networks, by ensuring that when suspected consignments are stopped in one Member State specific actions (sighting, reporting, discreet surveillance or specific checks) can be taken in other Member States to counter this traffic. This could be of particular significance for the growing internet related traffic.

Recourse to Council Regulation (EC) No 515/97 of 13 March 1997, on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, in this

¹¹ Funded under the Customs 2007 programme.

respect will be important to reinforce mutual assistance between the Member States and between the Member States and the Commission

Target date: during 2006

3.2 Improving the Customs-business partnership

It is important to recall that counterfeit goods are treated differently from other goods dealt with under general Customs controls. Customs do not seize goods directly but usually detain goods to allow business to take the necessary action with the competent authorities. This is done on the basis of business firstly requesting action by customs on a special application form. Business involvement is necessary as only rightholders have the technical expertise to distinguish today's high quality fakes from the original product. Business also takes responsibility if consignments are stopped without due justification.

This makes full business involvement indispensable to ensure effective customs enforcement.

Control authorities need to do more with business, whilst business has to provide sufficient information to protect its rights. The main effort business needs to make is to lodge applications for action with Customs,¹² without which Customs have little chance or incentive to help right holders effectively.

Improving early information exchange between business and Customs is also crucial. However, it is important to ensure that public money is not spent on developing sophisticated or costly systems for exchanging information (which may well not be useful to front line customs) that business could do more cheaply and effectively, particularly when it comes to keeping systems up to date.

In this context, a practical and cost-effective solution could be envisaged in the form of an **EU IPR electronic information system** bringing together the existing tools for customs to exchange risk information with the possibility for customs to access via hyperlinks the various specific Intellectual property databases (such as the Office for Harmonisation in the Internal Market – OHIM). This would save resources and improve controls by enabling customs to identify and contact rightholders where suspect goods are encountered at the frontier.

Action points

1. Business should adopt a more pro-active approach

Encourage business to lodge applications for action with Customs, in particular SMEs.

A number of businesses (e.g. Mercedes, LVMH, Panasonic, Gillette, Nike, Lacoste and BIC) have developed quick reference guides for customs. This approach should be encouraged via regular Customs/Business exchanges used to examine new problem areas.

Target date: Ongoing.

¹² This procedure is foreseen in the Community legislation and gives Customs the power and information to stop suspect fakes.

2. Widening the Business-Customs partnership

Signing memoranda of understanding with major trade representatives, airlines, shipping companies, express carriers etc. would encourage co-operation and improve controls via better information exchange and a broader awareness of the risks posed by the traffic in fakes.

Target date: During 2006

3. Improving Customs – Right holders contacts

Identifying the right holder in the case of a consignment of counterfeit goods is not an easy task for Customs. The difficulties SMEs face in lodging applications for customs action in the 25 Member States contributes to this problem. An EU IPR information system, which combines the possibilities offered by the Community customs risk management systems for customs to exchange risk information on counterfeiting with the possibility for Customs to access listings of companies, key products and contacts via the internet, would encourage Customs to take actions and enable more businesses to benefit from Customs protection.

A Customs – business working group should be established to develop a framework for such a system.

Target date: Meetings 2nd half 2005. Basic system in place end 2006.

4. Business express information system

A system should be created which enables business to provide information on cases of immediate significance. This is a particular problem for SMEs. A possibility of a central **electronic mailbox** monitored by an anti-counterfeiting specialist would enable these requests to be checked and, where justified, transmitted via the Community Risk Management system to anti-counterfeiting specialists in Member States and also to major ports/airports/land frontiers. This would operate in real time.

Target date: 2006.

5. Specific actions with sensitive business sectors

Specific initiatives should be undertaken in high risk sectors for public health (pharmaceuticals, toys etc.) but also in sectors where tax losses are particularly damaging.

Target date: Ongoing.

6. Raising awareness and publicity actions

Raising awareness both of business about Customs actions and of the public on the threat to health, jobs and society as a whole is extremely important. This could be done via campaigns at major border points (particularly international airports), the use of road-shows, exhibitions in Customs museums, or the dissemination of information to consumers, etc.

Target date: Ongoing

3.3 Reinforcing international co-operation

In addition to stepping up EU controls against imported counterfeits, which will only ever be a means of stopping consignments or tackling individual criminal sectors, it is necessary to act at the source of the problem by, at the very least, stopping the export of counterfeit goods

and, where possible, by shutting down the production. This requires international co-operation.

Whilst the TRIPS minimum standards for IPR protection provides for controls on imports by Customs, EU Customs experience shows that more needs to be done.

Firstly, one of the best means of **stopping goods before they leave producing countries** (including preventing fake traffickers from using safe regions like the EU, Japan or the US to mask the real origin of the goods), is to introduce **widespread export and transshipment controls**.

Secondly, it is also necessary to ensure that Customs Co-operation Agreements (or protocols in broader international agreements), which enable close co-operation with partner administrations and provide suitable legal coverage for bilateral actions, are fully exploited and expanded to cover regions where production is significant. The signing in April 2005 of the Customs Co-operation Agreement with China (responsible for the majority of all fakes seized by EU customs) is particularly important in this respect.

Action points

1. Enhancement of the WTO TRIPS Agreement

The growth in seizures of fakes during customs transshipments, have demonstrated for some time that there is a need to consider enhancing Article 51 of the TRIPS Agreement¹³. This would consist in extending the present obligation for countries to apply customs anti-counterfeiting controls on imports to cover also controls on export, transit and transshipment movements¹⁴. Consideration could also be given in due course to the extension of the scope of Article 51 to include infringements of certain other Intellectual Property rights.

Target date: dependent upon WTO negotiations.

2. Co-operation with the World Customs Organisation (WCO), Europol and Interpol

Many of the lessons learned at Community level on risk management and the use of seizure statistics could be of interest globally. Close, active co-operation with the most involved international enforcement bodies such as the WCO, Europol and Interpol could be used to both pick up international trends and help spread the EU's practical approach to a broader audience. Spreading the EU's expertise in risk management in this sector would be of particular benefit to interested parties.

¹³ TRIPS article 51 reads: "Suspension of Release by Customs Authorities" Members shall, in conformity with the provisions set out below, adopt procedures to enable a right holder, who has valid grounds for suspending that the importation of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods. Members may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of this Section are met. Members may also provide for corresponding procedures concerning the suspension by the Customs authorities of the release of infringing goods destined for exportation from their territories.

¹⁴ The Commission has already introduced this question before the TRIPs Council in June 2005, when it presented a Communication on the enforcement of Intellectual Property rights which stated in the Chapter describing the expected results that "among the issues that should be given special attention by the TRIPs Council should be...the customs measures and their availability for export and transit" (para.26 of Commission Communication IP/C/W/448).

Target date: 2005/2006

3. Bilateral arrangements

It is necessary to share the practical tools (risk management guide, statistics, trends analysis etc.) developed in the EU with the EU's trading partners in order to tackle counterfeiting in key problem areas. Customs Co-operation Agreements and Partnership and Co-operation Agreements with a Mutual assistance component provide a legal basis to co-operate and exchange information.

Examples of such co-operation include training, the exchange of officials, sharing expertise and latest trend information.

Customs Co-operation Agreement should be envisaged or are being negotiated with countries or organisations such as India, Japan, members of ASEAN¹⁵, Mercosur and Pakistan.

In addition, the Commission will seek to include in the IPR chapter of future bilateral arrangements a commitment for the parties to apply customs controls not only on imports but also on exports, transit and transshipment of goods infringing certain Intellectual Property rights.

Target date: ongoing

4. Specific actions in relation to China

Chinese exports make the majority of all EU seizures of fakes and this figure is likely to increase rapidly given China's rate of development. China is also of interest for other customs reasons (known source of ecstasy precursors to Europe, of unsafe foodstuffs, fireworks etc.). China has adopted a strong anti-counterfeiting customs legislation and it will be necessary to work together to promote legitimate trade whilst stopping the burgeoning fake traffic. The recent Customs Co-operation Agreement between the EC and China provides the legal framework for in-depth co-operation.

In addition to exchanging officials and expertise, a specific information system through which the EU and China can exchange information to help stop illegal traffic and close down production would be a major practical step to reduce the international flow of fakes. If successful this approach could be extended to other key trading partners.

Target date: 2006.

5. International partners for major actions

The recent EU/US Summit declaration shows the clear intent of the US and the EU to work together to combat counterfeiting and piracy. Taking this forward in practice implies fostering exchange of customs expertise and information under the existing EC-US Customs Co-operation Agreement. It would also be desirable to see where the EU could join forces with other partners.

Target date: 2005/2006

¹⁵ Association of South East Asian Nations.

6. Stationing of Customs officials in main source regions

The level of counterfeiting and the need to stop production at source makes the stationing of Customs anti-counterfeiting specialists in key regions, such as the Asian region, an increasingly cost-effective investment. A direct customs-to-customs interface would bring increased results based on common experience and understanding. This point should be examined by the Commission and the Member States.

Target date: 2006 and beyond.

4. CONCLUSION

The steep rise in EU Customs' seizures shows that counterfeiting is a dangerous and growing phenomenon. Combating this requires political support and concrete actions to protect the EU and its citizens from unfair trade and dangerous products.

As international trade increases, notably from the Asian region, where growth in production in China is particularly significant, the EU is faced with a potential avalanche of increasingly high quality fake goods. The trade combines extremely high profits with comparatively low risks, which makes it particularly attractive to criminal organisations and even terrorists. If the EU does not act strongly, quickly and appropriately it will soon be too late to effectively tackle this serious threat to jobs, health and a safe society in the EU.

The rapid implementation of the package of recommendations presented in section 3 of this Communication would greatly strengthen the anti-counterfeiting controls carried out by Customs in the Community and improve combined international efforts to combat this global threat.

Given the urgent and growing problem faced, this Communication is focused on the main areas requiring immediate attention. However, further actions should also be carried out where appropriate (including information dissemination on Customs measures to all applicants for Community trademarks, possible use of customs expertise to assist in intra-Community spot checks, enhanced co-operation with the Office for Harmonisation in the Internal Market – OHIM).

The proposed Action Plan is realistic: with the necessary political support, most of its actions are achievable in the near future.

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ANNEX

Counterfeit products seized by Customs

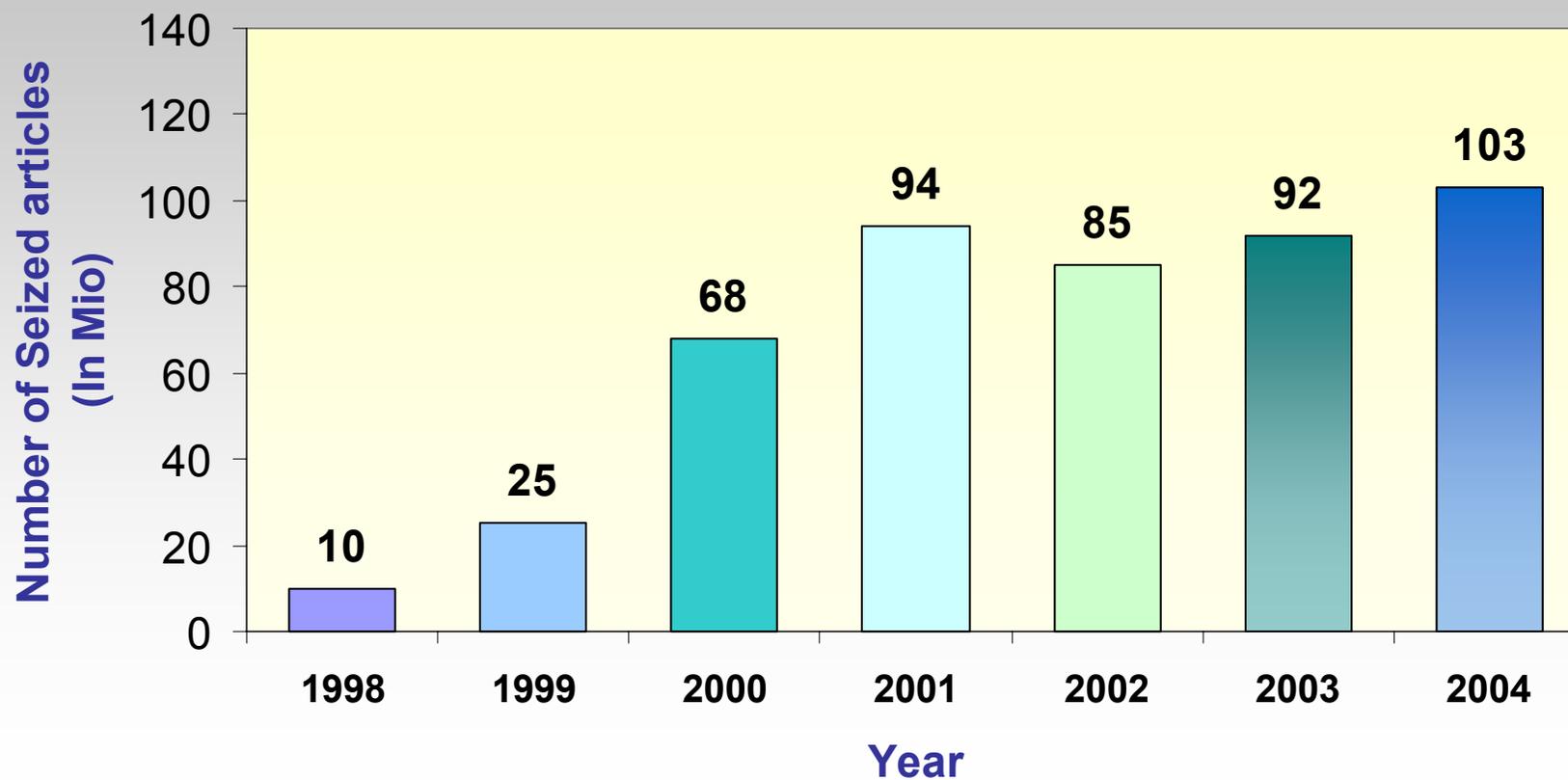
- Breakdown by number of cases registered and articles seized by type of product – EU 2004
- Evolution of the number of articles seized between 1998 – 2004
- Evolution of the number of application for action received by Customs Authorities (2000-2004)
- Percentage of Articles seized in 2003 by source country
- Percentage of Customs cases by source country in 2003

EU - 2004

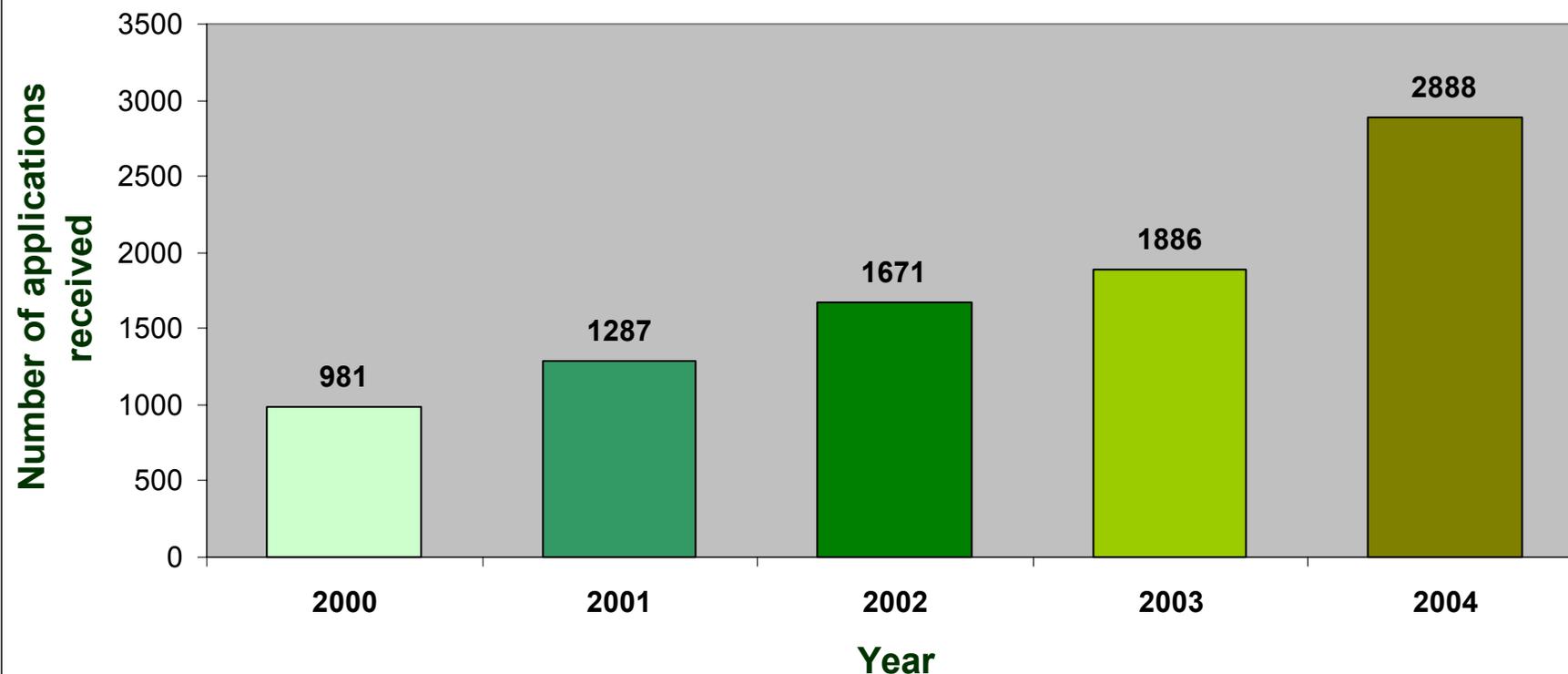
Breakdown by number of cases registered and articles seized by type of product

Product type	Number of cases registered by Customs	%	Number of articles seized	%	Comparison 2003-2004 of the number of articles
Foodstuffs, alcoholic and other drinks	52	0,5	4,5 millions	4	+ 196%
Perfumes and cosmetics	214	1	1 million	1	- 22%
Clothing and accessories	13.958	62	8 millions	8	+ 102%
a) Sportswear	3.906	17	1 million	1	+ 140%
b) Other clothing (ready-to-wear,...)	4.704	21	2 millions	2	+ 26%
c) Clothing accessories	5.348	24	5 millions	5	+ 146%
Electrical equipment	848	4	4 millions	4	+ 712%
Computer equipment (computers, screens...)	125	1	1 million	1	+ 900%
CD (audio, games, software, DVD etc.)	2.781	12,5	18 millions	18	- 57%
Watches and jewellery	2.230	10	0,5 million	1	- 20%
Toys and games	516	2	18 millions	17	+ 46%
Other goods	1.347	6	10 millions	6	+ 58%
Cigarettes	313	1	38 millions	40	+ 14%
TOTAL EU	22.384	100	103 millions	100	+ 12%

Evolution of the number of articles seized between 1998 - 2004

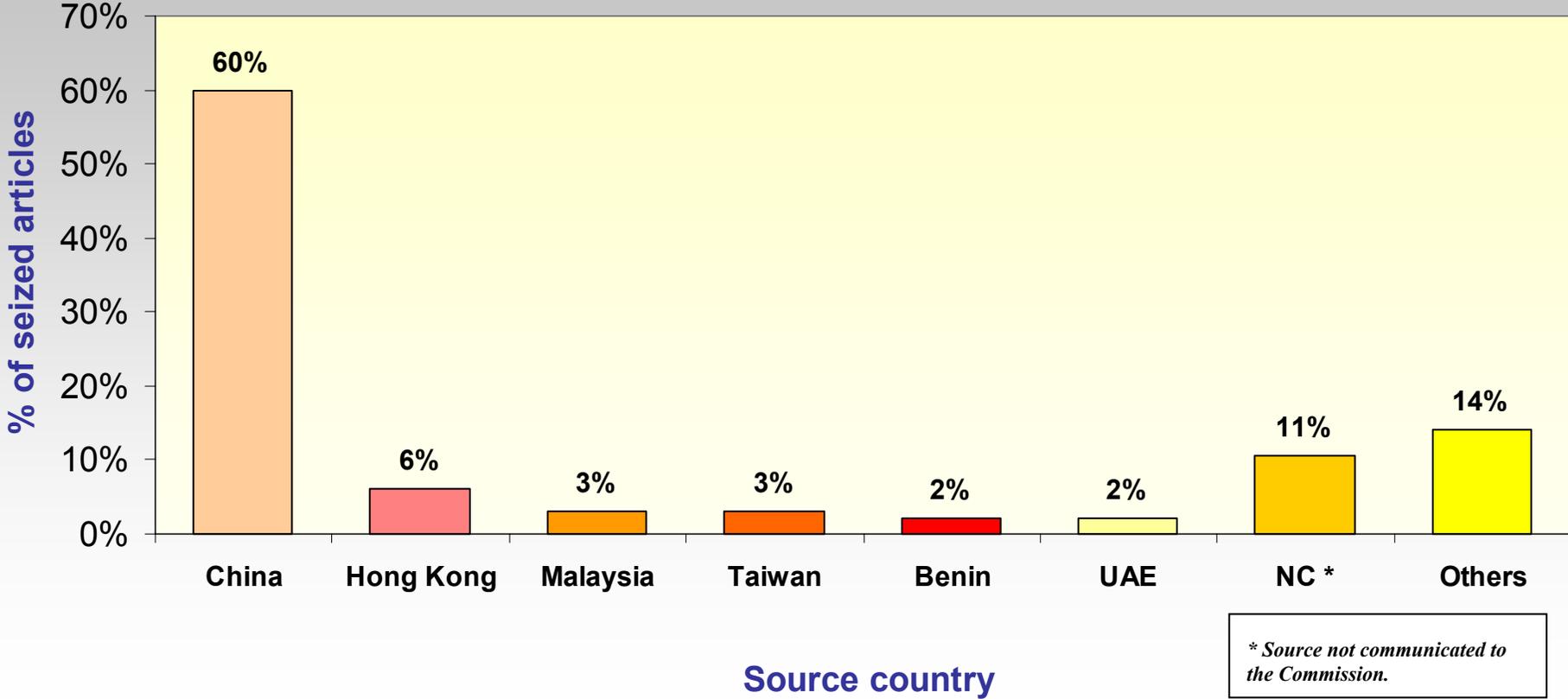


Evolution of the number of applications for action received by Customs authorities - 2000/2004

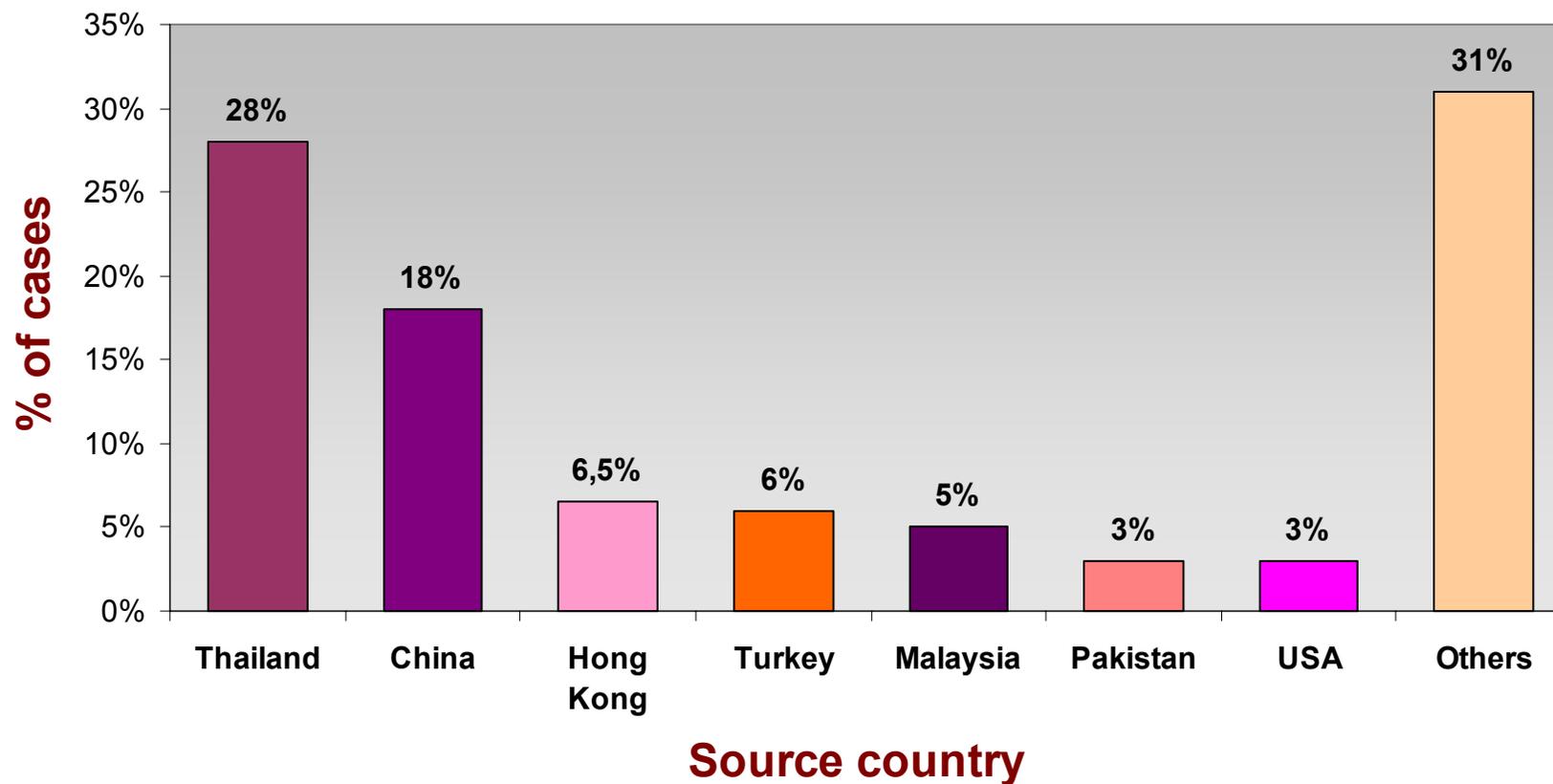


NOTE: By introducing an Application for Action the rightholder requests Customs to control any goods suspected of infringing their Intellectual Property Rights

**Percentage of Articles seized in 2003
by source country**



Percentage of Customs cases by source country in 2003



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