

Chapter 4. Conclusions

Lessons learnt

World trade continues to expand, bringing significant benefits to business and consumers alike, providing them with opportunities to purchase a wide variety of goods at competitive prices. In the case of business, the development of global value chains has further enhanced the value of trade. Low-cost ocean freight has been an important factor in trade growth, but air transport has also been significant, providing a means to move goods quickly, albeit at higher cost.

The liberalisation of trade and efforts to lower barriers through initiatives taken at the WCO, the WTO and elsewhere in support of trade facilitation have strengthened the trade regime, to the advantage of businesses of all sizes. The large and growing role of free trade zones as transport hubs and centres of economic activity have also been important, providing a cost-effective means for business to handle goods in transit.

The liberalisation of trade has also opened up opportunities for organised crime and other criminal actors to pursue lucrative illicit activities, including the movement of prohibited goods across borders. Illicit trade in arms, tobacco, wildlife and counterfeit products have flourished. The magnitude and scope of the problem have captured the attention of governments and many initiatives have been taken to combat illicit trade. Although progress has been made, criminal elements have been quick to adapt to changing circumstances, finding new ways to elude detection and restriction of their illegal activities.

One of the areas that has garnered increased attention in recent years has been the use by counterfeiters and other illicit traders of small shipments. While counterfeits trafficked by container ships clearly dominate in terms of value, trafficking of fakes by small parcels is growing and dominate in terms of number of seizures. The small parcels tend to be shipped through postal or express services. The growth in use of small parcels reflects efforts by counterfeiters to address some of the shortcomings for trade in counterfeit goods related to the ocean freight. While the risk of detection may be low in ocean freight, when seizures occur, losses on confiscated cargoes could be large. Small shipments, however, provide a means for counterfeiters to lower the potential losses that result from seizures. Even more importantly, the ability to avoid detection may be considerably higher, even though the aggregated cost of shipment per item shipped is likely to be higher for post than for ocean freight.

The attractiveness of small shipments for counterfeiters has increased over time, benefitting from the explosive growth in e-commerce, and the accompanying rise in cross-border transactions by business and, even more importantly, consumers. The sharp increase in items shipped directly to consumers by parcel post or letter packets has in effect ballooned, flooding the market with a growing number of items. The small shipments are handled primarily through postal means and express mail companies.

The challenges posed by the growing volume of items have been huge for the customs authorities responsible for handling items as they cross borders, and much attention has been paid internationally, at the WCO and elsewhere. The information that has been traditionally available, for example through ship manifests, and the supporting role of customs brokers are often absent in small volume trade. In the case of small volume trade involving postal authorities, for example, only simplified documentation has traditionally been required when items are sent. The information contained on the documents is certified by the sender and is not typically verified, creating broad scope for both errors as well as fraud.

The information has generally been provided in paper form; it has thus not been available electronically and, in any case, has been only generally available to customs authorities in destination countries, at the time the item arrives. This has created a dilemma for customs, as they have had to balance the need for expedited processing of imports, with the need for properly assessing duties and monitoring imports with a view towards countering counterfeit and other illicit trade. A close review of imports would necessarily cause delays that would not be acceptable, and, given the difficulty in identifying counterfeit items, their low value (if contained in parcels or packets) and the relatively small share that they are likely to represent in total trade, would not be cost-effective. Efforts are being made to enhance the use of electronic forms in the post, with a view towards providing such information to customs in destination countries in advance of arrival of shipments. This would facilitate risk assessment, which relies critically on data and other information to be successful. Problems associated with incomplete, misleading, incorrect or fraudulent information, however, would remain.

The situation with express companies is better, as the companies involved generally provide door-to-door services that are tracked and traced electronically. In these cases, other information, on the shipper, product and recipient, are collected electronically, providing a potentially rich data source that, if available to customs authorities, would greatly assist in risk assessment. Co-operation in this area has advanced as express service providers and customs are working together to improve data and information exchanges, but it appears that there is considerable scope for improvement in this regard as there are, among other things, privacy issues to be addressed, along with confidentiality concerns. As with postal transactions, there may be issues concerning the quality of the information as it is generally based on that provided by the sender, creating a room for errors and, more importantly, deliberate misrepresentations or fraud.

The attractiveness of small shipments as a vehicle for illicit trade is also affected by the special treatment that many countries have established for low value shipments. Imports valued below *de minimis* levels are not generally subject to tariffs and taxes. The thresholds vary greatly by country, and have, in recent years, been adjusted up or down in different countries, for a variety of reasons. In the United States, the level was increased from USD 200 to USD 800, with a view towards facilitating trade. Australia and the European Union, on the other hand, have reduced or are in the process of reducing the scope of the *de minimis* exemption.

The outlook for addressing issues involving imports of small packages containing counterfeit and other illicit items is challenging. In the case of the United States alone, the number of parcels and packets reached 498 million in 2017, more than 60% of which came in the form of packets. With e-commerce expected to continue to grow rapidly, handling a growing number of potentially mislabelled shipments presents significant challenges.

Risk assessment has been an important tool for customs in combatting illicit trade in counterfeits, but WCO information indicates that routine checks have been the most effective technique. This suggests that there is likely considerable scope for improving risk assessment techniques, as well as for developing other ways to disrupt small-scale trade in counterfeits.

The quantitative analysis provided in this report employs large datasets to provide more detailed and precise information about the scale and magnitude of misuse of small parcels, via express and postal services in illicit trade in fake goods.

This analysis is based primarily on data on customs seizures of counterfeit goods obtained from the World Customs Organization, European Commission's Directorate-General for Taxation and Customs Union and from the US Customs and Border Protection (CBP). These data are complemented with available statistics on international trade in small parcels from the Universal Postal Union (UPU) and from the Eurostat's Comext database (Eurostat, 2018).

The analysis shows that, although fakes shipped in containers clearly dominate in terms of value of seized goods and the number of items, small parcels are on top in terms of number of seizures. Nearly 63% of customs seizures of counterfeit and pirated goods refer to small parcels. It is also important to note that the size of these shipments by mail or express courier tends to be very small. Small packages, with 10 items or less, account for the majority of all counterfeiting seizures.

Regarding the industry-specific patterns, small parcels are commonly used by counterfeiters in virtually all the industry sectors prone to counterfeiting. In some product categories where counterfeiting is a particularly big problem, small parcels are more intensely used, however. For example, 84% of shipments of counterfeit footwear, 77% of fake optical, photographic and medical equipment (mostly sunglasses), and 66% of customs seizures of ICT devices concerned postal parcels or express shipments. This is also the case for more than 63% of customs seizures of counterfeit watches, leather articles and handbags, and jewellery.

Lastly, regarding the economy-specific patterns, the analysis highlights a few provenance economies, where small shipments are misused in the context of trade in fakes. These include the People's Republic of China, Hong Kong (China), India, Singapore, Thailand and Turkey. If some of these key provenance economies, such as the People's Republic of China, India and Thailand, have been identified as potential producers of counterfeit and pirated products, others, such as Hong Kong (China), Singapore and United Arab Emirates have been identified instead as key transit points.

Next steps

The quantitative analysis presented identifies several research areas that might merit further investigation. A more in-depth analysis of these topics could be beneficial for developing efficient enforcement and governance frameworks to counter the risks posed by trade in counterfeit goods:

- As highlighted by the previous OECD/EUIPO studies, closing public governance and enforcement gaps are essential for effective action against illicit trade in counterfeits. Poor governance, corruption and weak intellectual property rights (IPR) enforcement enable counterfeiters to misuse logistics and trade facilities. Interestingly, some important provenance economies, where small parcels are very

intensely used are characterised by seemingly sound governance and good quality infrastructure. It could be useful for policymakers to probe more deeply into why these economies are such important nodes for the trade in fake goods in order to tailor policies accordingly.

- Existing qualitative information suggests that the market for misuse of small parcels is very dynamic. Further investigation into how these dynamics evolve is needed – either at the industry level or through a case-by-case analysis. This investigation could take into account more nuanced aspects of the dynamic changes in industry/economy structure of use of small parcels as well as the interplay between corruption, intellectual property enforcement gaps and the trade in fakes through small parcels.
- More research is needed to clarify the reasons for the declining number of seizures in rail and sea transport, as opposed to the growing number and values of seizures in small parcels (postal and courier). Such research would look at the extent to which this happened due to i) possible changes in transport modes of illicit trade, and ii) changes in operation techniques and the intensity of enforcement services.

Policy makers and the private sector should be concerned about the significant scope of counterfeit trade using small parcels to harm legitimate businesses and economic activity, and to cause damage to the health, safety and security of citizens. It should be addressed by governments as part of their efforts to counter illicit trade. The analysis presented could be used to help develop more effective cooperation between customs authorities, postal and express operators, e-commerce platforms and right holders, in particular by improving mechanisms for collecting and sharing good quality information

References

Eurostat (2018), Easy Comext Database, <http://epp.eurostat.ec.europa.eu/newxtweb/> (accessed on October 18th 2018).



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