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**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT**

**Report on the implementation of the EU customs Action Plan to combat IPR
infringements for the years 2013/2017**

Report on the implementation of the EU Customs Action Plan to Combat Intellectual Property Right Infringements for the Years 2013 to 2017

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INTRODUCTION

The customs administrations of the European Union are competent to detain goods suspected of infringing intellectual property rights (IPR) that are protected by EU and national laws. Customs work in partnership with stakeholders, such as right-holders, other national bodies and institutions responsible for the enforcement and application of Intellectual Property legislation and the European Commission.

A first EU Customs Action Plan to Combat Intellectual Property Rights (IPR) Infringements was endorsed by the Council in 2009¹. The objective was to allow customs to follow a common approach on IPR enforcement and focus their attention on the areas posing the greatest risks.

Recognising the need to provide customs authorities with the necessary tools to address new trends in international trade of goods infringing those rights, the Council adopted in December 2012 a Resolution on an EU Customs Action Plan to combat IPR infringements for the years 2013 to 2017².

This second EU Action Plan contained four strategic objectives:

- Effectively implementing and monitoring the new EU legislation on customs enforcement of IPR.
- Tackling major trends in trade of IPR infringing goods.
- Tackling trade of IPR infringing goods throughout the international supply chain.
- Strengthening cooperation with the European Observatory on infringements of IPRs, which is part of the European Union Intellectual Property Office (EUIPO), and with law enforcement authorities.

The Action Plan invited the Commission, in cooperation with the Member States, to conduct annual reviews of its implementation and to submit to the Council a final report in 2017.

This final report has been prepared by the Commission services in cooperation with Member States customs experts. It follows the general structure of the Action Plan and includes a set of recommendations on how to go forward.

MAIN OUTCOME

¹ 2009/C 71/01 Council Resolution of 16 March 2009 on the EU Customs Action Plan to combat IPR infringements for the years 2009/2012.

² 2013/C 80/01 Council Resolution of 10 December 2012 on the EU Customs Action Plan to combat IPR infringements for the years 2013/2017.

1 - Effectively implementing and monitoring the new EU legislation on customs enforcement of IPR

1.1 Legislation/Developing tools for implementing the new EU Regulation

A new Regulation (EU) No 608/2013 on customs enforcement of IPR was adopted on 12 June 2013³ and entered into application on 1 January 2014.

It was completed by Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013⁴ relating to the forms for right-holders' application for action.

In order to facilitate the implementation of these new pieces of legislation, the Commission developed, together with experts from the Member States and the OHIM/EUIPO, an eLearning course addressing the changes resulting from the new IPR legislation for customs. The course was made available in 2014 on the Commission's Europa website (DG TAXUD page).

An **EU coordinated training plan** was adopted. The Commission closely coordinated this activity with the Observatory on infringements of Intellectual Property Rights, which provided the input on the substantive IP laws in the training modules.

A campaign of **support visits** was conducted between 2015 and 2017 **to all the Member States**. The support visits were the ideal instrument to have an in-depth dialogue with customs departments implementing Regulation (EU) No 608/2013, to clarify possible doubts on practical enforcement, facilitate the exchange of experiences between different Member States and provide the necessary advice.

Each visit was performed by two representatives from the Commission (DG TAXUD) and two experts from the Member States who volunteered to take part in the exercise.

A questionnaire with a standard set of questions was circulated to the Member States ahead of the visit and was used as a basis for discussion. All aspects of Regulation No 608/2013 were covered by the questionnaire and discussed during the visit. A final global report will be drafted after all visits have been completed and will be shared with Member States.

Member States' IPR customs experts highlighted the usefulness of the exercise as an opportunity for experts from different Member States to discuss implementation practices.

At the initiative of the German customs authorities, a **Customs 2020 seminar** was organised in Munich (October 2016) on IPR customs enforcement/ Harmonisation in the process of granting and handling Application for Action (AFA). IPR is a private right enforced by customs authorities, but IPR infringements to it are also a growing threat to the economy,

³ Council Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of Intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29 June 2013, p. 15).

⁴ Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the form provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights (OJ L, 18 December 2016, p. 10).

citizens and security. How to best address such an atypical situation for an enforcement authority and how customs authorities can handle/face liability in certain cases were topics discussed during the two days. The administrative customs enforcement system put in place in the Union via Regulation (EU) No 608/2013 is functioning on the basis of the request the right-holders have to lodge to customs authorities. The entire customs action derives from these AFAs. It is therefore essential that the information contained in the AFAs is of sufficient quality to enable an efficient customs intervention. The strong need to ensure high quality for AFA granted, notably for Union AFA, was at the core of the debate.

A **Commission Notice** was published on 5 July 2016 in the Official Journal and made available on TAXUD's website. It replaces the 2012 "Guidelines of the European Commission concerning the enforcement by EU customs authorities of intellectual property rights with regard to goods, in particular medicines, in transit through the EU". It notably aims at providing guidance and explanations to customs authorities on the implementation of the trade mark provisions for goods not released for free circulation (including in transit), contained in the trade mark reform package (Regulation (EU) No 2015/2424 relating to the EU trade mark and Directive (EU) No 2015/2436 relating to national trade marks).

On 15 May 2017 the Commission adopted a **report to the European Parliament and the Council on the implementation of Council Regulation (EU) No 608/2013 (COM (2017)233 final)**. In its conclusion, the report indicates that Regulation No 608/2013 is functioning satisfactorily. It provides for a wide range of protection and procedures which are correctly used across the 28 Member States.

1.2 Exploiting the full functionality of COPIS

COPIS (anti-Counterfeit and anti-Piracy Information System), the EU database for registering AFAs and disseminating them among customs authorities, registering information on detention cases, and providing a searching function on AFAs and detention cases, entered into application on 1 January 2014. Customs authorities have been progressively adapting to the system, which will continue to be further adapted to respond to administrations' needs.

A **COPIS training** was organised ahead of the entry into application of the system and repeated in autumn 2017 for customs experts from the Member States (targeting both the registration of AFAs as well as the submission of information on detentions).

The European Observatory on infringements of IPR and the Commission have also launched an integration project between the Enforcement Data Base (EDB)⁵ and COPIS that allows right-holders to transmit the information contained in their AFAs electronically to the concerned Member State administrations via the EDB to COPIS (*cf. 4.1- Establishing a partnership with the European Observatory on infringements of IPRs*).

A link between **COPIS and the Anti-Fraud Information System (AFIS)** developed by OLAF is due to be operational by the end of 2017. It will enable an automatic transmission of

⁵ Enforcement Data Base (EDB) : a database developed by the European Observatory on IPR infringements to help law enforcement authorities to recognise counterfeit goods by enabling right holders to securely share with those authorities information on production and logistics.

detention results lodged in COPIS towards AFIS (thus saving the double key-in of detention results linked to IPR by Member State customs authorities).

1.3 Engaging right-holders and stakeholders

To ensure that right-holders and stakeholders were adequately informed about the new EU Regulation, the Commission organised in June 2013 a dedicated meeting with a number of selected stakeholders and representatives of the EU customs administrations to present the new Regulation and discuss practical aspects. The relevant information was also channelled to stakeholders via the EU Observatory on IPR infringement, and during ad-hoc meetings with national federations of right-holders to which the Commission was invited.

The Europa website of the Commission (DG TAXUD) was also updated, and webmasters of the SME helpdesks, TransAtlantic Portals, the European Patent Office and the EUIPO were asked to ensure an easy access to this information via their web portals.

The manual for right-holders was updated and published on TAXUD's website at the beginning of 2014. Many Member State customs authorities have also made available via their national websites the AFA form and the manual for right-holders.

A joint meeting of the customs authorities in the EU and stakeholders has also been set up and meets once a year. It has proved a very good forum to discuss issues of common interest to customs and stakeholders.

1.4 - Annual publication of statistics

The **yearly report of statistics** on customs enforcement of IPR at the EU external borders is prepared by the Commission, based on the data transmitted by the Member State administrations (since 2015 data are directly extracted from COPIS).

The statistics submitted by Member States are shared every year with the EU Observatory of infringements of IPR for their inclusion in the Anti-Counterfeiting Intelligence Support Tool (ACIST). This tool is a central repository to collect statistics on detentions carried out at EU borders and within the Internal Market.

Data were also shared with the EUIPO and the Organisation for Economic Co-operation and Development (OECD) for the 2016 OECD/EUIPO study on "Trade in Counterfeit and Pirated Goods"⁶.

2 - Tackling major trends in trade of IPR infringing goods

2.1 Developing a tailor-made approach for parcel and postal traffic

Tackling the shipments resulting from internet sales of IPR infringing goods is a key challenge for customs and was already identified as such in the EU Customs Action Plan

⁶ Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact, OECD/EUIPO (2016).
https://euiipo.europa.eu/tunnelweb/secure/webdav/guest/document_library/observatory/documents/Mapping_the_Economic_Impact_study/Mapping_the_Economic_Impact_en.pdf

2009-2012. As foreseen by the 2013/2017 Action Plan, a Project Group on IPR customs enforcement on **small consignments** has been created, whose focus has been first on supporting customs administrations in the controls of small parcels, then on discussing the implementation of the procedure.

Article 26 of Regulation (EU) No 608/2013 set out a new procedure applicable, upon request by the holder of a decision granting an application for action by customs, to counterfeit and pirated goods which have been sent by post and courier in small consignments. Under such procedure, suspected goods may be destroyed without the involvement of the IP right-holders where the declarant or holder of the goods has agreed or has been so presumed. The objective of the procedure was “to reduce the administrative burden and costs to a minimum”.

The Project Group met four times. The first meeting in November 2013 in Brussels, before Regulation (EU) No 608/2013 became applicable, prepared the entry into application of the procedure. After six months of application, the project group met again in Vienna (2014) to early share experiences and identify the benefits and problems encountered in the day-to-day application of the procedure for small parcels. It met again twice in 2017 to discuss the results of detentions made under the small consignment procedure for the years 2014 and 2015 and the following specific aspects of the procedure:

- Involvement of the right-holders,
- Human resources dedicated to the handling of the procedure,
- Definition of “small consignment” in Regulation (EU) No 608/2013,
- Notification practices,
- Costs, storage and destruction,
- Registration of data concerning detentions in COPIS.

The results of the discussion showed that as the use of the procedure by right-holders remains on average relatively low, awareness-raising actions should be envisaged and targeted to the right-holders themselves rather than to their representatives (to emphasise the added value for them of such a procedure).

The group concluded that for the time being the procedure needs to be used to its full potential and in a homogeneous way.

2.2 Strengthening customs risk management

In the context of strengthening customs risk management, the request for the regular provision of appropriate IPR risk and customs control information via the Common Risk Management System (CRMS) has resulted in Member States exchanging risk information via normal Risk Information Form (RIF) – referring to new trends and seizures – in 224 cases in 2014, 228 cases in 2015 and 358 cases in 2016, which shows a clear increase.

A **Customs 2020 Project Group prepared a report on the analysis of RIF** issued and exchanged via the CRMS on counterfeit goods for the year 2014. It reflects the new trends on counterfeit goods extracted from the information contained in relevant RIFs issued in 2014 on counterfeit risks. The report is available in the news section of the CRMS (for customs use only).

During the period 2013 - 2017, the priorities identified and decided by Member States for running **Priority Control Area actions (PCA)** focused on cigarettes/transit, dual-use goods and firearms. None took place in relation to IPR infringements.

Due to lack of resources, no concrete development of Common Risk Criteria (CRC) has occurred so far.

Concerning **Joint Customs Operations (JCO) on IPR**, five were organised by Member States in cooperation with the Commission or by the Commission between 2014 and 2017. Operation ERMIS in 2014 was dedicated to parcels coming into the EU from non EU-countries via mail. It was carried out by the Greek Customs administration and OLAF and involved customs experts from various Member States and third countries. Operation REPLICA, conducted also in 2014 within the Asia-Europe Meeting (ASEM) framework, targeted the import of counterfeit goods by sea. OLAF coordinated the operation which involved all the EU Member States, Norway, Switzerland together with other ASEM international partners, as well as Interpol, Europol and the World Customs Organisation (WCO). In 2016, Operation Wafers focused on counterfeit semi-conductors imported into the European Union from China and Hong-Kong, China by Post/Express Courier Services. The operation was coordinated by the Dutch customs authorities and OLAF with the involvement of 12 Member States and the support of Europol. Operation RENEGADE was organised within the Asia-Europe Meeting (ASEM) framework, as part of its joint efforts in the fight against counterfeit goods. It was coordinated by OLAF and targeted particularly the international trade of counterfeit auto spare parts by sea container. JCO POSTBOX in 2017, led by Belgium, German and Swedish customs authorities under the action "Customs against Internet Crime" in the framework of the Customs Cooperation Working party, focused on combating excise fraud and the illegal trade in counterfeited goods, drugs and weapons in shipments transported by mail and express courier services.

3 - Tackling trade in IPR infringing goods throughout the international supply chain

3.1 Strengthening cooperation with key source, transit and destination countries

3.1.1 People's Republic of China

On 16 May 2014, the Commission and the General Administration of China Customs ('the GACC') signed a renewed Action Plan concerning EU-China Customs Cooperation on IPR (2014 – 2017) as one of the priorities of the EU-China Strategic Framework for Customs Cooperation (2014 – 2017) they signed on the same day. It made it possible to resume the operational cooperation between the Commission services and the representatives of 16

seaports and airports in the EU on the one side, and the GACC and representatives from 11 local Chinese Customs on the other side.

Financial and logistical support is provided mainly through the EU IP Key programme, managed by OHIM/EUIPO.

During the period under consideration, the EU-China Working Group on IPR customs enforcement met six times to discuss all Key Actions:

- Key Action 1 - Joint analysis of seizure statistics to detect general trends and risks
- Key Action 2 - Target high-risk consignments in key ports
- Key Action 3 - Promote cooperation between customs and other law enforcement agencies and authorities in order to stop production and wind up distribution networks
- Key Action 4 - Joint development of partnerships with the business communities in the EU and China
- Key Action 5 - Exchange of knowledge and experience on each other's IPR enforcement policies and practices

The Action Plan 2014-2017 has unveiled a new era in the EU-China customs cooperation in IPR enforcement. It has turned more practical and benefitted from lessons learned under the previous cooperation scheme. Several practical solutions have been established and working mechanisms have been smoothed considerably.

On 2 June 2017 the EU and China signed a new Strategic Framework for Customs Cooperation covering the period 2018 - 2020. The new Action Plan on customs cooperation on IPR for 2018-2020, which is under preparation, is part of this new Strategic framework.

3.1.2 Hong-Kong, China

On 27 April 2015, the Commission and the Customs and Excise Department of **Hong Kong China** signed the Action Plan on cooperation in the customs enforcement of IPR.

It focuses on the sharing of detention statistics on IPR infringing goods, of general risk information and of case-specific information, and foresees the joint analysis of such information to improve customs risk management. In order to test the working mechanisms of cooperation contained in the Action Plan, a six-month pilot project started on 1 October 2015. The pilot concentrated on air traffic, with the participation of five airports in the EU.

The main conclusion of the pilot was that the Action Plan should be continued with the following recommendations:

- * extend the Action Plan to cover all air express operators in Hong Kong;
- * exchange of spontaneous information on non-actionable trademarks and non-actionable goods such as labels or packaging material;

- * include more airports in the EU in the Action Plan;
- * include a broader range of local airports in the participating Member State of destination;
- * coordinate at central level the exchange of the referrals, especially with multiple airports;
- * include spontaneous information on detentions to and from non-participating Member State;
- * carry out a deeper comparative analysis of detention statistics on a yearly basis.

3.1.3 International cooperation

Concerning the enhancement of the exchange of information between the EU Member States and Commission services on the one hand and third countries on the other hand, over the years **Customs Mutual Administrative Assistance** has been significantly intensified with Ukraine, Hong-Kong China, Vietnam and the USA for investigations carried out in the IPR sector by OLAF.

An **OLAF Liaison Officer** was appointed to Beijing in 2016, in particular for strengthening the co-operation related to the investigation on cigarettes and counterfeit goods with the China and Hong Kong authorities. The OLAF Liaison Officer in Kiev also facilitated the exchange of information related to several investigations in the area of IPR with the Ukrainian authorities.

Europol and OLAF signed in September 2016 an arrangement on the association of experts from OLAF with the activities of the Analysis Group COPY dedicated to all crimes related to intellectual property rights, with a view to strengthening the cooperation with Europol and other law enforcement authorities.

In a number of **bilateral trade agreements** recently signed and concluded, negotiation by the European Union have successfully integrated chapters on IP protection and enforcement with a Border Measures Article which reflects the EU approach and will strengthen IPR enforcement in third countries (Georgia, Moldova, Vietnam for instance).

Combatting counterfeiting and customs enforcement of IPR has also been one of the priorities in the ASEM context.

The Commission and Member State Customs administrations have been present in a number of **international events** to spread knowledge about the new EU Regulation and the Customs Action Plan, as well as to gain knowledge on the global situation in IPR enforcement, such as:

- the 7th Global Congress on combating Counterfeit and Piracy (Istanbul, 2013);
- the Conference on Jointly Building Resilient EU Responses to Counterfeiting in Dublin (2013);
- the International IP Enforcement Summit, which took place in London in 2014 at the initiative of the Office for Harmonisation in the Internal Market, the Commission and the UK Intellectual Property Office (Cf.4.1 Establishing a partnership with the European Observatory

on infringements of IPRs); the second edition of this event was co-organised by the German Ministry of Justice and consumer protection and the EUIPO in Berlin in 2017.

3.2 Building capacity in candidate and neighbouring countries on IPR enforcement

Member States took part in many actions targeting candidate and neighbouring countries within the framework of the EU technical assistance project or the TAIEX programme (which enabled either study visits from experts of the candidate and neighbouring countries on IPR enforcement to EU countries, or the deployment of EU experts to candidate and neighbouring countries via twinning projects).

The Commission participated, together with experts from Germany and Croatia, in a seminar organised in Serbia (2013) by the European Institute of Public Administration (EIPA), dedicated to customs aspects of IPR infringements and control at the border.

The European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) – organised a meeting in Moldova to present Regulation (EU) No 608/2013 (April 2014).

The Commission also took the occasion of the IPR workshop for Euro-Med countries dedicated to the fight against Piracy and Counterfeiting (Brussels, 2013) and of the high-level seminar on Customs Cooperation at the Eastern Border of the EU (Lithuania, 2013) to raise awareness of the neighbouring countries on the importance of having a robust procedure in place to ensure an efficient customs enforcement of IPR at the border.

The effects of the EU's efforts to build capacity in neighbouring countries on IPR enforcement may have been hampered by the limited availability of experts on the EU side. This could warrant more attention in the future.

4 - Strengthening cooperation with the European Observatory on infringements of IPRs and law enforcement authorities

4.1 Establishing a partnership with the European Observatory on infringements of IPRs

The cooperation on the customs-related activities of the European Observatory on infringements of Intellectual Property Rights was further developed. In addition to being associated to the customs activities listed in the yearly work programme of the Observatory, the Commission was present in most relevant meetings of the Observatory, such as the plenary session, public stakeholder meetings and the working group meetings on enforcement issues, public awareness and statistics.

The Commission is also attending the newly created “Technical group”, set up at the initiative of the Observatory, which aims at mapping the existing EU databases playing a role in IPR enforcement, describing their content and identifying the ideal way of transmission for the exchange of information/data between them. The Technical group will thus contribute to paving the way to a reinforcement of cooperation between authorities.

The Commission and some customs administrations also participated together with police and judicial authorities in ad-hoc events such as the OHIM/Europol “Knowledge and Awareness

Building Conference on infringements of intellectual property rights on the internet” (November 2014).

The Observatory is regularly invited to attend the meetings of the Customs expert group on IPR enforcement in order to ensure coordination of common customs-related activities.

Agreement has been reached to provide access to customs authorities to the Observatory Enforcement Data Base (EDB) via the CCN/CSI network. EDB is built on existing IP databases of the OHIM/EUIPO such as TM view (Trade Mark view), Designview and CESTO (Common support tool for examiners). By consulting EDB, customs authorities can find updated information on the validity of rights or search for the right-holder in case of ex-officio detentions.

Throughout the COPIS project, requests have been made for COPIS to allow for the electronic submission of AFAs. As the EDB contains relevant information for the submission of AFAs, that database has been considered as the most suitable source for the delivery of the required AFA information in an electronic format. Further to contacts between the Commission and the European Observatory on IPR infringements, a proposal to implement the functionality of the 'pre-AFA' within COPIS has been developed to ease the work of both the applicants and the customs authorities.

The operational connection between COPIS and EDB is in place since 1 July 2015. A User Guide and other additional information have been made available via the national Common Communication Network (CCN) coordinators.

2016 saw the first AFA sent electronically through the tool and in 2017 several major companies have begun to use EDB for the filing of their national and Union AFAs.

For the applicant, this connection will reduce the burden of multiple submissions of information, and for customs authorities, the data capture of paper AFAs.

4.2 Improving mutual understanding and cooperation between customs, police and judicial authorities

In 2013, **the Commission and some Member State customs administrations participated in various OHIM/Europol events** together with police and judicial authorities, such as the knowledge-building seminars on fake pesticides and medicines (dealing both with IPR and product safety) and the Interpol International Law Enforcement IP Crime Conference.

The Observatory, the UK IP Office and the Commission co-organised an **IP enforcement summit in London in June 2014**. Part of this summit was dedicated to "IP enforcement challenges at the border", with workshops dedicated to small consignments as a result of Internet orders and the exploitation of intelligence. The discussion identified the following elements:

- the critical importance of receiving adequate information and sharing it with the police and other enforcement authorities;

- the growing need to cooperate and act internationally to tackle the international supply chains of counterfeit.

As a follow-up to the Summit, the Commission organised in February 2016 in cooperation with the OHIM/EUIPO a **High-Level Conference on the cooperation between customs and other authorities in the fight against the infringements of IPR.**

The event provided a platform for discussion, debate and networking between customs, police and judicial authorities to enhance co-operation and mutual understanding of the respective roles and responsibilities of each enforcement authority in the fight against IPR infringements. Representatives from the private sector also participated in the conference.

During the first day, discussion focused on the importance and benefits of exchanging information and intelligence between the enforcement authorities, the obstacles and challenges faced by each authority on a practical level, the necessity for timely communication exchanges from the private sector to the enforcement authorities, which would also help the enforcement authorities perform more effective risk analysis.

On the second day of the event, also attended by Chinese authorities, the value of fostering international collaboration between the EU and all Chinese authorities involved in IPR enforcement, such as Customs, Police and the People's Prosecutor's office, was at the core of the debate.

Follow-up actions have been organised in cooperation with the European Observatory on infringements of IPR. They include a mapping of existing databases on infringements cases and a knowledge building event, which took place in October 2017 gathering, at an operational level, customs, police and market surveillance authorities in order to discuss on what is the key information amongst enforcers so as to tackle counterfeiting on an EU global scale.

CONCLUSION

Overall, Member State customs administrations and the Commission have deployed significant efforts and are working proactively to address the challenges associated with the customs enforcement of IPR and curb the influx of IPR infringing goods into the EU.

All means have been employed to make Regulation (EU) No 608/2013 known and used to its full potential by all public and private stakeholders concerned. The support visits have proved particularly useful for experts from different Member States to discuss implementation practices and for the Commission to gather a global implementation picture.

The number of AFAs granted by customs administrations has shown a steady rise (from 26 865 in 2013 to 35 815 in 2016).

Customs action came to the following results in terms of detentions.

DETENTIONS	2013	2014	2015	2016
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Cases	86 854	95 194	81 098	63 184
Procedures	Not available	Not available	105 488	77 705
Articles	39 917 445	35 940 294	35 568 982	41 387 132
Domestic retail value	EUR 768 million	EUR 617 million	EUR 642 million	EUR 672 million

Each detention is referred to as a case that may contain one or more articles. Each case may contain articles of different product categories and from different right-holders. In COPIS, Member States register each case with information per category of goods and per right-holder. For each category of goods and each right-holder a detention procedure will be initiated, which explains why there are more procedures than cases.

Cooperation was reinforced into three directions:

- with stakeholders;
- with the EU Observatory;
- with third countries.

The challenges of the cooperation between enforcement authorities engaged in the fight against IPR infringements have also been addressed and the dialogue established has shown how important it would be to pursue efforts in this regard.

The trafficking of IPR infringing goods remains however a widespread and ever increasing phenomenon. International trade in counterfeit products represents up to 2.5% of world trade, or as much as EUR 338 billion, based on the latest available data from 2013⁷. The impact of counterfeiting is particularly high in the European Union, with counterfeit and pirated products amounting up to 5% of imports, or as much as EUR 85 billion.

Further developments are necessary in order to:

- ensure a homogeneous IPR border enforcement throughout the Union;
- develop IPR risk management tools;
- strengthen customs cooperation with police (including Europol) and other enforcement authorities.

Further actions from the Commission and the Member States should focus on these priorities.

⁷ Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact, OECD/EUIPO (2016). https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/Mapping_the_Economic_Impact_study/Mapping_the_Economic_Impact_en.pdf.

RECOMMENDATIONS

Infringements of IPR remain an increasing threat and a difficult challenge to address. Coordination of customs activities having shown its added value to reinforce results, the customs action plan to combat IPR infringements should certainly be re-conducted for the years to come.

On 29 November 2017 a comprehensive package of measures to further improve the application and enforcement of IPRs within the EU Member States, at EU borders and internationally has been adopted by the Commission. The Communication COM (2017)707 from 29 November 2017, entitled “A balanced IP enforcement system responding to today’s societal challenges”, which is part of the package, mentions that the Commission will offer a more targeted assistance to national customs authorities, based on the result of the current EU customs Action Plan, and will work with the Council towards a new Action Plan in 2018.

It is recommended that the following elements should be addressed in the future action plan:

On legislation:

- Modify Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the form provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights (OJ L, 18.12.2016, p.10) to adapt it to the Trademark package and to developments in COPIs

On operational performance:

- Develop risk management on infringement of IPR
- Promote joint use of results of risk analysis, risk intelligence and customs operations by Member States
- Ensure adequate protection of datasets and databases, third party rights, privacy and confidentiality and safeguards to be adopted when creating, procuring and disseminating data
- Identify possible gaps in implementation of customs enforcement regulations

On business cooperation:

- Raise awareness of right-holders on the small consignment procedure
- Continue the yearly meeting of the common group Customs/stakeholders

On international cooperation:

- Continue cooperation with key partners such as China and Hong-Kong China

Strengthening coordination with EU agencies:

- EUIPO - EU Observatory
 - Reinforce trends analysis
 - Align IT developments, such as e-filing of AFA
- Europol
 - Strengthen customs cooperation with police