

# REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017



September 2019

Report on the EU enforcement of intellectual property rights results at EU borders and in Member States  
2013-2017

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# REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

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# 1. FOREWORD

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
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This new study on the enforcement of IP rights based on detentions both at the EU border and in the member states' national markets is a first step towards having a more complete picture of enforcement trends within the EU.

The current study deals with aggregate data from 2013 to 2017. It shows that reporting of detentions within the national markets still has significant gaps, in contrast with the situation at the EU border, where DG TAXUD has been reporting detentions for some years based on data from the Member States.

While reporting in the national markets has improved, to date no information on internal detentions is available from a number of EU Member States including some of the largest ones, making it difficult to draw firm conclusions.

Nevertheless, this first attempt to bring together the figures for border detentions and internal detentions casts a spotlight on an issue which is gaining increasing importance in public policy.

While other studies show a rising trend for the importation of fake goods into the EU, the detentions at the border have decreased. Based on the incomplete reporting of internal detentions, it appears that here too there has been a decline.

The report estimates that 438 million fakes were detained during 2013-2017, which amounts to one fake per EU citizen aged over 14 years. The estimated value of these fakes, EUR 12 billion, is equivalent to the 2018 GDP of a Member State such as Malta. However, we know that detentions only represent a few percent of the total fakes in circulation, including goods such as counterfeit medicines, spare parts and children's toys, which represent a real danger to public health.

On a positive note, even though there has been a reduction in the number of detention operations aimed at IP infringements at EU borders, those operations have been marked by increased efficiency.

In the end it is a question of the importance given to IP infringements, compared with other areas, and the availability of resources for enforcement authorities, especially at the national level.

This new report should be read by all IP stakeholders and policymakers who are interested in ensuring that, within the EU, IP infringements are given the appropriate priority given the proven importance of IP rights to jobs, growth, exports and the wellbeing of our citizens.

## 2. ACKNOWLEDGMENTS

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
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This report was prepared by the Enforcement Team of the European Observatory on Infringements of Intellectual Property Rights at the EUIPO in Alicante, with the assistance of other members of the Observatory and, in particular, of the EUIPO Chief Economist Team.

The authors wish to thank the European Commission — Directorate-General for Taxation and Customs Union (DG TAXUD) and every enforcement authority and key contact person from the ACIST community and in the 24 Member States currently involved. This report has been produced thanks to their commitment to develop the ACIST database (currently known as the IP Enforcement Portal) from 2013, within the framework of the EUIPO projects ‘CF 4.23 ACIST Project’ and ‘IP Enforcement Platform’.

The authors are grateful for the data and valuable support given by these institutions. Also, for the effort and work of all the EU border and national markets enforcers in the 28 Member States of the European Union, who collected and fed data into the IP Enforcement Portal in which the ACIST database has been integrated.

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## 4. EXECUTIVE SUMMARY

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
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In 2012 the EUIPO <sup>(1)</sup> created the Anti-Counterfeiting Intelligence Support Tool (ACIST). In 2013, following the mandate to its European Observatory on Infringements of Intellectual Property Rights (the Observatory) <sup>(2)</sup>, the EUIPO made the ACIST database available to all law enforcement authorities in every EU Member State, thus launching the 'ACIST community'.

The database, which from June 2019 was integrated into the IP Enforcement Portal, gathers statistics on detentions of goods that are suspected of infringing IP rights and converts the collected data into a harmonised format so that they can be compared and aggregated.

The report on the EU enforcement of intellectual property rights: results at EU borders and in Member States 2013-2017 is the first joint analysis of two sources of data, namely, detentions at EU borders and within national markets.

This first issue on detentions of counterfeit and pirated goods <sup>(3)</sup> is planned to be updated and published regularly. The report was produced by the EUIPO following analysis of the data on detentions at EU borders reported and published in the IP Enforcement Portal by customs authorities via DG TAXUD, and on detentions within their national markets by 24 of the 28 Member State enforcement authorities.

The objective of the report is to inform EU enforcers and policymakers of the trends and estimates of the counterfeit and pirated goods detained, and to develop an evidence base for future policies and priorities.

At the time of preparing this report, the figures for detentions at EU borders were available for 100 % of the Member States for the period reviewed. However, the data for detentions within their national markets were not available for every Member State or for every year analysed. In some cases, none of the Member State enforcement authorities had shared their data with the ACIST community, while others had not provided full datasets. Limitations in the availability of data on national market detentions may affect in part the results obtained, in particular at national level.

### **Aggregated detention data: borders and the national markets**

This report allows a first, overarching view of the detentions of fake products during the period 2013-2017, as reported to the IP Enforcement Portal by EU Member States both at EU borders and in their national markets.

- The **volume** of fake items detained in the EU between 2013-2017 was approximately **438 million items**. This equates to one fake item detained per EU citizen (aged 15 years and over) for the period. About 30-40 % of these were detained at EU borders, and the rest in the national markets.

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(1) OHIM at the time.

(2) Article 2(1) of Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on Infringements of Intellectual Property Rights ([Official Journal of the European Union L 129/1 of 16.5.2012](#)).

(3) In this report the term 'counterfeit' refers to tangible goods that infringe trade marks, designs or patents and the term 'pirated' to tangible goods that infringe copyright. However, the term 'fake' refers by extension to tangible goods that infringe any kind of IP right. In this sense, the IP Enforcement Portal includes data on the detention of any kind of fake goods.

- The **estimated value** of fake items detained in the EU amounted to some **EUR 12 billion**. This value is almost equivalent to the 2018 GDP of a EU Member State such as Malta. About 70-85 % of the total value of detained items reported was accounted for by detentions in the national markets, while the remainder was detained at EU borders.

The **10 Member States** with the highest number of detentions reported accounted for **almost 90 % by volume** and **95 % by estimated value** of the items. Italy recorded the highest individual figures, with 54 % by volume and 60 % by estimated value. However, there is no data currently available for national markets detentions in some of the larger Member States, such as Germany, Poland and, in part, the United Kingdom.

The 4 most common subcategories <sup>(4)</sup> of detained products in terms of the number of items detained were *Clothing accessories*, *Toys*, *Recorded CDs/DVDs* and *Cigarettes*. These 4 accounted for more than 33 % of the products recorded.

In terms of estimated value of the items reported, the top 4 subcategories of products identified were, similarly, *Clothing accessories* and *Recorded CDs/DVDs*, but also *Watches* and *Bags, wallets, purses*. The latter four represented almost 50 % of the estimated value of detentions during the period 2013-2017.

The distribution of IP rights allegedly infringed by fake products at the moment of detention shows that **trade marks predominate**. Trade mark infringement accounted for almost 70 % by volume and 54 % by estimated value of detentions at EU borders and in the national markets.

### **Detentions at EU borders**

Following a peak in 2014, the annual number of operations relating to the detention of counterfeit goods by customs authorities at EU borders has gradually decreased. The number of items detained and their estimated values have also decreased, albeit at a slower pace, apart from temporarily rising in 2015 and 2016. However, despite the decrease, there was a sustained increase in the efficiency of operations during the period, as shown by the indicators for the volume and value of items per case.

- In terms of number of procedures, the product subcategories appearing in most procedures during the period at stake were Common Consumer products (Clothing and Footwear) and Luxury products (Bags, wallets, purses and Watches). In turn, in terms of the number of articles detained, those subcategories in which the unitary item is usually smaller in size and value and are mainly transported in bigger shipments in containers or trucks (Cigarettes, small Toys, Foodstuffs such as sweets and bubble gum), led the ranking of the aggregated period.
- Regarding the estimated value of the products detained, Luxury products whose corresponding genuine item had a high unitary domestic retail value (in particular due to the brands involved) such as Watches, Bags, wallets, purses and Perfumes and cosmetics, led the ranking of the aggregated period.
- The historical series showed that the preponderance of China as country of provenance (with Toys and Cigarettes) and the appearance in this top 5 ranking of Hong Kong-China (with Packaging material and Labels, tags, stickers) and Turkey (with Clothing and Perfumes and cosmetics) were constant, whereas Malaysia (with Other body care items and Toys) showed a downwards trend.

### **Detentions within the EU**

Specific analysis of the data related to detentions within the Member State national markets shows many similarities with the joint overall figures (in EU Internal Market and at EU borders aggregated). This demonstrates the weight and scale of the detentions carried out in the Member States.

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(4) See the classification of products used in this report in Annex C and Annex D.

- For both volume and estimated value, the trend reflected that **the top 5 Member States accounted for around 97 % of total detentions** in the national markets for the period analysed. For both criteria Italy led the way, with 77 % of the detentions. France and Spain appeared in both top 5 rankings of EU national markets detentions by volume and estimated value. However, this could change significantly once data from all Member States has been reported to the IP Enforcement Portal.
- From the top 4 product subcategories identified in terms of volume (40 % of items reported as detained during the period), *Clothing accessories* and *Recorded CDs/DVDs* were listed as the most detained items within the EU. *Clothing* and *Toys* which made up the other two subcategories also appeared in the top 4 most detained at EU borders.
- The recurrence of two specific product subcategories, *packaging material* and *labels, tags, stickers* is relevant, due to their multiplier effect for the production of more fake products.
- In terms of the estimated value of the detained items during the period, from the top 4 subcategories (more than 50 % of the total estimated value of these items), *Clothing accessories* and *Recorded CDs/DVDs* were the most detained, particularly in the Member State national markets, whereas *Watches* and *Sunglasses* appeared in the top 4 most detained subcategories both in the Member State national markets and at EU borders.
- Trade marks predominated as the most infringed right in detentions at EU borders. The other infringed rights, copyright, patents, designs and, to a lesser extent, geographical indications and plant varieties, played more of a role in the national markets. However, it must be noted that IP rights are often unidentified at the reporting stage.

## **Outlook**

This report is a first attempt to provide evidence-based analysis on past detentions of fake products, in order to help EU enforcers combat counterfeiting and piracy.

The analysis of data relating to the detention of counterfeit goods at EU borders and in national markets is limited to data collected by the ACIST community and is, therefore, limited by the type, depth and scope thereof.

Increased cooperation with other enforcement authorities to widen the existing community would significantly improve the relevance and depth of the results.

With the inclusion of ACIST in the newly launched IP Enforcement Portal and the coming additional dashboards planned, this database should become the new analysis tool for IP infringement trends in the EU and available to all those enforcers using it.

## 5. INTRODUCTION

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
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Counterfeiting has existed since the advent of commerce — criminals have always tried to sell goods of lower quality as products of greater value. In the 1980s, in connection with the opening up of the Chinese economy and the incipient entry of private companies, the phenomenon systematised and expanded internationally. Globalisation and the development of new technologies catapulted it to global effect.

Counterfeiting has long been linked to clandestine markets and illegitimate channels, in which users can easily recognise fake products. However, today this has evolved into sophisticated networks of counterfeiters with mass production capacities that operate internationally<sup>(5)</sup>, pose as authorised legal distributors and even attempt to enter the legal supply chain.

At present anyone can access, either physically or online, a wide range of products. Consequently, controlling and supervising existing distribution channels, both legal and, especially, illegal, is more and more complicated and conflicts with the objectives of trade facilitation and market liberalisation.

New products, new markets and new technologies constantly provide new possibilities for the sale of counterfeits, which has resulted in a growing specialisation of counterfeit products by sector.

According to OECD estimates, the trade of counterfeit and pirated products in 2007 represented 1.95 % of world trade<sup>(6)</sup>, while in 2013 it reached 2.5 % (or USD 461 billion)<sup>(7)</sup> and, in 2016, it reached 3.3 % (USD 509 billion)<sup>(5)</sup>.

The results provided by the recent OECD-EUIPO reports are truly alarming for the particular case of the European Union. In 2013, the OECD estimated that counterfeit and pirated products accounted for up to 5 % of EU imports from third countries<sup>(7)</sup> and, in 2016, the more recent estimation reached 6.8 % of EU imports from third countries<sup>(5)</sup>.

The above underscored figures show the need for coordinated actions against intellectual property crime.

Apart from initiatives on education, information, awareness, prevention, etc., enforcement remains the first line of defence in the fight against counterfeiting and piracy for the sake of the protection of European rights holders' creation/innovation, European firms' production and revenues and, very importantly, European citizens' safety and security.

Enforcing IP rights in the EU is entrusted to a wide set of national enforcers in the Member States. The detention of goods (at EU borders and in Member State national markets) on the basis of the infringement of IP rights is just one of a wide range of tasks that EU enforcers have.

This report has been drafted from the results of the work carried out by the EU border and national markets enforcers in the EU Member States whose detentions were reported to the [IP Enforcement Portal](#).

(5) [OECD-EUIPO: Trends in Trade in Counterfeit and Pirated Goods. 2019](#)

(6) [OECD: The economic impact of counterfeiting and piracy. Update 2009](#)

(7) [OECD-EUIPO: Trade in Counterfeit and Pirated Goods Mapping the Economic Impact. 2016](#)

## 6. DATA RANGE AND LIMITATIONS

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
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The analysis presented in this report with the graphs, tables and rankings included herein has been produced on the basis of data published in the IP Enforcement Portal. DG TAXUD reported the detentions issued at EU borders and national IP offices, police forces and market surveillance authorities reported the detentions issued in 24 Member State national markets for the period 2013-2017 at national level (see Table A-1 in Annex A).

Germany and Poland are yet to join the ACIST community. The Austrian and Swedish authorities, in theory competent to collect data on counterfeit and pirated goods, cannot act *ex officio*, a position which, in practice, results in these countries not reporting data.

All data published in the IP Enforcement Portal have been either published online directly by the data owners (the respective enforcement authority) or by the national offices in charge of coordinating the provision of the data at national level. In some cases they have been published indirectly on their behalf by the EUIPO, following approval in writing.

The quality of the results of the analysis, as well as any data, graphs, tables and rankings presented in this report are conditioned by the quality of the data published in the IP Enforcement Portal by or on behalf of the different reporting authorities.

This report does not refer to intangible infringements, such as online piracy.

The reporting of the estimated value of items in the IP Enforcement Portal is based on the agreement in force that establishes the use of the 'estimated retail value of the genuine product', as reported by the reporting authority. Consequently, the products' estimated retail values may vary from one Member State to another or from one moment in time to another. Therefore, the collected estimated retail values assigned to the detained products are influenced and conditioned by the characteristics of the equivalent genuine products.

This may lead to an inflated estimated value of the detentions in respect to alternative choices, in particular in those subcategories of Luxury products where the retail value of the genuine product is much higher than that of the fake product in the secondary markets or that of its cost (e.g. luxury watches).

DG TAXUD systematically collects and reports the estimated total values of the detentions at EU borders. However, the 'estimated value per item' is not a mandatory field to be given to the EUIPO by EU national markets enforcement authorities. In cases where no 'estimated value per item' is provided, figures on the economic value of the fake goods are estimated based on the so-called economic indicators. These economic indicators are calculated on the basis of the value-per-item of similar products contained in the DG TAXUD annual EU border enforcement report. Assigning an estimated value to a detention on the basis of economic indicators introduces an additional limitation to the accuracy of these data.

The universe of detentions at EU borders recorded in the IP Enforcement Portal coincides with the one considered in the annual reports issued by DG TAXUD, except in some records. Indeed, custom authorities will, after suspending the release of items suspicious of infringing intellectual property rights, either release them later on <sup>(8)</sup> or let them be destroyed or keep them under supervision as long as the procedures for the

(8) Because the IP rights holders did not intervene, since the procedure resulted in a 'non-infringing situation', or because the detained goods turned out to be original goods.

determination of the infringement run <sup>(9)</sup>. Only the latter two, resulting as very likely to be 'fake' goods, are reported to the IP Enforcement Portal. Since the IP Enforcement Portal contains just a subset of DG TAXUD's data (those on 'finally seized' items), the number of procedures registered in the IP Enforcement Portal is somewhat lower than those registered by DG TAXUD. The ratio between the subset of procedures at EU borders recorded in the IP Enforcement Portal and those procedures recorded in DG TAXUD's database remained stable between 2013 and 2017, in a range of about 92 % of the detentions (from 90.1 % in 2016 to 92.2 % in 2013). This ratio would be an indicator of the effectiveness of customs controls, meaning that in 92 % of detention procedures customs' (together with IP rights holders') identification of illegal goods was confirmed.

The figures of Member State national market detentions in this report essentially coincide with those published by each Member State at national level in their own reported statistics, although they may vary slightly due to the harmonisation of statistics in the IP Enforcement Portal. Moreover, at national level, different criteria may be adopted by the national systems and institutions involved in those publications.

Before entering into a proper analysis of the data, a prior analysis of its availability in terms of quantity and quality was conducted and is presented in Annex B. The underlying analysis of the data under Sections 7, 8 and 9 is understood in the light of the limitations of the availability of data described in the aforementioned Annex.

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(9) A court case or a national criminal procedure was initiated (including pending cases) or a settlement out of court was reached and those detentions resulted in the (official) destruction of the goods (including small consignment destruction procedure).

## 7. OVERALL REPORTED DETENTIONS OF FAKES IN EU MEMBER STATES

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The IP Enforcement Portal gives an overview of the reported detention of fake products by EU Member States, both those made by the custom authorities at EU borders and those made inside the EU by national market authorities. This is the reason why this section is going to present aggregated data of the detention of fakes in the EU, before proceeding to conduct a separate analysis of the detention of fakes at EU borders and the detention of fakes in the EU national markets.

The limitations and historical trends of availability of data, in particular on the national markets detention of fakes reported by each Member State (described under Section B.2.1 in Annex B), introduce some limited bias in the conclusions reported in this section, which will be taken into account when reaching conclusions.

The lack of complete data from Member State national markets detentions impedes the measurement of the effort (number of cases or procedures) made in detaining goods allegedly infringing IPR by the whole set of enforcement authorities. However, trends of the results of these efforts can be measured, since the quantity and estimated value of the items detained overall are available.

As a consequence, two measurement dimensions are going to be used across the analysis of the overall reported detention of fakes: the quantity of items detained and their estimated value. However, as explained under Section B.2.2 in Annex B, the measurement for the number of detention operations is not going to be used, nor that for the number of detention cases.

### 7.1. TRENDS

#### 7.1.1. OVERALL DATA: QUANTITY AND VALUE OF REPORTED DETENTIONS

The number of fake items reported to have been detained in the EU during the period at stake was some 438 million. This showed a relative stability in its trend of around 80-100 million items per year <sup>(10)</sup> (see Figure 7-1 below).

Although the items reported as detained differed a lot depending on the subcategory of products (one *travel trolley* is very different from one *wallet* or one *lighter*), the measurement for the reported number of items detained gives an idea of the results of the effort made by the different EU reporting enforcement authorities. Indeed, in five years, the EU reporting enforcement authorities detained one fake item for each and every EU citizen aged 15 years and over (around 430 million inhabitants).

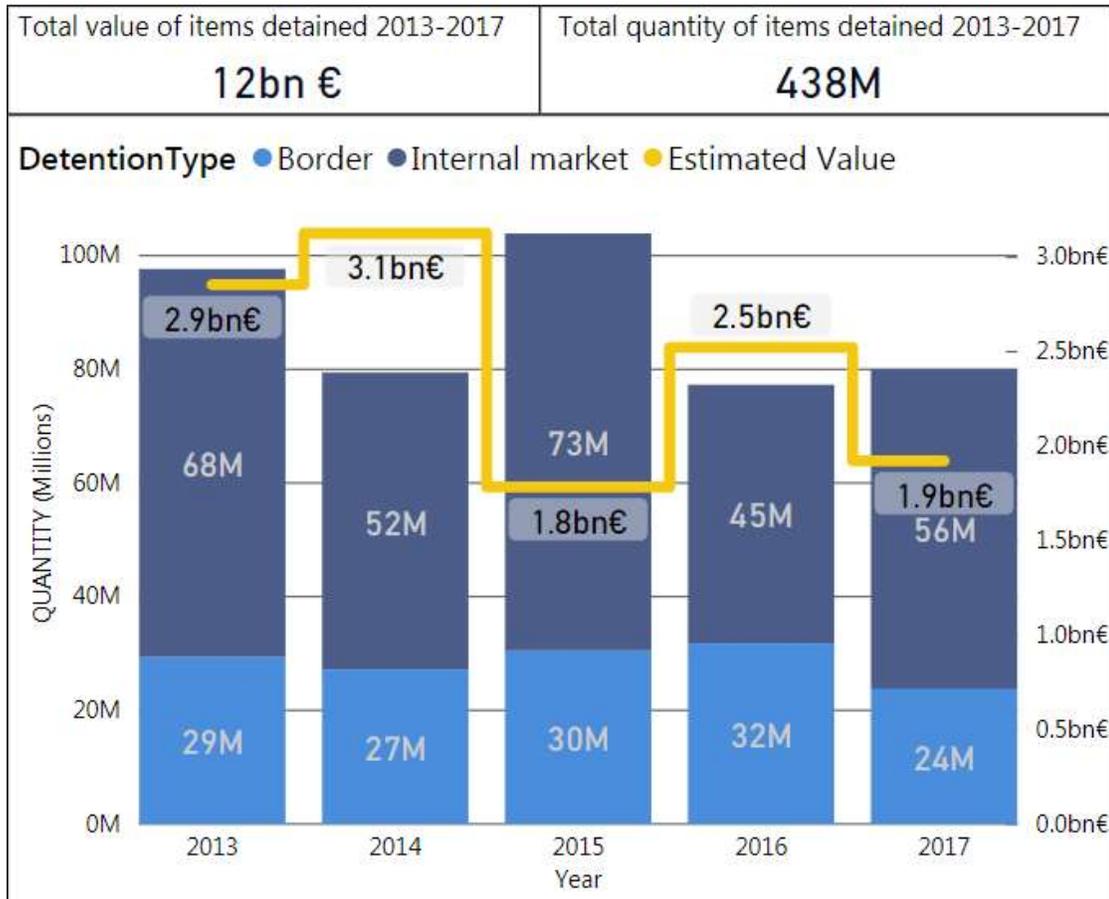
Moreover, the proportion of the quantity of fake items reported as detained in EU national markets oscillated between circa 60 %-70 % of the total quantity of items reported as detained, the remaining 30 %-40 % being fake items reported as detained at EU borders. These proportions appeared despite the fact that about 75 % of all records reported stemmed from detentions made by customs at EU borders (some 413 000 records out of some 548 000 records in total). This unbalance in the proportion of number of records reported versus the number of items detained by the enforcement authorities in the two sets of check points is very likely justified by the type of shipment in which the detained fake goods are found. Customs control all kind of imports going from full container loads till individual postal packages with only one item. This last category,

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(10) As explained previously, any analysis of the historical trend of reported detentions will be put in context with the historical trend of availability of detentions data described in Section B.1.1 of Annex B for detentions at EU borders and, very especially, in Section B.2.1 for detentions in EU national markets.

which implies almost the same amount of administrative work as a full container load, mostly counts for only one item. As reported by DG TAXUD and analysed in an OECD-EUIPO report, the majority of registered cases at EU borders seem to follow a trend of postal and express shipments, which influences the quantities of items detained <sup>(11)</sup>.

Figure 7-1: Reported quantity and estimated value of items detained



The estimated value of fake items reported as detained in the EU during the period at stake was some EUR 12 billion (see Figure 7-1 above). It showed a rather slow trend downwards, from around EUR 3 billion per year in 2013 and 2014 to some EUR 2 to 2.5 <sup>(10)</sup> billion per year in 2015, 2016 and 2017.

The measurement of the estimated value of the items detained gives a proxy of the economic value of the results of the effort made by the different EU enforcement authorities during the period at stake. In fact, this amount would be equivalent to the 2018 GDP of a EU Member State such as Malta (EUR 12.3 billion).

(11) "The detailed analysis of the 2011-2013 data shows that, although fakes shipped in containers clearly dominate in terms of value of seized goods and the number of items, small parcels are important in terms of number of seizures [at EU borders]; nearly 63% of customs seizures of counterfeit and pirated goods involve small parcels. The size of these mail or express courier shipments tends to be very small. Packages with 10 items or less account for the majority of all seizures."

[OECD/EUIPO \(2018\), Misuse of Small Parcels for Trade in Counterfeit Goods: Facts and Trends, OECD Publishing, Paris.](#)

Moreover, the data shows that the share in terms of the estimated value of fake items reported as detained in Member State national markets was higher than the share of the same set of detentions in terms of quantity of items. In fact, these detentions represented between 70 %-85 % of the estimated total value of items reported as detained (compared to a share of 60 %-70 % in terms of quantity of items), the remaining 15 %-30 % of the value corresponding to fake products reported as detained at EU borders.

#### 7.1.2. DATA PER MEMBER STATE

The distribution of the share of detentions reported by Member State during the five-year period in terms of number of articles detained can be seen in Table 7-1 below.

Table 7-1: Share of reported detentions of top 10 Member States (quantity of reported items detained)

Country	2013	2014	2015	2016	2017	Total
<b>Italy</b>	<b>66.4%</b>	<b>56.0%</b>	<b>56.5%</b>	<b>49.3%</b>	<b>40.8%</b>	<b>54.5%</b>
Internal market	61.3%	54.3%	54.5%	48.0%	40.1%	52.2%
Border	5.1%	1.7%	2.0%	1.3%	0.7%	2.3%
<b>Spain</b>	<b>8.7%</b>	<b>3.7%</b>	<b>9.3%</b>	<b>3.1%</b>	<b>13.2%</b>	<b>7.8%</b>
Internal market	5.5%	2.3%	7.6%	2.3%	11.7%	6.0%
Border	3.2%	1.4%	1.7%	0.8%	1.5%	1.8%
<b>France</b>	<b>2.6%</b>	<b>9.0%</b>	<b>7.7%</b>	<b>7.7%</b>	<b>7.1%</b>	<b>6.7%</b>
Border	2.6%	5.0%	5.3%	1.8%	3.9%	3.8%
Internal market		4.0%	2.4%	6.0%	3.2%	2.9%
<b>Belgium</b>	<b>2.8%</b>	<b>8.8%</b>	<b>0.6%</b>	<b>5.8%</b>	<b>1.3%</b>	<b>3.6%</b>
Border	2.2%	8.3%	0.3%	5.2%	0.8%	3.1%
Internal market	0.6%	0.6%	0.3%	0.6%	0.5%	0.5%
<b>Bulgaria</b>	<b>0.4%</b>	<b>0.6%</b>	<b>3.9%</b>	<b>1.2%</b>	<b>11.6%</b>	<b>3.5%</b>
Internal market	0.0%	0.0%	3.4%	0.5%	10.4%	2.8%
Border	0.4%	0.6%	0.5%	0.7%	1.2%	0.6%
<b>Greece</b>	<b>0.7%</b>	<b>0.9%</b>	<b>6.4%</b>	<b>4.3%</b>	<b>4.7%</b>	<b>3.5%</b>
Border	0.7%	0.9%	6.1%	3.8%	3.1%	3.0%
Internal market			0.3%	0.5%	1.6%	0.4%
<b>Germany</b>	<b>2.1%</b>	<b>3.1%</b>	<b>1.6%</b>	<b>2.9%</b>	<b>2.6%</b>	<b>2.4%</b>
Border	2.1%	3.1%	1.6%	2.9%	2.6%	2.4%
<b>United Kingdom</b>	<b>3.2%</b>	<b>2.7%</b>	<b>2.1%</b>	<b>2.1%</b>	<b>1.6%</b>	<b>2.4%</b>
Border	3.2%	2.6%	2.1%	2.1%	1.6%	2.3%
Internal market	0.1%	0.1%	0.0%	0.0%		0.0%
<b>Lithuania</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.1%</b>	<b>5.8%</b>	<b>7.1%</b>	<b>2.4%</b>
Border	0.0%	0.0%	0.1%	5.8%	7.0%	2.3%
Internal market	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<b>Netherlands</b>	<b>1.9%</b>	<b>2.3%</b>	<b>2.8%</b>	<b>2.2%</b>	<b>1.8%</b>	<b>2.2%</b>
Border	1.9%	2.3%	2.7%	2.2%	1.8%	2.2%
Internal market	0.0%	0.1%	0.0%	0.0%		0.0%

The cumulated share of detentions reported by the top 10 Member States during the five-year period shows that they reported the detention of almost 90 % of the articles detained over that period, which represents almost 95 % of their estimated value.

There is, however, an imbalance between countries: as shown in Table 7-1 above, the Italian enforcement authorities (and, in particular, those responsible for national markets infringements) reported more than half of the articles detained (in number of items), which was systematically the largest share although with a yearly trend downwards. The Spanish and French enforcement authorities reported around 7-8 % of detentions in terms of the number of items and 9-10 % in terms of their estimated value, placing them in second and third place over the period. However, the British, Belgium, Czech, Bulgarian or German enforcement authorities reported, in certain specific years during the period, the second or third largest share of the quantity of articles detained in the EU or of their estimated values.

### 7.1.3. DATA PER PRODUCT SUBCATEGORY

Data on the share of the number of items detained by subcategories of products (see Table 7-2 below <sup>(12)</sup>) shows that the top 5 identified <sup>(13)</sup> subcategories in terms of the number of items for the five-year period are *Clothing accessories*, *Toys*, *Recorded CDs/DVDs*, *Cigarettes* and *Clothing*.

Of these, *Clothing accessories* and *Toys* appeared quite systematically in the annual top rankings per number of items.

Table 7-2: Subcategories of products reported as detained during 2013-2017 (share of quantity of items)

Subcategories	2013	2014	2015	2016	2017	Total
Remaining subcategories	34.0%	29.1%	54.9%	25.1%	23.7%	34.6%
Clothing accessories	15.1%	18.4%	5.2%	6.0%	9.6%	10.7%
Toys	7.0%	9.5%	5.2%	12.6%	14.8%	9.5%
Recorded CDs/DVDs	16.4%	2.3%	3.9%	14.2%	1.1%	7.7%
Cigarettes	2.9%	10.3%	7.6%	8.3%	2.8%	6.3%
Clothing	4.9%	4.9%	1.4%	7.8%	12.5%	6.0%
Packaging material	3.5%	2.2%	2.5%	8.3%	11.9%	5.4%
Foodstuffs	0.8%	1.8%	2.7%	6.3%	12.7%	4.6%
Labels, tags, stickers	2.1%	3.0%	9.3%	2.4%	2.7%	4.1%
Other electronics	1.4%	4.5%	2.0%	4.7%	3.5%	3.1%
Perfumes and cosmetics	4.2%	1.6%	1.6%	2.4%	2.5%	2.5%
Mobile phone access.	1.4%	4.6%	2.3%	1.2%	0.9%	2.1%
Machines/tools	4.2%	4.1%	0.5%	0.1%	0.0%	1.8%
Medicines	2.1%	3.5%	0.8%	0.5%	1.4%	1.7%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

In terms of the quantity of items detained, the subcategories *Clothing*, *Packaging material* and *Foodstuffs* appeared in the top 5 ranking towards the end of the period, showing therefore a shift in the subcategories of products detained.

(12) The term 'Remaining subcategories' refers to all the subcategories mentioned in Annex C and Annex D, which are not specifically mentioned in the chart. It includes, in particular, the subcategory *Other goods* which represents 23 % of the total in terms of quantity of items and 7.6 % in terms of their estimated value.

(13) The subcategory *Other goods* is excluded from the analysis.

Data on the share of the estimated value of items detained by subcategories of products (see Table 7-3 below <sup>(13)</sup>) shows that the subcategories *Clothing accessories* and *Recorded CDs/DVDs* remain in the Top 5 identified 12 subcategories for the 5 years period but new subcategories of items with high value per unit (*Watches; Bags, wallets, purses* and *Sunglasses*) appear.

Moreover, subcategories *Clothing accessories*, *Watches* and *Bags, wallets, purses* appear quite systematically in the annual top rankings per estimated value.

The subcategories *Machines/tools*, *Sunglasses* and *Clothing* also appeared in one or another year in the top 5 ranking, the latter taking the largest share of the estimated value of detained products in 2017.

**Table 7-3: Subcategories of products reported as detained during 2013-2017 (share of estimated value of the items)**

Subcategories	2013	2014	2015	2016	2017	Total
Clothing accessories	26.7%	24.2%	11.7%	4.7%	9.6%	<b>16.6%</b>
Watches	9.1%	29.9%	12.9%	11.0%	13.9%	<b>16.1%</b>
Remaining subcategories	15.2%	10.9%	34.2%	8.1%	12.6%	<b>15.0%</b>
Recorded CDs/DVDs	7.7%	0.8%	7.1%	29.7%	3.1%	<b>9.7%</b>
Bags, wallets, purses	4.8%	6.1%	9.8%	5.7%	8.8%	<b>6.7%</b>
Sunglasses	6.6%	2.4%	2.5%	12.5%	7.6%	<b>6.3%</b>
Clothing	3.5%	2.9%	3.3%	7.4%	16.3%	<b>6.1%</b>
Machines/tools	11.2%	7.8%	0.9%	0.0%	0.0%	<b>4.7%</b>
Perfumes and cosmetics	6.8%	2.0%	3.5%	2.3%	5.7%	<b>4.0%</b>
Toys	2.0%	1.9%	2.5%	5.5%	6.8%	<b>3.5%</b>
Other electronics	1.7%	4.3%	1.0%	5.0%	5.0%	<b>3.4%</b>
Sport shoes	2.7%	3.1%	2.4%	4.8%	4.3%	<b>3.4%</b>
Non-sport shoes	1.0%	1.0%	5.6%	2.5%	5.5%	<b>2.7%</b>
Mobile phone access.	0.8%	2.6%	2.7%	0.8%	0.8%	<b>1.6%</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

An interesting analysis in relation to the statistics of detentions by subcategories of products is that concerning those subcategories of goods strongly related to human health and safety. Indeed, according to the conclusions of EUROPOL's 2013 Serious and Organised Crime Threat Assessment (SOCTA) report <sup>(14)</sup>, '*the counterfeiting of health and safety products has emerged as a major new area of serious and organised crime activity.*' Furthermore, the trade of counterfeit goods with a possible impact on public health and safety was considered a 'key threat'.

This category is defined in the aforementioned report <sup>(15)</sup> as including '*Foods and beverages, Body care articles, Medicines, Electrical household items and Toys*'. Putting aside the *Electrical household items*, impossible to individualise in the DG TAXUD subcategories, the remaining products fell under the subcategories *Foodstuffs; Alcoholic beverages; Other beverages; Perfumes and cosmetics; Other body care items; Medicines* and *Toys*.

(14) <https://www.europol.europa.eu/sites/default/files/documents/socta2013.pdf>, p. 38.

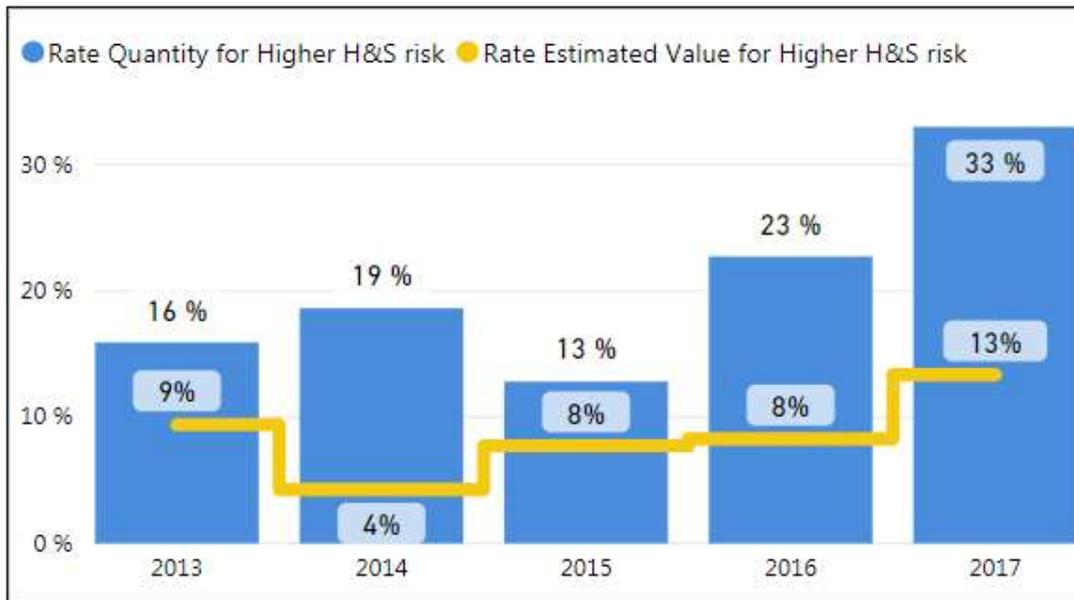
(15) <https://www.europol.europa.eu/sites/default/files/documents/socta2013.pdf>, p. 22.

Moreover, when comparing the evolution between 2011-2013 and 2014-2016 of the propensity of different industries to suffer from counterfeit EU imports, the OECD-EUIPO reports referred to in footnote 5 stated that, '[t]he main change comes from the increase of the propensity of the toys industry and industries that are directly threatening the health and safety of consumers' (see page 53).

The analysis of the evolution of detentions at EU borders and in Member State national markets of this possible (H&S) risk category showed that, indeed, EU enforcement authorities had been sensitive to these inputs, at least for some subcategories included in the H&S risk category and, in any case, for the aggregation of all of them. Figure 7-2 below shows that the share of the H&S risk category in the number of items detained at EU borders and in Member State national markets together had a clear upwards trend, despite a temporary reduction in 2015.

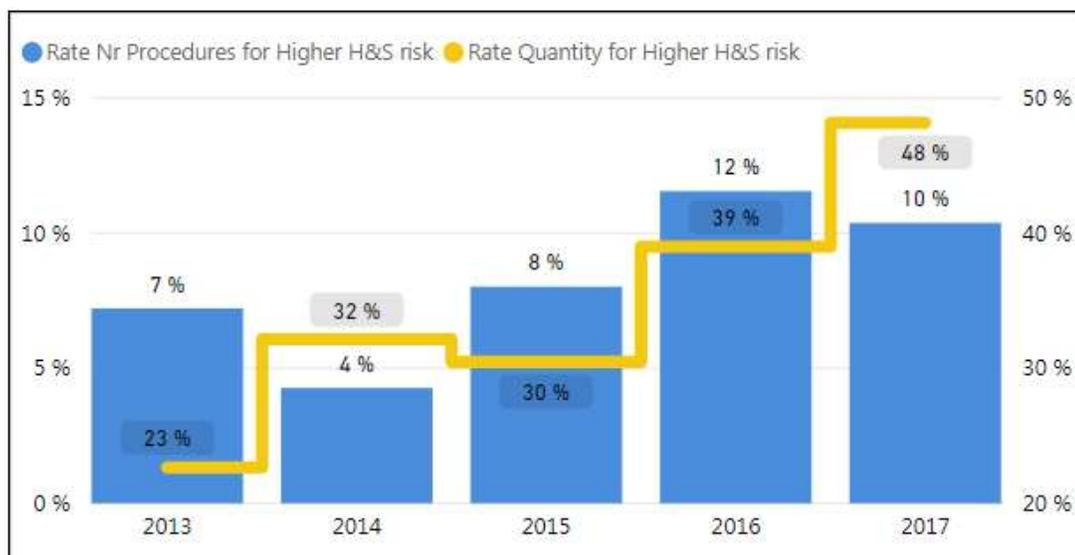
Although less relevant in terms of health and safety, a positive (although slower) trend existed when measuring the share of the possible H&S risk category in the estimated value of items detained at EU borders or in the national markets together (see the same Figure 7-2 below).

Figure 7-2: Share of quantity and estimated value of items detained for possible H&S risk category goods



The positive trend in terms of detentions of this category of goods reflected a relative increasing effort of EU border enforcement authorities to detain possible H&S risk category items. As shown in Figure 7-3 below, the relative effort (in terms of number of procedures) devoted by EU border authorities to detain this type of goods showed a clear upwards trend. These efforts led to a higher proportion of items of this category detained by EU border authorities, as can be seen in Figure 7-3 below.

Figure 7-3: Share of number of procedures launched by EU border enforcement authorities and quantity of detained items for possible H&S risk category goods



These trends were also backed by positive (although to a lesser extent) trends in the results obtained by Member State national market enforcement authorities, as shown later in Figure 9-2.

#### 7.1.4. DATA PER IP RIGHT

Finally, distribution of the allegedly infringed IP rights at the moment of detention showed that trade marks were the dominant right<sup>(16)</sup> infringed. During the period 2013-2017, almost 70 % of items detained corresponded to detentions where a trade mark was allegedly infringed, followed by copyright and designs (see Table 7-4<sup>(17)</sup> <sup>(18)</sup> below). A similar trend appeared in terms of the estimated value of items; 54 % of this value related to detentions where a trade mark was allegedly infringed, followed again by copyright and designs.

Besides, the historical trend shows that the weight of the trade mark as an allegedly infringed IP right has not stopped increasing on average, even when neutralising those records where the IP right was 'Not provided' (see also Table 7-4 below).

(16) When the IP right was accurately identified (other than 'Not provided').

(17) The table only shows IP rights whose share is at least 0.02 %.

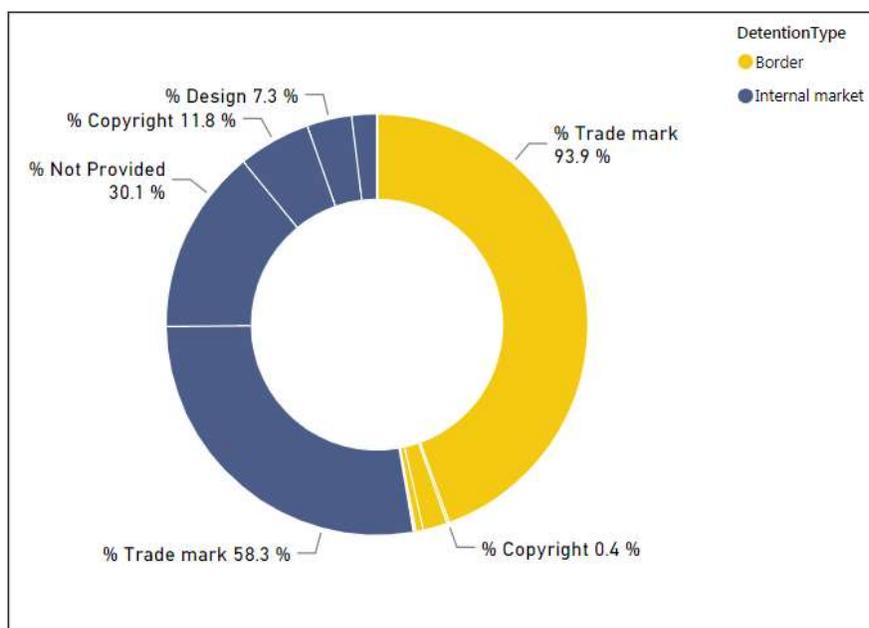
(18) Percentages amounted to more than 100 % because there are, among the national markets registers, records with several IP rights allegedly infringed in the same record (see Sections B.1.2 and B.2.2 and footnote 34).

Table 7-4: Ratio of quantity of items detained by type of IP right

	2013	2014	2015	2016	2017	Total
% Trade mark (Quantity)	35.4 %	42.2 %	95.3 %	82.4 %	94.3 %	<b>69.9 %</b>
% Not Provided (Quantity)	46.4 %	53.7 %	0.0 %	0.0 %	1.0 %	<b>20.3 %</b>
% Copyright (Quantity)	16.6 %	1.5 %	3.6 %	16.2 %	2.1 %	<b>8.1 %</b>
% Design (Quantity)	4.8 %	3.7 %	7.8 %	3.3 %	11.0 %	<b>6.2 %</b>
% Patent (Quantity)	3.0 %	1.3 %	6.4 %	0.8 %	3.2 %	<b>3.1 %</b>
% Plant variety (Quantity)	0.0 %	0.4 %	0.0 %	0.0 %	0.1 %	<b>0.1 %</b>
% Supplementary protection certificate (Quantity)	0.0 %	0.0 %	0.1 %	0.1 %	0.0 %	<b>0.1 %</b>

Moreover, as can be seen in Figure 7-4 above, the preponderance of trade marks appeared much higher in detentions at EU borders than in those in Member State national markets.

Figure 7-4: Ratio of quantity of items detained during 2013-2017 by type of IP right and by type of detention



An important share of detentions failed to report the IP right used as a basis for its enforcement ( $\pm 20$  % in terms of the quantity of items and more than 30 % in terms of the estimated value). This lack of precision, concentrated in the data on detentions in Member State national markets, limited the quality of the analysis.

## 7.2. COMPARISON OF DETENTIONS AT EU BORDERS AND IN EU NATIONAL MARKETS

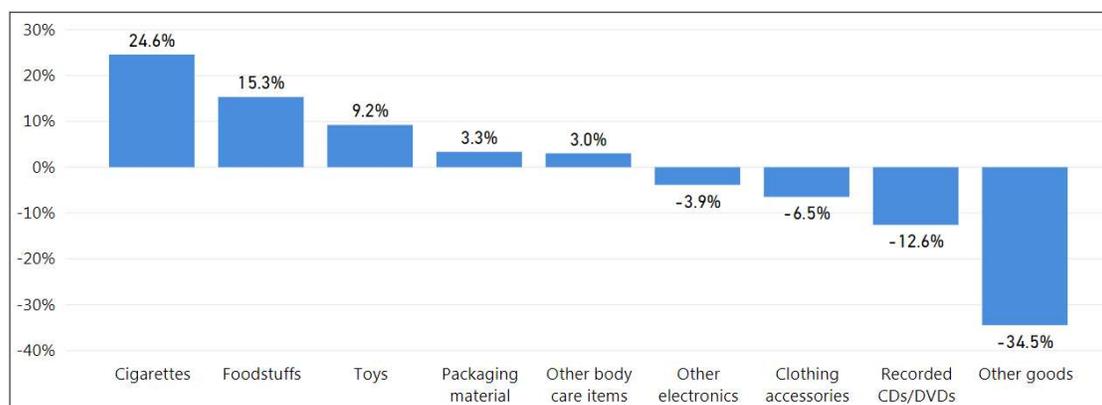
Although in the previous sections the breakdown between detentions at EU borders and in Member State national markets was shown for some dimensions (see Section 7.1.1 for overall detention figures and Sections 7.1.2 and 7.1.4 for figures by Member State and by type of IP right), the comparison of the number of detentions per subcategory of products between those carried out at EU borders and those in Member State national markets deserves a deeper analysis.

The purpose of this section is to highlight the main differences existing in the subcategories of goods detained in these two different scopes of action of the IP rights enforcement authorities in the EU.

The methodology used, widely described under Annex E, was based on the gap between the share that a certain subcategory of products represented (both in quantity and in estimated value) in the total number of detentions at EU borders and the share that the same products represented in the total number of detentions in the Member State national markets for a comparable subset of years, and Member States in which the two sets of data were solidly available <sup>(19)</sup>. This gap, or delta, is called ‘*ΔShare*’. The bigger the delta, the higher the difference in the results of detentions of such products at EU borders versus in the Member State national markets of the selected subset. Positive gaps or deltas mean that the share of detentions of those subcategories of goods is higher at EU borders than in Member States’ national markets and vice versa.

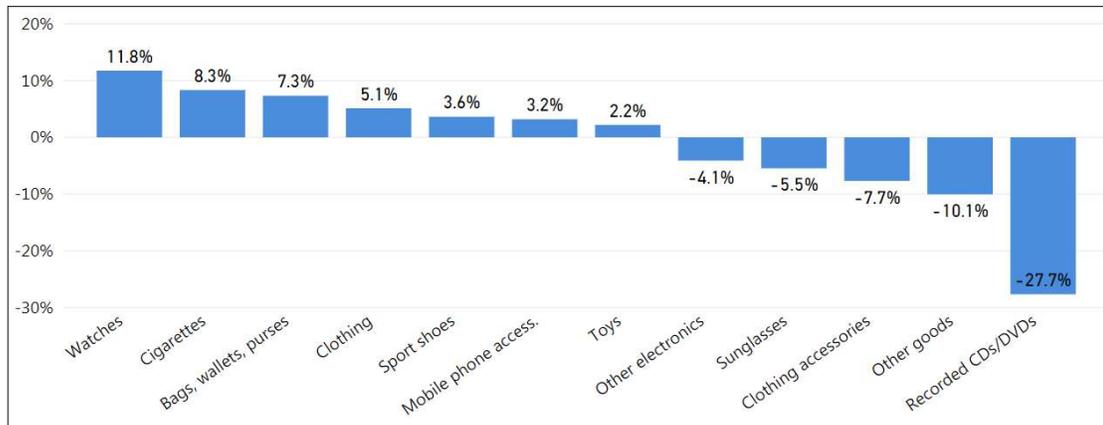
The DG TAXUD subcategories for which these deltas (by quantity of items and by estimated value) were higher than 2 % are shown respectively in Figure 7-5 and Figure 7-6 below.

Figure 7-5: Difference in share of detentions at EU borders v in EU national markets by quantity of items for the selected subset



(19) This subset contains detentions from 2015 and 2016 in all 28 EU Member States except Austria, Estonia, Germany, Hungary, Malta, Poland, Slovenia, Sweden and the United Kingdom.

Figure 7-6: Difference in share of detentions at EU borders vs in EU national markets by estimated value of items for the selected subset



The analysis of this delta by subcategory of products, both for quantity of items and for their estimated value, shows that the enforcement authorities acting in each Member State's national market and the ones acting at the EU border detain different types of goods.

The combination of both figures would indicate that there was a differential predominance of detentions at EU borders of goods belonging to the subcategories *Cigarettes* and *Watches*, whereas the differential predominance of detentions in the EU national markets was in goods belonging to the subcategory *Recorded CDs/DVDs*.

Analysis of the  $\Delta Share$  in the Member States with the highest availability of data on detentions in their national markets (Italy, Spain and Portugal, see Sections 8.1.3 and 9.1.3) confirmed the existence of a differential predominance of the types of goods detained at EU borders and in the Member State national markets. The differences in Italy, however, biased the figures of the selected subset, considering the weight of its detentions.

## 8. REPORTED DETENTIONS OF FAKES AT EU BORDERS

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

### 8.1. TRENDS: DG TAXUD REPORTS ON EU CUSTOMS ENFORCEMENT OF IPR

DG TAXUD publishes a yearly report on EU customs results at the EU border — enforcement of intellectual property rights: results at EU border (DG TAXUD reports) <sup>(20)</sup>.

The reports are based on data collected by EU customs administrations in relation to the detention of goods that are potentially infringing intellectual property rights under Article 32 of Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights.

Although the data uploaded to the IP Enforcement Portal on the detention of fakes at EU borders originate from DG TAXUD data, coverage of both datasets differs slightly (see Section 6 DATA RANGE AND LIMITATIONS). From the detention cases recorded by DG TAXUD, only those procedures in that the goods are not released, are reported to the IP Enforcement Portal <sup>(21)</sup>.

Moreover, as we will see in the following sections, most of the conclusions resulting from the data analysis in the IP Enforcement Portal coincide with those obtained by DG TAXUD when analysing their data.

#### 8.1.1. OVERALL DATA: NUMBER OF CASES, QUANTITY, VALUE AND QUANTITY AND VALUE PER PROCEDURE

The indicator that measures the effort made by EU border enforcement authorities in respect of allegedly infringed IP rights (the number of cases involving these grounds <sup>(22)</sup>) for the 28 Member States shows a

(20) Available at:

[https://ec.europa.eu/taxation\\_customs/business/customs-controls/counterfeit-piracy-other-ipr-violations/ipr-infringements-facts-figures/facts-figures-archive\\_en](https://ec.europa.eu/taxation_customs/business/customs-controls/counterfeit-piracy-other-ipr-violations/ipr-infringements-facts-figures/facts-figures-archive_en)

(21) When comparing the data recorded by DG TAXUD and that reported to the IP Enforcement Portal database, attention shall be paid to the fact that the annual DG TAXUD reports contain four numerical dimensions of detained goods at EU borders, which found corresponding dimensions in the IP Enforcement Portal but with different names:

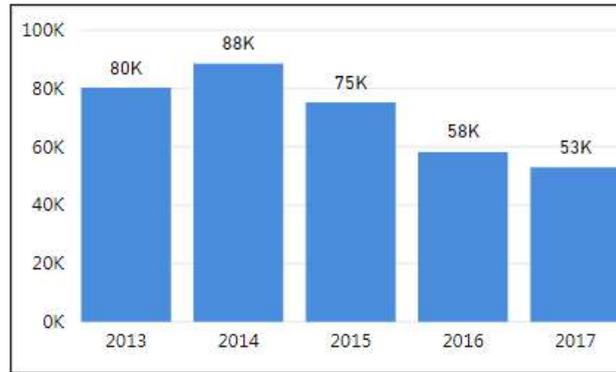
DG TAXUD	IP Enforcement Portal
Cases (goods not released or equivalent)	Count of distinct internal detention case
Procedures (goods not released or equivalent)	Count of internal detention (no. of rows)
Number of articles (not released or equivalent)	Quantity
Estimated value (goods not released or equivalent)	Seizure value

(22) For the exact definition of a detention case and a detention procedure, please refer to the Report on the EU customs enforcement of intellectual property rights: Results at the EU border, 2017, p. 7 from DG TAXUD.

In DG TAXUD reports, as from 2014, each detention is referred to as a 'case'; a case may involve one or more articles and each case may contain articles of different product categories, belonging to different rights holders. Member States register each case per category of goods and per rights holder. For each rights holder, a new detention procedure is initiated, which explains why there are more procedures than cases. Certain statistics, e.g. on results, product category, or a given IP right, are provided per procedure instead of per case, as the figures can differ per procedure. Other

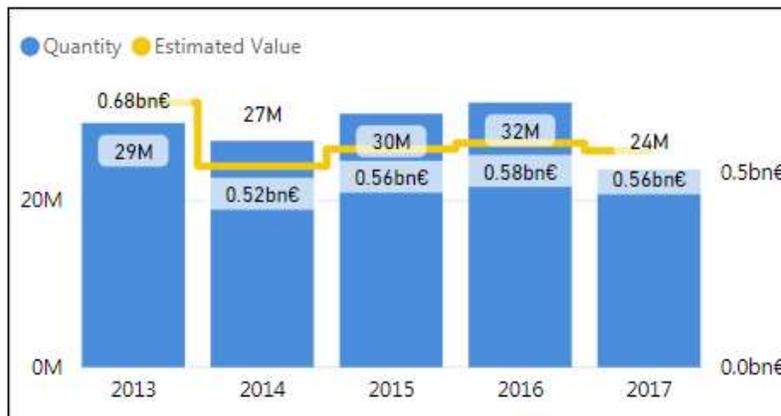
clear downwards trend. As can be seen in Figure 8-1 below, following a peak in 2014 the annual number of operations relating to the detention of fake goods by customs authorities at EU borders gradually decreased.

Figure 8-1: Number of cases at EU borders involving allegedly infringing IPR



The results of this effort (measured through the number of items detained and their estimated value) also decreased, albeit at a slower pace, apart from temporarily in 2015 and 2016 (see Figure 8-2 below).

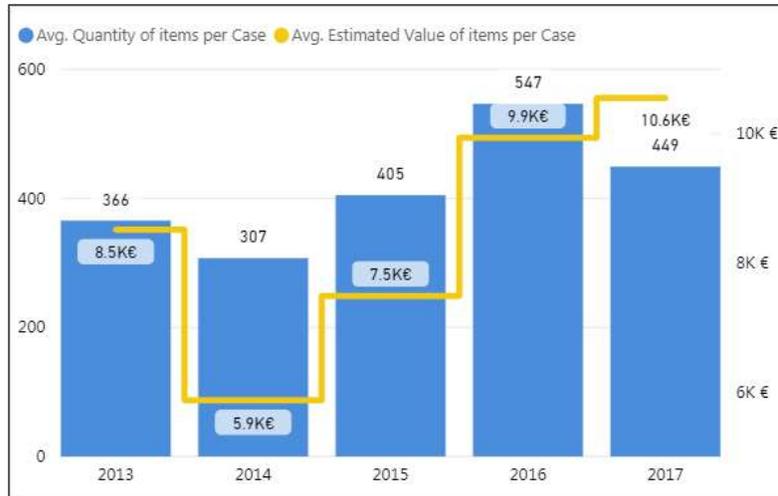
Figure 8-2: Quantity and estimated value of items allegedly infringing IPR detained at EU borders



However, despite the decrease, there was a sustained increase in the efficiency of operations during the period, as shown by the indicators of average volume and estimated value of items per case (see Figure 8-3 below). These results are noteworthy in a context of increasing usage by counterfeiters of types of shipments “inefficient per se” (see footnote 11).

statistics remain per infringement case, e.g. customs procedures or transport mode, as the figures are only relevant per case. Until 2013, only the number of cases was tracked.

Figure 8-3: Quantity and estimated value of items allegedly infringing IPR detained at EU borders. Average per case

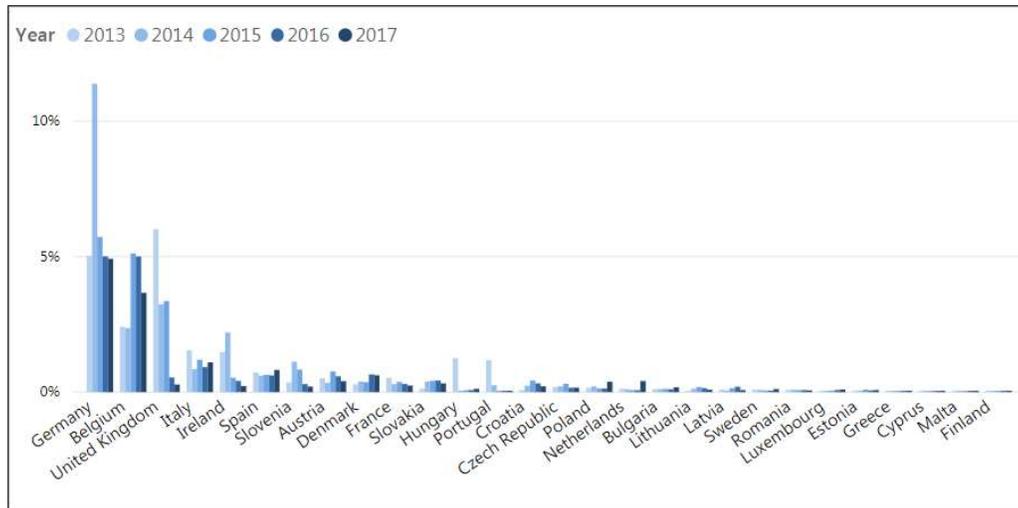


#### 8.1.2. DATA PER MEMBER STATE

When analysing at Member State level the indicator that measures the absolute effort of EU border enforcement authorities in respect of allegedly infringed IP rights (the number of cases involving these grounds <sup>(22)</sup>) as registered in the IP Enforcement Portal), the conclusions were, once again, very similar to those reached by DG TAXUD in its reports.

Indeed, in terms of the share of the number of cases, the top 10 Member States accounted for more than 87 % of the overall number of cases during the period. The positions of Member States in this ranking showed historical stability, with the exception of the peak of the share of detentions at EU borders in Germany in 2014 (also appearing in the corresponding DG TAXUD report and corresponding to a sharp increase that year in the number of cases leading to detentions at Germany's EU borders of fake goods with provenance from Hong Kong-China, Singapore and Thailand, in particular of *Sport shoes* and *Sunglasses*) and the sharp downwards trend of the United Kingdom and Ireland and, to a lesser extent, of Slovenia, Hungary and Portugal (see Figure 8-4 below).

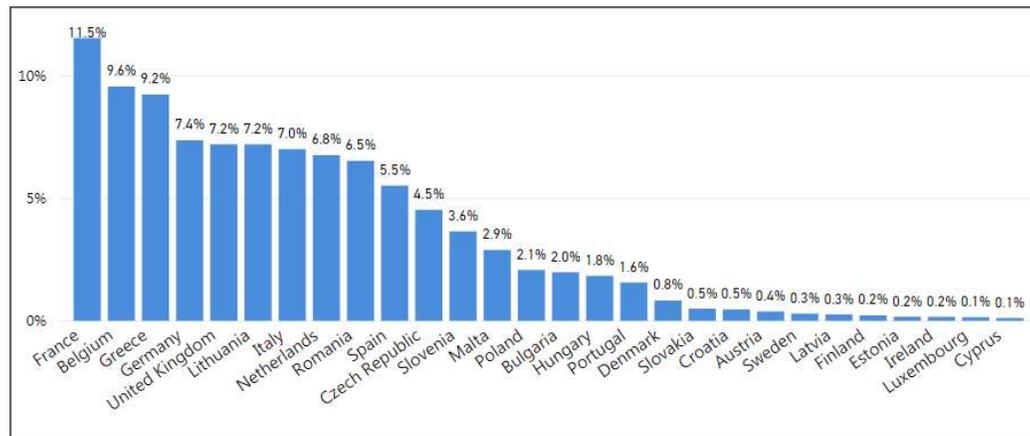
Figure 8-4: Share of the number of cases of detentions at EU borders



Moreover, when analysing at Member State level the indicators that measure the results of that effort (the number of items detained and their estimated value as registered in the IP Enforcement Portal), the conclusions are also very similar to those reached by DG TAXUD in its reports.

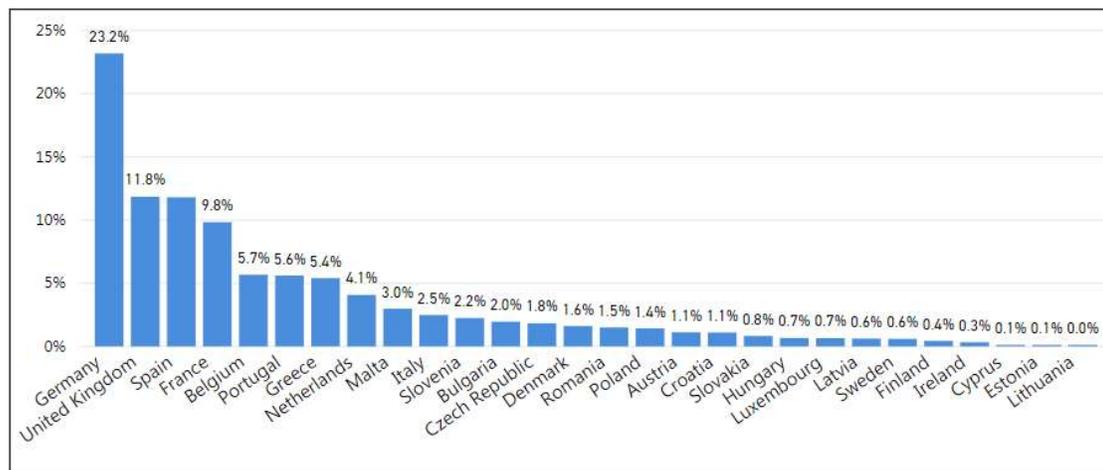
Indeed, in terms of the share of the number of items detained, the top 10 Member States accounted for almost 78 % of the overall number of items (see Figure 8-5 below) and in terms of their estimated value the top 10 Member States accounted for almost 83 % of the overall estimated value of the detained items during the period (see Figure 8-6 below).

Figure 8-5: Share of the quantity of items detained at EU borders for the period 2013-2017



A deeper analysis of the reasons why some Member States climb upwards in the rankings of the results indicators (e.g. quantity, see Figure 8-5 above and estimated value, see Figure 8-6 below of the detained items) when compared to their position in the ranking of effort (e.g. number of cases, see Figure 8-4 above) shows that, in most cases, this effect is a consequence of the high preponderance of detentions at EU borders in those countries for items that belong to subcategories which are either usually packed in high quantities (*Cigarettes* in Greece, *Foodstuffs* in France) or contain items of high unitary value (*Watches* in France or Spain).

Figure 8-6: Share of the estimated value of items detained at EU borders for the period 2013-2017



Moreover, the lack of a match between the two top 10 rankings of the results indicators (e.g. quantity, see again Figure 8-5 above, and estimated value of the detained items, see again Figure 8-6 above) is due to the fact that the Member States climbing into the top 10 ranking per estimated value (Malta and Portugal) detained at their EU borders products with higher estimated value per item (e.g. *Non-sport shoes, Sunglasses, Clothing*) whereas those Member States abandoning the top 10 ranking per quantity of items (Lithuania and Romania) detained articles with lesser estimated value (in particular, *Foodstuffs and Toys*).

### 8.1.3. DATA PER PRODUCT SUBCATEGORY

Considering the perspective of the subcategories of products detained, in terms of number of procedures <sup>(22)</sup>, the product subcategories appearing in most procedures during the period at stake were Common Consumer products (*Clothing and Footwear*) and Luxury products (*Bags, wallets, purses and Watches*) (see Table 8-1 below <sup>(23)</sup>).

(23) The term 'Remaining categories' refers to all the subcategories mentioned in Annex C which are not specifically mentioned in the chart.

Table 8-1: Share of the total detentions at EU borders by number of procedures

Subcategories	2013	2014	2015	2016	2017	Total
Sport shoes	16.7%	34.3%	18.6%	20.6%	23.3%	23.0%
Clothing	19.2%	12.2%	14.2%	17.7%	20.4%	16.4%
Bags, wallets, purses	13.4%	12.8%	16.2%	8.7%	7.9%	12.2%
Non-sport shoes	11.0%	8.9%	11.1%	9.2%	9.8%	10.0%
Remaining subcategories	10.4%	6.0%	9.2%	9.5%	8.7%	8.7%
Watches	5.3%	4.3%	6.2%	6.6%	7.5%	5.8%
Sunglasses	4.8%	7.7%	5.8%	6.7%	3.2%	5.7%
Mobile phone access.	4.1%	3.6%	4.9%	5.3%	3.1%	4.2%
Perfumes and cosmetics	4.1%	1.8%	2.4%	3.4%	2.7%	2.9%
Clothing accessories	3.5%	1.8%	2.3%	1.8%	2.3%	2.4%
Mobile phones	2.3%	2.2%	2.3%	2.5%	2.1%	2.3%
Toys	1.3%	1.1%	2.0%	2.6%	3.6%	2.0%
Medicines	1.4%	1.1%	1.7%	2.8%	2.6%	1.8%
Jewellery	1.6%	1.2%	1.4%	1.2%	1.2%	1.3%
Other goods	0.9%	1.0%	1.5%	1.4%	1.7%	1.3%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The evolution of this ranking across time showed, as similarly pointed out by DG TAXUD reports, a rather stable pattern. The subcategory *Bags, wallets, purses* showed however a rather decreasing trend and that of *Watches* a rather increasing one (see Table 8-1 above).

In turn, in terms of the number of articles detained, those subcategories in which the unitary item is usually smaller in size and value and are mainly transported in bigger shipments in containers or trucks (*Cigarettes*, small *Toys*, *Foodstuffs* such as sweets and bubble gum), led the ranking of the aggregated period (see Table 8-2 below <sup>(23)</sup>).

Moreover, the historical trend downwards of *Cigarettes*, the stability of *Toys* and the trend upwards of *Foodstuffs*, pointed out by DG TAXUD reports, also appeared after the analysis of the data in the IP Enforcement Portal (see Table 8-2 below).

Table 8-2: Share of the total detentions at EU borders by quantity of items detained

Subcategories	2013	2014	2015	2016	2017	Total
Cigarettes	9.6%	29.9%	24.0%	19.3%	7.1%	18.3%
Toys	7.8%	10.1%	11.7%	18.2%	13.7%	12.4%
Foodstuffs	0.1%	5.2%	8.8%	14.9%	27.0%	10.7%
Other goods	11.7%	4.1%	9.3%	9.4%	9.6%	8.9%
Packaging material	9.8%	4.0%	4.9%	12.4%	5.2%	7.5%
Remaining subcategories	8.8%	8.6%	7.2%	4.0%	9.4%	7.5%
Clothing	14.1%	4.8%	2.9%	4.1%	5.4%	6.3%
Labels, tags, stickers	2.4%	3.2%	9.6%	3.3%	6.2%	4.9%
Medicines	7.1%	10.3%	2.6%	1.2%	2.3%	4.6%
Other body care items	4.0%	2.8%	4.8%	1.7%	4.0%	3.4%
Mobile phone access.	3.5%	4.6%	3.4%	2.4%	2.5%	3.3%
Perfumes and cosmetics	3.5%	3.1%	2.4%	2.9%	1.2%	2.7%
Office stationery	4.6%	0.1%	1.3%	1.6%	1.5%	1.9%
Sport shoes	1.9%	1.4%	1.1%	1.6%	2.1%	1.6%
Non-sport shoes	2.8%	2.6%	0.8%	0.9%	0.9%	1.6%
Jewellery	3.8%	2.3%	0.8%	0.4%	0.5%	1.6%
Sunglasses	2.3%	1.7%	2.1%	0.7%	0.6%	1.5%
Bags, wallets, purses	2.2%	1.0%	2.4%	0.8%	0.9%	1.5%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Finally, in terms of the estimated value of the products detained, the data in the IP Enforcement Portal (see Table 8-3 below <sup>(23)</sup>) also displayed a similar trend to the one shown in the analysis conducted in DG TAXUD reports: Luxury products whose corresponding genuine item had a high unitary domestic retail value (in particular due to the brands involved) such as *Watches*, *Bags*, *wallets*, *purses* and *Perfumes and cosmetics*, led the ranking of the aggregated period.

Table 8-3: Share of the total detentions at EU borders by estimated value of items detained

Subcategories	2013	2014	2015	2016	2017	Total
Watches	22.0%	17.0%	26.6%	17.9%	33.1%	23.3%
Bags, wallets, purses	9.3%	9.8%	10.1%	11.1%	9.1%	9.9%
Clothing	11.4%	10.6%	7.9%	6.8%	10.9%	9.6%
Perfumes and cosmetics	7.8%	10.3%	5.2%	8.4%	3.1%	7.0%
Sunglasses	12.4%	6.8%	4.1%	5.2%	3.7%	6.7%
Remaining subcategories	6.6%	6.4%	7.9%	6.5%	5.6%	6.6%
Sport shoes	5.9%	4.9%	5.1%	7.7%	7.5%	6.2%
Toys	2.8%	3.7%	5.0%	14.5%	2.9%	5.7%
Cigarettes	1.8%	7.4%	4.6%	4.6%	1.4%	3.8%
Jewellery	2.9%	1.8%	3.1%	1.3%	9.8%	3.8%
Non-sport shoes	3.8%	4.4%	4.6%	2.3%	3.5%	3.7%
Mobile phone access.	2.3%	4.5%	3.4%	2.9%	2.3%	3.0%
Clothing accessories	2.1%	4.4%	3.0%	1.7%	1.2%	2.4%
Other goods	2.2%	2.4%	3.5%	1.4%	2.3%	2.3%
Audio/video apparatus	3.7%	2.7%	1.8%	0.6%	0.8%	2.0%
Mobile phones	1.2%	1.4%	1.4%	2.3%	1.2%	1.5%
Medicines	1.3%	0.8%	2.2%	0.8%	1.1%	1.2%
Games	0.7%	0.4%	0.6%	3.9%	0.3%	1.2%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

The historical series showed that, within Luxury products, the subcategory *Watches* had a slight trend upwards in terms of the share of the estimated value of detentions at EU borders (see Table 8-3 above).

Deeper analysis showed that, in the top 5 Member States with the highest estimated value of detentions during the period 2013-2017 (Germany, the United Kingdom, Spain, France and Belgium, see Figure 8-6 above), *Watches* was the subcategory of products leading the ranking of most estimated valued products in the first three, whereas *Jewellery* and *Cigarettes* took the lead in respectively France and Belgium. In general, the subcategories *Watches* and *Bags, wallets, purses* appeared among the top 5 in terms of estimated value in all five Member States.

#### 8.1.4. DATA PER COUNTRY OF PROVENANCE

Concerning the country of provenance of detained goods at EU borders, China stood out as the first country of provenance of fake goods detained at EU borders for the whole period 2013-2017, both in terms of the number of articles (see Table 8-4 below) and in terms of their estimated values (see Table 8-5 below).

In terms of the number of articles detained, Hong Kong-China, Montenegro (only because of a singularity in 2015, as explained below), Turkey and Malaysia completed the top 5 ranking.

The historical series showed (see Table 8-4 below) that the preponderance of China (with *Toys* and *Cigarettes*) and the appearance in this top 5 ranking of Hong Kong-China (with *Packaging material* and *Labels, tags, stickers*) and Turkey (with *Clothing* and *Perfumes and cosmetics*) were constant, whereas Malaysia (with *Other body care items* and *Toys*) showed a downwards trend. As mentioned in the corresponding DG TAXUD report, the appearance of Montenegro was simply due to a large detention of cigarettes in 2015. On the contrary, Vietnam seemed to show a trend upwards, in terms of the number of articles, as the country of origin of the detained fake goods at EU borders, with a huge concentration in *Cigarettes*.

Table 8-4: Share of quantity of items detained at EU borders

Country of origin	2013	2014	2015	2016	2017	Total
China	66.0%	80.0%	41.2%	80.2%	72.4%	<b>67.7%</b>
Hong Kong SAR China	13.4%	8.0%	9.2%	7.8%	10.2%	<b>9.7%</b>
Remaining countries	14.9%	7.5%	7.5%	8.0%	8.6%	<b>9.3%</b>
Montenegro			17.7%	0.0%	0.0%	<b>3.8%</b>
Turkey	3.7%	2.1%	1.8%	1.1%	4.2%	<b>2.5%</b>
Malaysia	0.2%	0.8%	8.7%	0.2%	0.0%	<b>2.1%</b>
Benin		0.0%	8.4%	0.0%	0.0%	<b>1.8%</b>
Vietnam	0.0%	0.4%	3.4%	1.7%	2.6%	<b>1.6%</b>
India	1.8%	1.2%	2.0%	1.1%	2.0%	<b>1.6%</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

In terms of the estimated value of the articles detained, Hong Kong-China, Turkey, Malaysia and Morocco completed, after China, the top 5 ranking for the aggregated 2013-2017 period.

The historical series showed (see Table 8-5 below) that the preponderance of China (with *Watches*) and the appearance in this top 5 ranking of Hong Kong-China (with *Watches* as well) and Turkey (with *Clothing*) were constant, whereas Malaysia and Morocco (with *Watches* and *Clothing*) showed a downwards trend. On the contrary, India (with *Medicines*) and Singapore (with *Sport shoes* and *Watches*) seemed to show a trend upwards, in terms of estimated value, as countries of provenance of the detained fake goods at EU borders.

Table 8-5: Share of the estimated value of the items detained at EU borders

Country of origin	2013	2014	2015	2016	2017	Total
China	72.5%	67.2%	58.4%	73.4%	45.1%	<b>63.7%</b>
Hong Kong SAR China	7.7%	16.3%	20.2%	15.9%	36.9%	<b>18.9%</b>
Turkey	7.4%	3.5%	4.0%	2.6%	8.9%	<b>5.4%</b>
Remaining countries	5.4%	4.2%	5.4%	5.0%	5.1%	<b>5.1%</b>
Malaysia	3.0%	1.1%	5.2%	0.1%	0.0%	<b>2.0%</b>
Morocco	2.1%	2.1%	0.8%	0.4%	0.3%	<b>1.2%</b>
India	0.7%	0.7%	1.0%	0.6%	1.6%	<b>0.9%</b>
United Arab Emirates	0.6%	0.5%	0.7%	1.6%	0.8%	<b>0.8%</b>
Panama	0.1%	3.6%	0.2%		0.0%	<b>0.7%</b>
Montenegro			3.5%	0.0%	0.0%	<b>0.7%</b>
Singapore	0.4%	0.8%	0.6%	0.4%	1.2%	<b>0.7%</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

### 8.1.5. DATA PER IP RIGHT

Finally, when analysing data on the detention of fake products at EU borders during the period 2013-2017 by IP right allegedly infringed, attention will be paid to the limitations of the availability and quality of this field <sup>(24)</sup>.

In any case, as already pointed out by the different DG TAXUD reports, trade marks are by far the most allegedly infringed IP right on the basis of detained goods at EU borders in terms of the number of articles (Table 8-6 below). The same preponderance can be observed in terms of their estimated value.

There was, however, a slight trend downwards in this preponderance of the trade mark, in parallel with a slight increase in the weight of the design in terms of the number of articles detained (see also Table 8-6 below). The same trend can be observed in terms of their estimated value.

Table 8-6: Share of the quantity of detained items by first IPR allegedly infringed

	2013	2014	2015	2016	2017	Total
% Trade mark (Quantity)	94.11 %	93.79 %	95.49 %	95.04 %	90.37 %	<b>93.93 %</b>
% Design (Quantity)	2.43 %	3.68 %	2.66 %	3.53 %	8.31 %	<b>3.94 %</b>
% Patent (Quantity)	2.43 %	1.20 %	0.97 %	0.98 %	0.22 %	<b>1.19 %</b>
% Copyright (Quantity)	0.98 %	0.20 %	0.26 %	0.16 %	0.30 %	<b>0.38 %</b>
% Plant variety (Quantity)	0.03 %	1.07 %	0.06 %	0.00 %	0.39 %	<b>0.29 %</b>
% Supplementary protection certificate (Quantity)	0.00 %	0.00 %	0.49 %	0.27 %	0.00 %	<b>0.16 %</b>
% Supplementary Protection Certificate for Medicines (Quantity)	0.00 %	0.00 %	0.00 %	0.00 %	0.35 %	<b>0.06 %</b>
% Protected geographical indication (Quantity)	0.02 %	0.06 %	0.08 %	0.02 %	0.00 %	<b>0.04 %</b>
% Geographical Indications for Wine (Quantity)	0.00 %	0.00 %	0.00 %	0.00 %	0.06 %	<b>0.01 %</b>

In terms of the number of articles, the preponderance of the trade mark as the first allegedly infringed IPR for the aggregated period 2013-2107 was well above the average of 93.93 % for products such as *Cigarettes and Other tobacco, Other beverages, Computer equipment, Perfumes and cosmetics, Clothing and Clothing accessories, Packaging material, Textiles, Labels, tags and stickers, Sunglasses, Bags, wallets, purses, Watches and Jewellery and Foodstuffs*.

Patents appeared as the first allegedly infringed IPR in *Other electronics* (indeed, one of the few subcategories where the trade mark is not the top 1 IP right allegedly infringed) in more than 42 % of the items detained.

Designs appeared most (in the region of 15-20 % of the articles detained) in the subcategories *Non-sport shoes, Audio/video apparatus, Office stationery, Other electronics, Lighters and Alcoholic beverages* (although, in all, this IPR was well behind trade marks).

Plant varieties appeared in a minority in *Foodstuffs* (in 2.6 % of the items detained). Their presence in other subcategories of products was marginal and was likely the product of coding mistakes.

Protected geographical indications and the more specific geographical indications for *Wine* and for *Spirits drinks* were together the first allegedly infringed IP rights in 37 % of the detained items belonging to the subcategory *Alcoholic beverages*. Trade marks, however, were still the predominant IP right in this subcategory of products.

(24) As described in Section B.1.2 of Annex B, and in particular in footnote 34 in the said section.

Finally, the supplementary protection certificate and the more specific supplementary protection certificate for medicines accounted for not even 5 % as the first allegedly infringed IP right in the subcategory of *Medicaments*, in which both trade marks and even designs overcame the two former IP rights.

## 9. REPORTED DETENTIONS OF FAKES IN EU NATIONAL MARKETS

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

At this point, a description of the main constraints on the availability of detentions data reported by the EU national markets' enforcement authorities (explained further in Section B.2 of Annex B) becomes necessary.

- Firstly, the unavailability, for diverse reasons already explained in Section 6, of complete datasets from some Member States (Austria, Sweden, Germany and Poland) on the detention of counterfeit and pirated goods in their territories.
- Secondly, the fact that a number of enforcement authorities from several Member States (France, Greece, Hungary, Ireland, Latvia and Slovenia) joined the ACIST community during the period 2013-2017. This increased the universe of data available during the period but impacted (in principle upwards) the absolute aggregated figures of detentions reported in the EU national markets.
- Furthermore, other Member State (Belgium and the United Kingdom) enforcement authorities have yet to report their detentions in the IP Enforcement Portal.
- Moreover, the data on 2017 detentions from some Member States (Luxembourg, the Netherlands and the United Kingdom) were unavailable at the time of drafting this report.
- Finally, the existence of different schemes for data collection and reporting per enforcement authority meant that they did not feed the same data fields in the IP Enforcement Portal.

In consequence, the underlying analysis of the data under this section will be understood in light of the limitations of the availability of data above described. In particular, only two common parameters used by all reporting enforcement authorities can be exploited for analysis and comparison in the EU national markets: the number of detained items and their estimated value. Neither the number of cases nor the number of procedures are parameters that can be used in the analysis of this set of data.

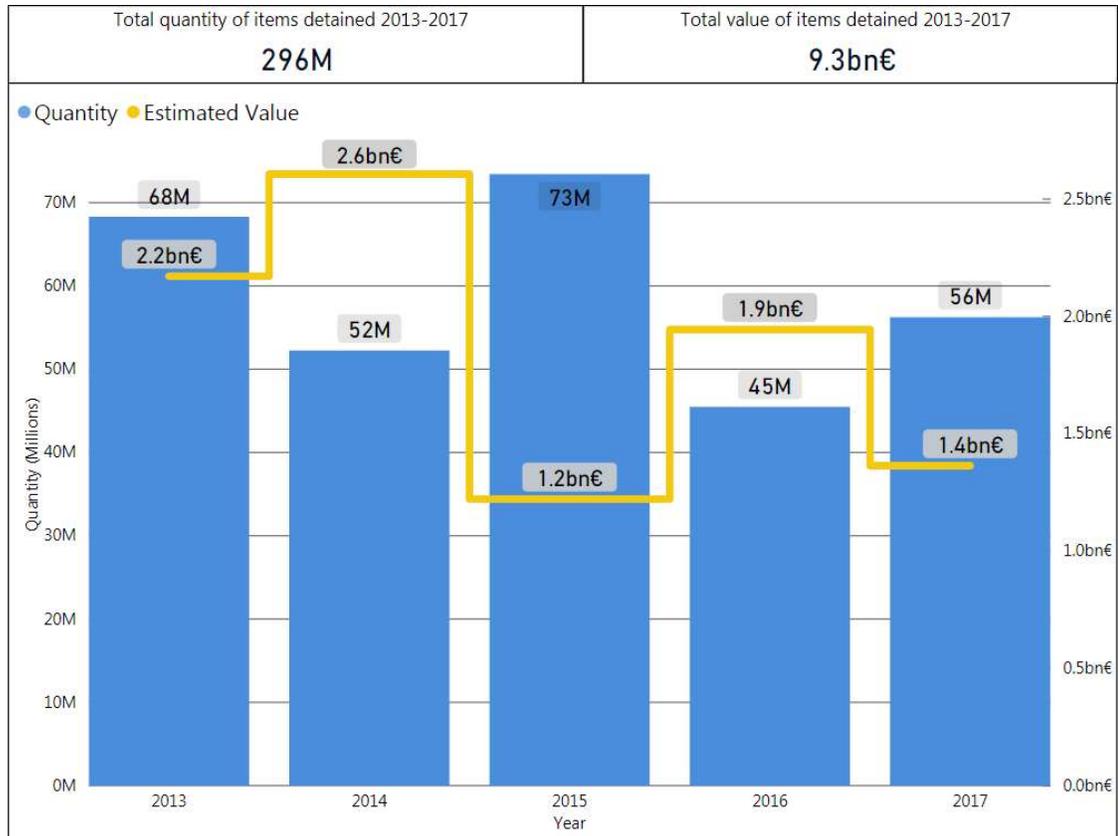
### 9.1. TRENDS

#### 9.1.1. OVERALL DATA: QUANTITY AND ESTIMATED VALUE

The IP Enforcement Portal gives an overview of the fake product detentions reported by the national markets enforcement authorities of the EU Member States in the ACIST community (see Annex A for the composition of this community).

According to the information reported to the database, the number of fake items detained in the EU national markets during the period at stake amounted to some 296 million items. Figure 9-1 below shows a slightly decreasing trend, with an average of around 45-70 million items per year.

Figure 9-1: Reported quantity and estimated value of detained items in the EU national markets during 2013-2017



The estimated value of these detained fake items amounted to over EUR 9 billion. As with the figure given previously, this one also showed a rather slow trend downwards (see also Figure 9-1 above).

Regarding in detail the historical evolution, the constraints previously mentioned on data availability would partially justify the existence of peaks and troughs in both the quantity of detained items and the estimated values. However, adding further datasets to the IP Enforcement Portal from new Member States and from EU national markets' enforcement authorities for almost every year of the period at stake would generate, the rest of the factors being constant, a trend of sustained upward peaks. Therefore, despite the peaks and troughs seen in Figure 9-1 above, which may provide a false impression of erratic evolution, the real general trend of the detention of counterfeit and pirated items in Member State national markets was downwards.

The overall figures also show a second interesting tendency: in the years when the quantity of detained items increased, their estimated value decreased and vice versa.

As will be shown in next section, the overall figures for these two trends were dominated by the weight of the top 5 reporting Member States.

However, future results may vary when the reporting is completed with data provided by those enforcement authorities that have as yet not joined the ACIST community.

### 9.1.2. DATA PER MEMBER STATE

From the breakdown by Member State, as regards the quantity of items detained, the trend reflected that a small number of Member States accounted for over 96 % of the total reported detentions carried out between 2013 and 2017 in the EU national markets. More specifically, regarding the quantity of items, 96.7 % of the detentions relied mainly on five Member States (Italy, Spain, France, Bulgaria and Portugal), which were those with the most complete, general and per field datasets.

However, these listed top 5 Member States are far from a proportional distribution of the figures (see Table 9-1 below). The biggest share of the quantity of detained items was, by far, that of Italy with an average of more than 68 percentage points difference to that of Spain, the second Member State by share; over 73 points difference with the third (France) and fourth (Bulgaria) and over 75 points difference with the fifth (Portugal). Therefore, the general trend was driven by the data from Italy's national market enforcement authorities, although slightly nuanced by the combination of the other top 4 Member States' figures.

**Table 9-1: Share of the top 10 Member States with the highest quantity of detained items in the EU national markets**

Country	2013	2014	2015	2016	2017	Total
Italy	87.7%	82.6%	77.1%	81.5%	57.1%	<b>77.4%</b>
Spain	7.8%	3.5%	10.7%	3.9%	16.6%	<b>8.8%</b>
France		6.0%	3.4%	10.1%	4.5%	<b>4.3%</b>
Bulgaria	0.0%	0.0%	4.9%	0.9%	14.7%	<b>4.2%</b>
Portugal	2.6%	5.6%	1.2%	0.9%	0.7%	<b>2.2%</b>
Belgium	0.9%	0.8%	0.4%	1.0%	0.8%	<b>0.8%</b>
Greece			0.4%	0.8%	2.3%	<b>0.7%</b>
Czech Republic	0.7%	0.4%	0.7%	0.5%	0.7%	<b>0.6%</b>
Croatia	0.0%	0.1%	0.9%	0.1%	0.4%	<b>0.4%</b>
Hungary					1.5%	<b>0.3%</b>

Three main reasons would explain such a difference among the share of Italy and the remaining 4 top 5 Member States. Firstly, contrary to the case of Italy, French enforcement authorities with a mandate to detain counterfeit goods did not report to the IP Enforcement Portal during some of the years of the period at stake. Secondly, the Spanish enforcement authorities did not reach the same wide coverage of their territory as was managed by Italy. Finally, the size of the Bulgarian and Portuguese markets, both for genuine but also for fake products, was not comparable to that of Italy.

Moreover, as regards the period 2013-2017, the figures for the other top 10 Member States, even though they cover all data available at that time, did not include data for every year or for all of their regional or sectorial enforcement authorities with a mandate to detain. This means that the total universe of the available data might be bigger in the future. A very similar situation happened with the Member States that gradually started providing data in the following years. This makes a comparison on an equal footing impossible.

The United Kingdom and Germany, Member States with population figures comparable to Italy and, consequently, with a comparable potential scenario on detentions of counterfeit and pirated goods, did not even appear in the list since they failed to provide or provided only partial datasets for the period analysed.

If focus is put year by year, the number of items reported as detained in 2015, which stands out over the other years (see Figure 9-1 above), relied on the sharply increased number of items detained reported by Spain, Bulgaria and Croatia and on the first dataset from Greece. All these factors reduced Italy's share in this year.

More or less, the same scenario occurred in the figures based on the estimated value of the detained goods (see Table 9-2 below). The figures show that a small number of Member States represented over 96 % of the total detentions carried out between 2013 and 2017. More specifically, regarding the estimated value of the detentions, 97.1 % of the value on average was also driven by five Member States (Italy, France, Spain, the Czech Republic and Belgium).

**Table 9-2: Share of the top 10 Member States with the highest estimated value of detained items in the EU national markets**

Country	2013	2014	2015	2016	2017	Total
Italy	84.6%	88.9%	58.6%	80.7%	53.8%	<b>77.1%</b>
France		6.9%	16.7%	11.6%	27.8%	<b>10.6%</b>
Spain	12.2%	2.7%	16.7%	2.7%	9.2%	<b>7.7%</b>
Czech Republic	1.5%	0.5%	1.7%	0.9%	0.7%	<b>1.0%</b>
Belgium	1.1%	0.4%	1.0%	0.8%	0.6%	<b>0.7%</b>
Greece			0.7%	0.8%	3.2%	<b>0.7%</b>
Portugal	0.3%	0.2%	0.6%	1.8%	1.0%	<b>0.7%</b>
Croatia	0.0%	0.2%	1.9%	0.2%	1.4%	<b>0.6%</b>
Bulgaria	0.0%	0.0%	1.8%	0.1%	1.0%	<b>0.4%</b>
Cyprus	0.0%	0.0%	0.0%	0.2%	0.6%	<b>0.2%</b>

When comparing the top 5 Member States by, respectively, the quantity of detained items (Table 9-1 above) and their estimated value (Table 9-2 above), there are Member States appearing in one but not in the other (Bulgaria, Portugal, the Czech Republic, Belgium), due to the different unitary value of the mix of product subcategories most detained in each of them. However, the top 3 Member States (Italy, France and Spain) appeared in both rankings, due in particular currently to the completeness and weight of their reported data in the IP Enforcement Portal.

### 9.1.3. DATA PER PRODUCT SUBCATEGORY

From the perspective of the identified subcategories of products detained in EU national markets and in terms of the quantity of those items detained, in the five-year period the most products detained belonged to the subcategories *Clothing accessories*, *Recorded Ds/DVDs*, *Toys*, *Clothing* and *Packaging material* (see Table 9-3 below <sup>(13)</sup>).

The top 5 ranking remained largely unaltered year after year with only two significant jumps upwards in 2013 and in 2016 by the subcategory *Recorded CDs/DVDs* (see Table 9-3 below).

The product subcategories following the top 5 over the 2013-2017 period were *Other electronics*, *Labels, tags, stickers*, *Machines/tools*, *Perfumes and cosmetics*, *Foodstuffs*, *Mobile phone accessories*, *Sunglasses* and *Non-sport shoes*.

Table 9-3: Share of the quantity of items detained in the EU national markets by subcategories of goods

Subcategories	2013	2014	2015	2016	2017	Total
Other goods	21.6%	21.5%	61.0%	18.2%	16.2%	29.8%
Clothing accessories	21.0%	27.3%	6.8%	9.3%	13.4%	15.3%
Recorded CDs/DVDs	23.0%	3.3%	5.5%	24.1%	1.6%	11.3%
Toys	6.7%	9.2%	2.5%	8.6%	15.2%	8.0%
Remaining subcategories	8.5%	10.3%	4.6%	5.0%	5.2%	6.7%
Clothing	0.9%	4.9%	0.8%	10.4%	15.5%	5.8%
Packaging material	0.8%	1.3%	1.5%	5.5%	14.7%	4.4%
Other electronics	1.8%	6.7%	2.4%	7.9%	4.9%	4.3%
Labels, tags, stickers	1.9%	2.9%	9.2%	1.8%	1.2%	3.7%
Machines/tools	5.9%	6.0%	0.6%	0.0%	0.0%	2.6%
Perfumes and cosmetics	4.6%	0.8%	1.3%	1.9%	3.0%	2.4%
Foodstuffs	1.1%	0.1%	0.1%	0.4%	6.7%	1.6%
Mobile phone access.	0.5%	4.6%	1.9%	0.4%	0.2%	1.5%
Sunglasses	1.5%	0.8%	0.6%	4.3%	0.3%	1.3%
Non-sport shoes	0.2%	0.3%	1.2%	2.0%	2.1%	1.1%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Regarding the estimated value of the detained items, the scenario did not change that much (see Table 9-4 below <sup>(13)</sup>) if compared with the number of items detained. It modified the top 5 positions but kept *Clothing accessories* and *Recorded CDs/DVDs* among the top 3, with the luxury-related subcategories *Watches* and *Sunglasses* also appearing.

From this estimated value perspective, the product subcategories related to health and safety appeared in rather low positions, since five of them (*Foodstuffs*; *Alcoholic beverages*; *Other beverages*; *Other body care items* and *Medicines*) did not appear in the top 14 ranking and the subcategories *Perfumes and cosmetics* and *Toys* represented, on average for the period, around 3 % of the total for each <sup>(25)</sup>.

(25) As a reminder, the ratio shown only refers to detentions based on allegedly infringed IP Rights, whereas detentions based on other legislation, surely relevant for this set of subcategories, are not considered when calculating the ratio.

Table 9-4: Share of the estimated value of items detained in the EU national markets by subcategories of goods

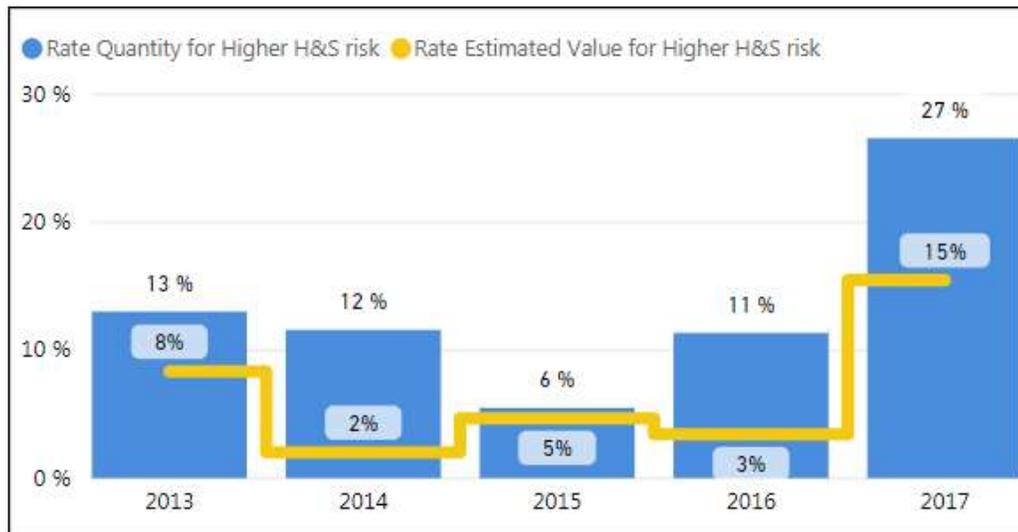
Subcategories	2013	2014	2015	2016	2017	Total
Clothing accessories	34.4%	28.2%	15.7%	5.6%	13.0%	<b>21.0%</b>
Watches	5.1%	32.5%	6.6%	8.9%	6.0%	<b>13.9%</b>
Remaining subcategories	14.1%	8.8%	38.9%	4.3%	8.6%	<b>13.0%</b>
Recorded CDs/DVDs	10.0%	0.9%	10.4%	38.5%	4.4%	<b>12.6%</b>
Sunglasses	4.8%	1.6%	1.8%	14.7%	9.2%	<b>6.2%</b>
Machines/tools	14.5%	9.1%	1.0%	0.0%	0.0%	<b>6.1%</b>
Bags, wallets, purses	3.4%	5.4%	9.6%	4.1%	8.6%	<b>5.7%</b>
Clothing	1.0%	1.3%	1.2%	7.5%	18.6%	<b>5.1%</b>
Other electronics	2.1%	5.1%	1.2%	6.4%	6.9%	<b>4.4%</b>
Perfumes and cosmetics	6.5%	0.3%	2.8%	0.5%	6.7%	<b>3.0%</b>
Toys	1.8%	1.5%	1.3%	2.8%	8.4%	<b>2.8%</b>
Sport shoes	1.7%	2.7%	1.1%	3.9%	2.9%	<b>2.5%</b>
Non-sport shoes	0.2%	0.4%	6.0%	2.5%	6.4%	<b>2.4%</b>
Mobile phone access.	0.4%	2.2%	2.4%	0.2%	0.2%	<b>1.1%</b>
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

When analysing the behaviour of the detentions per product subcategory year by year, those subcategories present in the top 14 ranking for the whole period show very different positions in each annual ranking. However, their consistent appearance within each year's top 14 ranking was still remarkable and a sign of consistency of the mix of products detained.

Looking again into the subcategories of **goods representing a possible risk to health and safety** <sup>(26)</sup> and despite their aforementioned low average share in terms of estimated value, there was a positive historical trend globally in the EU national markets detention figures for this type of goods (see Figure 9-2 below), similarly to the aggregated EU border and national markets figures pointed out by the analysis in Section 7.1.3.

(26) See in Section 7.1.3 the list of subcategories classified under this set.

Figure 9-2: Share of quantity and estimated value of items with possible H&S risk detained by EU national markets enforcement authorities



The figures do not always show, however, the same positive trend for each health and safety related specific subcategory (see again Table 9-3 and Table 9-4 above).

The recurrent appearance, in terms of the share of the quantity of items detained, of **two specific product subcategories** *Packaging material and Labels, tags, stickers* must be (negatively) highlighted, since they have a multiplier effect for the production of more fake products and, consequently, the capacity to cause additional harm. However, their trends diverged since, while detentions of the former were increasing, detentions of the latter were decreasing.

Finally, it is worth noting the recurrent presence of the **product subcategory Other goods** (29.78 % of all items detained in EU national markets during the period at stake), under which the enforcement authorities gathered a number of products not assignable to those subcategories already defined (see Table C-2 in Annex C and Table D-2 in Annex D). In terms of the quantity of items detained in EU national markets, it always kept a share higher than 15 % for every single year, even though it had been generally decreasing from 21.5 % in 2013 to 16.2 % in 2017.

As for other Observatory initiatives (i.e., in the organisation of the regional seminars for training on enforcement), an *ad hoc* analysis from the different geographic EU regions' perspective is also of interest when analysing detentions in the Member State national markets. The aim was to compare the top 5 ranking subcategories in each region and see if the patterns changed from region to region when the focus was on the subcategories with the highest quantity of detained items and the highest estimated value.

For this first issue, the exercise was carried out with three groups, the first one composed of some southern EU Member States (Portugal, Spain, Italy, Malta, Greece and Cyprus), the second one of some central EU Member States (Austria, Germany, Poland — although no data was available from these Member States — the Czech Republic, Hungary and Slovakia) and the third one of some northern EU Member States (Denmark, Estonia, Finland, Latvia, Lithuania and Sweden — no data from the latter). Each of these three groups contained Member States that shared some common geographical and/or cultural parameters that differentiated them somewhat from the other groups.

On the basis of the reported data by the southern Member States group, two different identified subcategories appeared in their top 5 ranking, both in terms of the number of items detained (see Table 9-5

below) and of their estimated value (see Table 9-6 below), namely Luxury products (*Clothing accessories*) and copyright-related products (*Recorded CDs/DVDs*).

Specifically, from the quantity of detained items perspective, the Luxury goods subcategory of products (*Clothing accessories*) represented the highest volumes, followed by the copyright-related subcategory (*Recorded CDs/DVDs*) and one H&S related subcategory (*Toys*) (see Table 9-5 below).

As we can see in Table 9-6 below, subcategories corresponding to Luxury products (*Clothing accessories* and *Watches*) and copyright-related products (*Recorded CDs/DVDs*) were found in the ranking by estimated value, whereas one new type of goods, *Industrial goods (Machines/tools)*, also appeared.

It is important to remark that all Member States in this group were in the ACIST community and reported their detentions data regularly. Moreover, the aggregated data of the region represented acceptably each of the Member States, since, although clearly dominated by Italy's data, there was an acceptable degree of convergence of the patterns by Member State.

**Table 9-5: Top 5 subcategories with the highest quantity of detained items in the EU national markets per region during 2013-2017**

Region	QUANTITY	Region	QUANTITY	Region	QUANTITY
<b>Southern EU</b>	<b>200,152,381</b>	<b>Central EU</b>	<b>1,655,200</b>	<b>Northern EU</b>	<b>301,766</b>
Other goods	84,701,033	Medicines	556,057	Clothing	88,770
Clothing accessories	44,287,295	Other goods	370,783	Cigarettes	80,150
Recorded CDs/DVDs	32,972,697	Clothing	269,231	Medicines	79,574
Toys	22,392,679	Alcoholic beverages	237,140	Not provided	38,354
Clothing	15,798,677	Other beverages	221,989	Mobile phone access.	14,918
<b>Total</b>	<b>200,152,381</b>	<b>Total</b>	<b>1,655,200</b>	<b>Total</b>	<b>301,766</b>

Looking into the figures reported by the central EU Member States, in terms of the quantity of items detained in their national markets (see Table 9-5 above), two different types of subcategories appeared in their top 5 ranking, H&S related products (*Medicines*, *Alcoholic beverages* and *Other beverages*) and Common Consumer products (*Clothing*).

However, in terms of the estimated value of the detained items and except for *Clothing*, the subcategories classified under Luxury products clearly dominated the Top 5 ranking, led by *Watches* and accompanied by *Bags*, *wallets*, *purses* and *Clothing accessories* (see Table 9-6 below).

This being said, it is more difficult to perform a consistent and useful analysis from the central EU region's figures due to the absence of information on detentions in the national markets of three Member States (Austria, Poland and Germany), with data that may potentially change the final results. Moreover, it will be highlighted that, when analysing the top 5 ranking in this region, the aggregated data for all of them mainly represented the individual data of the Czech Republic, since there were few or no data from the remaining countries of this region and, except for the subcategory *Clothing*, there was an important dispersion of patterns by country in those for which data were available.

Table 9-6: Top 5 subcategories with the highest estimated value of detained items in the EU national markets per region during 2013- 2017

Region	SEIZUREVALUE	Region	SEIZUREVALUE	Region	SEIZUREVALUE
<b>Southern EU</b>	<b>5,639,885,548 €</b>	<b>Central EU</b>	<b>73,571,316 €</b>	<b>Northern EU</b>	<b>4,818,745 €</b>
Clothing accessories	1,919,921,904 €	Watches	23,269,694 €	Clothing	2,204,325 €
Recorded CDs/DVDs	1,167,590,646 €	Clothing	21,708,089 €	Recorded CDs/DVDs	1,114,124 €
Watches	1,165,188,826 €	Bags, wallets, purses	13,491,872 €	Medicines	687,415 €
Other goods	823,689,853 €	Sport shoes	7,902,418 €	Mobile phones	451,404 €
Machines/tools	563,494,319 €	Clothing accessories	7,199,242 €	Cigarettes	361,477 €
<b>Total</b>	<b>5,639,885,548 €</b>	<b>Total</b>	<b>73,571,316 €</b>	<b>Total</b>	<b>4,818,745 €</b>

Finally, looking into the figures of the quantity of items detained reported by the northern EU Member States (see Table 9-5 above), the same two different types of subcategories appeared in their top 5 ranking (Common Consumer products and H&S related products). Unfortunately, in this region the products are often classified as 'Not provided'.

The top 5 subcategories in terms of the estimated value of the detained items (see Table 9-6 above) contained again a set of Common Consumer products and H&S related products and, exceptionally, a copyright-related subcategory of products, mainly originated by one exceptionally high unitary value detention of *Recorded CDs/DVDs* in Finland in 2013.

Except for Sweden, the remaining Member States of this region are in the IP Enforcement Portal Internal Market community, even though they normally reported a low number of items detained. It must be highlighted that, when analysing the top 5 ranking in this region, the aggregated data for all of them did not represent any of them individually, since there was a huge dispersion of patterns by country.

The comparison of the results from the three regions top 5 ranking of subcategories on the basis of the reported quantity of items detained (see Table 9-5 above) or of the reported estimated value (see Table 9-6 above) showed different trends and, potentially, different priorities or strategies:

According to the aforementioned data, regarding the national markets of the Member States of the southern region, the detention of goods appeared to be most frequently on the grounds of copyright infringement, whereas the detention of goods in all regions related to Common Consumer products (in particular, *Clothing*). Additionally, the data associated with the detention of goods in national markets in the central EU region indicated that these detentions pertained more to products related to H&S. These results should be considered taking into account the intrinsic limitations of any analysis due to the lack of availability of data in a number of EU national markets.

The analysis can cover in more detail other scenarios in which a reduced subset of Member States had interdependent markets, common trade routes or other economic or cultural similarities.

The case of Spain-Portugal, with a similar quality and availability of data on detentions of fakes in national markets reported to the IP Enforcement Portal, was a good test. Given the geographical situation of both countries it was to be expected that some trade routes coincided and that the markets were somewhat related. In fact, the product subcategories *Foodstuff*, *Clothing* and *Clothing accessories* were common to the two Member States in their respective top 5 ranking of subcategories with the largest share in terms of the quantity of items detained in their national market (see Table 9-7 below).

Table 9-7: Top 5 product subcategories with the highest quantity of detained items in the individual national markets of Portugal and Spain during 2013-2017

Country	QUANTITY	Country	QUANTITY
<b>Portugal</b>	<b>5,322,901</b>	<b>Spain</b>	<b>20,297,523</b>
Clothing	2,690,531	Other goods	11,752,662
Labels, tags, stickers	1,033,183	Foodstuffs	3,628,960
Foodstuffs	850,734	Clothing accessories	1,805,337
Clothing accessories	422,990	Clothing	1,744,881
Cigarettes	325,463	Toys	1,365,683
<b>Total</b>	<b>5,322,901</b>	<b>Total</b>	<b>20,297,523</b>

When repeating this comparison but on the basis of the estimated value of the detained items, their individual figures, very similarly, (see Table 9-8 below) showed results aligned with those obtained in the whole southern region, in which the detention of Luxury products (in particular *Watches*, *Sunglasses* and *Bags, wallets, purses*) stood out.

Table 9-8: Top 5 product subcategories with the highest estimated value of detained items in the individual national markets of Portugal and Spain during 2013-2017

Country	Estimated Value	Country	Estimated Value
<b>Portugal</b>	<b>54,432,579 €</b>	<b>Spain</b>	<b>506,095,816 €</b>
Watches	30,201,196 €	Other goods	198,430,131 €
Clothing	15,646,728 €	Watches	115,016,977 €
Sunglasses	3,135,939 €	Sunglasses	81,887,366 €
Sport shoes	3,034,074 €	Clothing accessories	57,339,864 €
Bags, wallets, purses	2,414,642 €	Bags, wallets, purses	53,421,479 €
<b>Total</b>	<b>54,432,579 €</b>	<b>Total</b>	<b>506,095,816 €</b>

#### 9.1.4. DATA PER IP RIGHT

To analyse the data on detentions in the EU national markets from the perspective of the IP rights allegedly infringed, it is very important to highlight, as an initial disclaimer, that the total number of IPRs infringed in EU national markets detentions reported to the IP Enforcement Portal exceeded the number of detained items for the EU national markets. The reason is that the IP Enforcement Portal allows multiple assignments of IPRs to the detention of an item and that, contrary to the data on detentions at EU borders (see footnote 34), this functionality was used from the beginning to record data on detentions in EU national markets.

The distribution of the allegedly infringed IP rights at the moment of detention in terms of the quantity of items shows that trade marks were the dominant right. It should be noted that not all detentions provided details about the type of IPR enforced. As can be inferred from Table 9-9 <sup>(27)</sup> below, during the period 2013-2017 around 83 % <sup>(28)</sup> of the detained items in EU national markets in which an IPR was identified corresponded to detentions where a trade mark was allegedly infringed, followed by copyright and designs.

(27) The table only shows the IP rights whose share is at least 0.0015 %.

(28) Unfortunately, no identified IPR allegedly infringed has been provided for 30 % of the detained items although these have been reported as 'Not provided' since at least one IPR has been infringed as the cause of the detention. The 83 % weight of the trade marks appears when neutralising the share of the type of IPR 'Not provided'.

The weight of the trade mark, as an allegedly infringed IP right, has not stopped increasing among detentions in EU national markets, even when neutralising those records where the IP right was 'Not provided' (see again Table 9-9 below).

**Table 9-9: Share of the quantity of items detained in EU national markets by type of IPR**

	2013	2014	2015	2016	2017	<b>Total</b>
% Trade mark (Quantity)	10.2 %	15.3 %	95.3 %	73.5 %	96.0 %	<b>58.3 %</b>
% Not Provided (Quantity)	66.4 %	81.6 %	0.0 %	0.1 %	1.5 %	<b>30.1 %</b>
% Copyright (Quantity)	23.3 %	2.1 %	4.9 %	27.5 %	2.8 %	<b>11.8 %</b>
% Design (Quantity)	5.8 %	3.7 %	10.0 %	3.1 %	12.2 %	<b>7.3 %</b>
% Patent (Quantity)	3.2 %	1.3 %	8.7 %	0.7 %	4.5 %	<b>4.1 %</b>

All in all, the figures suggest that the accuracy of the data and therefore the relevance of the analysis could improve should some Member States collect more detailed data. Moreover, it could be concluded that the identification of allegedly infringed IP rights by the Member States national market enforcers at the moment of the detention is still a challenge.

## 10. CONCLUSIONS AND WAY FORWARD

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

After five years of EU enforcement authorities reporting all their available information on counterfeit and pirated goods detained at EU borders and in EU national markets in the IP Enforcement Portal, the first report on the '*EU enforcement of intellectual property rights: results at EU borders and in Member States 2013-2017*' provides an overview of the detentions of goods infringing IP rights at these check points, on the basis of the data collected.

Analysis of the availability of data on the detentions of fake goods at EU borders during the period at stake showed a high level of completeness in terms of the historical series and Member States' coverage and a high level of quality.

Data on detentions in EU national markets showed, however, a much lower level of completeness (in terms of Member States and enforcement authorities providing data) and of quality. The level of availability and quality of these data was sufficient to reach some preliminary conclusions through their analysis. Deeper analysis and conclusions are pending further data.

The differences in the availability and the quality of the data collected by the two sets of enforcement authorities were partially explained by the fact that Member States have an obligation to report to DG TAXUD on detentions at EU borders <sup>(29)</sup> but are not obliged to report to EU institutions on detentions in their national markets. Moreover, the better quality of data on detentions at EU borders also results from the cleaning exercise that DG TAXUD performs with this data when received from Member State customs' authorities.

Analysis of the joint figures on overall detentions carried out all over the EU, at borders and in the national markets, through measuring the reported number of items detained and their estimated value, gave, for the very first time, an idea of the **enormous volume behind these detentions**. In five years, the EU enforcement authorities reported having detained 1 fake item for each and every EU citizen aged 15 years and over (438 million items). Their reported estimated value (EUR 12 billion) was almost equivalent to the 2018 GDP of a EU Member State such as Malta. These results illustrated the effort made by the different EU enforcement authorities. The historical series showed a relative stability in the trend of the quantity of items detained as a whole and a slow trend downwards of the estimated value of these items.

*Clothing accessories, Toys and Other goods* were, in terms of the quantity of items, at the top of the product subcategories detained on average for the whole period and the whole group of reporting enforcement authorities. Trends showed, however, the higher importance of the subcategories *Clothing, Labels, tags, stickers; Packaging material* and *Foodstuffs* during the latter years of the period analysed. In terms of the estimated value of the items detained, a set of subcategories of Luxury products (*Clothing accessories, Watches and Bags, wallets, purses*) occupied the top of the product subcategories, again on average for the whole period and for the whole group of reporting enforcement authorities.

Overall, detentions in subcategories of goods implying a potential level of risk for human H&S showed a trend upwards, both in terms of the quantity of items and the estimated value. The trend seems to show that EU enforcement authorities have been sensitive to the input provided by some institutions (EUROPOL, the OECD) on the increasing threat of the illegal trade in this type of goods, in some subcategories in particular and in all of them aggregated.

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(29) Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights, Article 31.

Finally, analysis of the difference in the share of each category of detained products at EU borders versus in EU national markets seemed to show that there had been different trends to the type of goods detained by the enforcement authorities at each point of control during the period at stake.

The main conclusion reached, after the analysis of data of detentions exclusively at EU borders collected in the IP Enforcement Portal, was that the trends in the effort made by EU border enforcement authorities <sup>(30)</sup> and in the results of this effort <sup>(31)</sup> were aligned with the ones shown by DG TAXUD in their annual reports, despite the difference in the universe of data <sup>(32)</sup>. Globally, following a peak in 2014, the annual number of operations relating to the detention of fake goods by customs authorities at EU borders has gradually decreased. The number of items seized and their estimated value has also decreased, albeit at a slower pace apart from temporarily in 2015 and 2016. However, despite the decrease, there was a sustained increase in the efficiency of operations during the period, as shown by the indicators for the volume and value of items per case.

The same alignment with the conclusions of DG TAXUD's reports was found after the breakdown of this analysis by subcategories of goods, by country of provenance of the goods, by Member State or by IP rights allegedly infringed at the moment of detention at EU borders.

The original objective of the analysis of detentions in EU national markets was to present for the first time an EU-wide picture of the domestic counterfeit and pirated good detentions on the basis of the data reported to the only common database existing for the entire European Union. Due to known limitations in data availability, the goal has been achieved for 24 Member States.

From the reported figures (296 million detained items during the period 2013-2017, with an estimated value of EUR 9 billion), the weight of the detentions carried out in the internal market has influenced the general trends on the overall detentions of fakes. The historical series presents peaks and troughs that may provide a false impression of erratic evolution. However, considering that the number of Member States and national market enforcement authorities reporting to the IP Enforcement Portal has been constantly increasing year after year from 2013 to 2017, the real general trend of the detentions of counterfeit and pirated items in Member State national markets is downwards. The general trend downwards of the estimated value of the detained items might have been influenced by these product subcategories whose value is very difficult to determine.

The two subcategories of products most detained in the 24 aggregated Member State national markets are *Clothing accessories* and *Recorded CDs/DVDs*. *Toys*, *Clothing* and *Packaging material* complete the top 5 subcategories most detained in national markets based on the aggregated figures of the 24 reporting Member States during the period at stake, with a significant trend upwards. However, there is not a clear, consistent and homogeneous trend all over the EU Member States regarding the subcategories of items most detained.

The recurrent appearance, in terms of the share of the quantity of items detained, the subcategories *Packaging material* and *Labels, tags, stickers* are to be highlighted as challenging threats, due to their multiplying effect for converting products from unidentified legal undertakers into fake products from reputed producers. However, their trends diverge since, while detentions of the former are increasing, detentions of the latter are decreasing.

It is finally worth highlighting the wide use made by enforcement authorities in national markets of the subcategory of products *other goods* (in almost 30 % of the detained items). In the same line, it can be

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(30) Measured by the number of detention cases – some 350 000 – and procedures – some 400 000 – during the period at stake.

(31) Measured by the quantity of detained items – 142 million – and their estimated value – 3 billion – during the same period.

(32) Contrary to the data analysed by DG TAXUD, the IP Enforcement Portal does not contain data on the detention procedures whose results point at the detained goods being released.

concluded that identification of allegedly infringed IP rights by Member State national market enforcers at the moment of detention is still a challenge (30 % of the items detained belong to the category '[IPR] Not provided').

The aforementioned conclusions would point towards a set of possible future actions aimed to improve the quantity of data reported to the IP Enforcement Portal (be it by transferring to the portal all data already available in the existing sources or by increasing the data collected at these sources) and their quality (be it by providing new training resources to the enforcers belonging to the ACIST community or by expanding the choice of values used by the enforcers for tracking the different aspects of a detention).

Moreover, efforts could be made in view of the fine-tuning of the methodologies and sources of data used to compare detentions of fake products with other related events (e.g.: imports of genuine products, estimated trade of fakes, sales of genuine products) in the trade chain leading to such detentions.

Some of these actions could be triggered and performed by the EUIPO whereas others would need the involvement of DG TAXUD and/or of the Member State enforcement authorities.

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RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

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## 12. GLOSSARY

REPORT ON THE EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS:  
RESULTS AT EU BORDERS AND IN MEMBER STATES 2013-2017

EU	European Union				
MS	European Union Member State(s)				
EA	European Union enforcement authority(ies)				
OECD	The Organisation for Economic Co-operation and Development				
SOCTA	The EU Serious and Organised Crime Threat Assessment (SOCTA) is a strategic report issued by EUROPOL providing information to Europe's law enforcement community and decision-makers about the threat of serious and organised crime to the EU				
EUIPO	The European Union Intellectual Property Office				
ACIST	The acronym of the former name of the database Anti-Counterfeiting Intelligence Support Tool, the database on border and national market detentions provided by the EUIPO. It is the European Union database that gathers statistics on detentions of articles that are suspected of infringing intellectual property at EU borders and in the national markets				
IP Enforcement Portal	The single EU platform to deal with IPR enforcement matters, integrating the former ACIST database				
DG TAXUD or TAXUD	European Commission's Directorate-General for Taxation and Customs Union				
IP	Intellectual Property				
IPR(s)	IP right(s)				
Fake	A product allegedly infringing any kind of IPR				
GDP	Gross domestic product				
VTC	The Virtual Training Centre, a joint endeavour between the EUIPO and CEPOL (the European Union Agency for Law Enforcement Training), to provide IPR-related training content from the EUIPO Academy Learning Portal to a wider audience of CEPOL students				
H&S products	Products with, if fake, a potential risk to human health and safety, as defined in the SOCTA report, namely <i>Foodstuffs, beverages, Body care items, Toys, Medicines and Electrical household items</i>				
Types of products	<table border="0"> <tr> <td>Common Consumer products</td> <td><i>Foodstuffs; Beverages; Clothing; Footwear; Other body care items; Tobacco products; Lighters; Medicines</i></td> </tr> <tr> <td>Luxury products</td> <td><i>Perfumes and cosmetics; Clothing accessories; Sunglasses; Bags, wallets, purses; Watches; Jewellery and other accessories; Mobile phones including parts and accessories; Audio/video apparatus including technical accessories and parts; Toys; Games (including electronic games consoles); Sporting articles (including leisure articles)</i></td> </tr> </table>	Common Consumer products	<i>Foodstuffs; Beverages; Clothing; Footwear; Other body care items; Tobacco products; Lighters; Medicines</i>	Luxury products	<i>Perfumes and cosmetics; Clothing accessories; Sunglasses; Bags, wallets, purses; Watches; Jewellery and other accessories; Mobile phones including parts and accessories; Audio/video apparatus including technical accessories and parts; Toys; Games (including electronic games consoles); Sporting articles (including leisure articles)</i>
Common Consumer products	<i>Foodstuffs; Beverages; Clothing; Footwear; Other body care items; Tobacco products; Lighters; Medicines</i>				
Luxury products	<i>Perfumes and cosmetics; Clothing accessories; Sunglasses; Bags, wallets, purses; Watches; Jewellery and other accessories; Mobile phones including parts and accessories; Audio/video apparatus including technical accessories and parts; Toys; Games (including electronic games consoles); Sporting articles (including leisure articles)</i>				

Industrial Products	<i>Other equipment including technical accessories and parts; Machines and tools; Vehicles including accessories and parts; Labels, tags, stickers; Textiles; Packaging material; Other furniture; Construction materials; Construction machinery</i>
Office Equipment products	<i>Memory cards/sticks; Ink cartridges and tonners; Computer equipment including technical accessories and parts; Unrecorded supports; Office stationery; Office furniture</i>
Copyright related products	<i>Recorded CDs/DVDs; Illegal streaming/downloading</i>

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## 14. ANNEXES

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### Annex A. DISCLAIMERS

In the EU national markets scenario there are a number of enforcement authorities with legal powers to detain counterfeit and pirated goods, which report about those detentions. These are included in Table A-1.

Table A-1: Reporting enforcement authorities and disclaimers

COUNTRY	ENFORCEMENT AUTHORITIES EU BORDER	DISCLAIMERS
EU	DG TAXUD (Reporting)	The 2012 and 2013 data, reported in the EU customs report quarterly, were distributed monthly following entry to the ACIST community.
COUNTRY	ENFORCEMENT AUTHORITIES NATIONAL MARKETS	
Austria	Federal Police	Austrian regulations do not allow Austrian Police to execute counterfeit or pirated goods seizures ex officio in the national market.
Belgium	FSP Economy	
Bulgaria	Ministry of Interior. General-Directorate Combating Organised Crime	Combating Organised Crime Directorate has been in charge of the collection of counterfeit and pirated goods since January 2016.
	Ministry of Interior. Directorate National Police	National Police Directorate was in charge of the collection of counterfeit and pirated goods until December 2015.
	Customs Intelligence and Investigation Directorate. National Customs Agency	
Croatia	Criminal Police Directorate. High-tech Crime Department	Croatian Police does not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
	Ministry of Finance. Customs Directorate	
Cyprus	Cyprus Police. Department of Combating Crime	
	Customs and Excise Department. IPR Unit	
Czech Republic	General Directorate of Customs. Customs Department	

Denmark	State Prosecutor for Serious Economic and International Crime	
Estonia	Estonian Intellectual Property and Technology Transfer Centre	
Finland	Customs Enforcement Department. Analysis Unit	
France	Gendarmerie Nationale	
	Direction Générale des Douanes et Droits Indirects	
Greece	Ministry of Economy and Development Coordinating Centre for Market Supervision & Confrontation of Illicit Trade. SYKEAAP	Greek enforcement authorities do not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
Hungary	Hungarian National Police. Criminal Directorate. Criminal Division	The Hungarian National Police is in charge of inland detentions of only medical and pharmaceutical products.
	National Tax and Customs Administration. Department of Enforcement	
Ireland	An Garda Síochána. Intellectual Property Crime Unit / Irish Tax and Customs	Internal market data published by Irish Tax and Customs authority resulted from the joint enforcement operations
	An Garda Síochána. Intellectual Property Crime Unit	
Italy	Ministero dello Sviluppo Economico. Direzione Generale per la Lotta alla Contraffazione. Ufficio Italiano Brevetti e Marchi	<p>The Italian system to aggregate data does not match with the IP Enforcement Portal's; as a consequence, data on internal detentions of <i>foodstuffs</i> and <i>beverages</i>, <i>tobacco products</i> and <i>medicine products</i> are not loaded into the IP Enforcement Portal.</p> <p>The Italian system to define IPR type classifications does not match with DG TAXUD's one. For this reason, the Italian data '<i>IPR Type</i>' are referred to in the IP Enforcement Portal as NOT PROVIDED with the exception of COPYRIGHT.</p> <p>The published figures on detained items from Carabinieri refer to both counterfeit and pirated goods.</p> <p>The data provided by Carabinieri do not indicate ID numbers of specific cases. Therefore, each row has been taken as a unique case.</p> <p>The figures published on detained items from Polizia di Stato refer to both counterfeit and pirated figures.</p> <p>The data provided by Polizia di Stato do not indicate ID numbers of specific cases. Therefore, each row has been taken as a unique case.</p>

		The figures published on detained items from Polizia Municipale refer to both counterfeit and pirated goods. Although each Italian municipality has their own local police force, all the inland detentions issued by them will be available in the IP Enforcement Portal under the general heading 'POLIZIA MUNICIPALE'.
Latvia	State Latvian Police	State Latvian police does not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD's reports.
Lithuania	State Patent Bureau	
Luxembourg	Public Prosecutor's office	Public Prosecutor's office does not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
Malta	Malta Police Force. Economic Crime Unit	
Netherlands	Ministry of Finance. FIOD CT Midden	According to the Dutch instruction for IPR fraud, in case of danger to the public's health/safety, large-scale trading or indications of a criminal organisation recidivism, the investigative authorities in the Netherlands can start a criminal investigation (including inland seizures). The FIOD (the fiscal information and investigation service of the Dutch Tax and Customs Administration) and the police are the investigative authorities in the Netherlands.
Portugal	National Industrial Property Institute	
Romania	Romanian Police	
Slovakia	Financial Directorate	
Slovenia	Criminal Police Directorate. Sector for Economic Crime	
Spain	State Patent and Trade Marks Office	
United Kingdom	Police of Scotland	
	Scotland Trading Standards	

As described in Section 6, the data on detentions used for the present report were the ones validated and published online in the IP Enforcement Portal for the period 2013-2017, even though the IP Enforcement Portal has gathered information on the detention of counterfeit and pirated goods carried out by customs, police forces and market surveillance authorities since 2008.

Two main reasons delimited the selected time range.

Firstly, 2013 was considered the first year with a minimum consistency in the number of Member State enforcement authorities reporting their inland data to the IP Enforcement Portal: in 2013, the number of enforcement authorities with mandate to detain counterfeit and pirated goods reporting to the IP Enforcement Portal greatly increased, from less than 70 % to over 80 %.

Secondly, the different timing used by police forces and market surveillance authorities to share/publish their more recent data on counterfeit and pirated good detentions in EU national markets meant that the scope of the report was stopped in December 2017.

## Annex B. AVAILABILITY, QUANTITY AND QUALITY OF DATA

The universe of reference of this report consists of the data of detentions reported in the ACIST database, whose *Detention Date* varied between 01/01/2013 and 31/12/2017.

There are 548 231 records, of which 412 880 came from DG TAXUD (field *Detention Type* = 'Border') and 135 351 came from national markets enforcement authorities (field *Detention Type* = 'internal market'), including 9 cases added manually to reflect 'Zero detentions' records reported by the national markets enforcement authorities of Bulgaria (2013), Luxembourg (2014, 2015 and 2016), Ireland (2015) and Finland (2015, 2016 and 2017).

### B.1 EU BORDERS REPORTED DETENTIONS DATA

Data on reported detentions at EU borders are loaded into the IP Enforcement Portal on the basis of DG TAXUD's data. They are loaded yearly, in a one-shot loading exercise.

#### B.1.1. Availability of records

Records on reported detentions at EU Member State borders are available in the IP Enforcement Portal for 100 % of the Member States and years at stake.

#### B.1.2. Description, availability and quality of fields

- Among the fields in EU border detentions records reported in the IP Enforcement Portal, a basic set is present systematically. These fields exist in all the records, for every year and for 100 % of the EU Member States. They describe the frequency of the reporting (daily, monthly, quarterly, yearly), the date of the detention, the identification of the border detention authority, the country of detention, the subcategory of product detained, the quantity of products detained, their value <sup>(33)</sup> and the IP right evoked when detaining the products.

The values of the field describing the frequency of the reporting show a clear historical trend to move from 100 % quarterly frequency in 2013 towards 100 % daily frequency in 2017, through 100 % monthly frequency in 2014, 2015, and 2016.

There are 36 subcategories used to describe the types of products detained, classified under 12 main categories, all of them coinciding with the classification used by TAXUD (see Table C-1 and Table C-2 in Annex C).

The values' range in the field describing the quantity of products detained at EU borders varies between (0-9) units in 77 % of the records, between [10-100] units in 15 % of the records and is higher than 100 units in 8 % of the records. Some 185 records report quantities of products detained beyond 100 000 units, mainly under the subcategories *Cigarettes*, *Foodstuffs*, *Toys* and *Other goods*, up to 5.4 million units detained at Greek borders in 2015 for products under the subcategory *Cigarettes*, but in a monthly reporting. The historical distribution of these ranges of values shows a reasonably stable pattern.

The values' range of the field describing the estimated value of products detained at EU borders varies between (EUR 0-EUR 1 000) in 81 % of the records, between (EUR 1 000-EUR 10 000) in 14 % of the records and is higher than EUR 10 000 in 5 % of the records. Some 400 records report detention values beyond EUR 1 million, mainly under the subcategories *Watches* and *Sport shoes*, up to EUR 48.6 million detained at German borders in 2016 for products under the subcategory *Toys*, but in a monthly reporting. The historical distribution of these ranges of values also shows a reasonably stable pattern.

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(33) The standard value for reporting by Member States is the domestic retail value (DRV), which is the retail price at which the goods would have been sold on the Member State market, had they been genuine. As described in Section 6, in cases where the value of the detention was missing but the quantity reported, the approved 'economic indicators' for the unit value of the detention (average value of a unit of the corresponding product category) were applied.

Concerning the field describing information about the IP rights evoked when detaining products at EU borders, 100 % of the records contain only one IPR <sup>(34)</sup>. 94 % of them are trade marks and 4 % are designs, the remaining 2 % being concentrated in copyright, patent or supplementary protection certificate (as from 2017 split into supplementary protection certificate for medicines and supplementary protection certificate for plant protection products, only the former appearing in the statistics from 2017 on), the rest of the IPR being negligibly reported in this set of records.

- Another set of fields is available for 100 % of the records in the IP Enforcement Portal from a certain year. These are the fields describing the identification of the detention case (uploaded from 2014 onwards), the identification of the detention procedure <sup>(22)</sup> (uploaded only from 2017 on), the identification of the Application for Action (hereinafter AFA, available as from 2017), the country of destination (filled in as from 2017 using by default the country of detention, in order to be able to cross data with corresponding means of transport) and the means of transport (mail, plane, ship, train, truck, others; available from 2017 onwards).
- Finally, the fields describing the country of provenance (available as from 2013) and the country of shipment (available as from 2017) do not contain information for 100 % of the records in all detention countries, although in all the cases the completeness levels (in the years when the info is available) are superior to 90 % (see Table B-1 and Table B-2, in which the Member States whose availability is 100 % all the years when the info is available are not shown). Some 170 different countries of provenance and some 120 different countries of shipment are cited in the EU border detentions records:

**Table B-1: Availability of data (other than 100 %) for the field 'Country of provenance' for border detentions per reporting EU Member State and year**

Country	2013	2014	2015	2016	2017	Total
Austria	100 %	98 %	100 %	100 %	100 %	100 %
Croatia	95 %	98 %	100 %	100 %	100 %	99 %
Cyprus	100 %	99 %	100 %	100 %	100 %	100 %
France	98 %	91 %	100 %	98 %	99 %	97 %
Germany	99 %	99 %	100 %	93 %	100 %	98 %
Ireland	100 %	100 %	100 %	100 %	99 %	100 %
Italy	99 %	100 %	100 %	100 %	100 %	100 %
Portugal	100 %	100 %	100 %	94 %	100 %	100 %
Romania	99 %	100 %	99 %	100 %	100 %	100 %
Spain	99 %	98 %	100 %	100 %	98 %	99 %
Sweden	95 %	100 %	100 %	100 %	100 %	99 %

(34) The fact that each record of a detention at an EU border contains just one IP right is the result of the limitations of the ACIST structure, which at its start impeded recording more than one IP right per record.

Table B-2: Availability of data (other than 100 %) for the field '*Country of shipment*' for border detentions per reporting EU Member State and year

Country	2013	2014	2015	2016	2017	Total
Austria	0 %	0 %	0 %	0 %	99 %	16 %
Cyprus	0 %	0 %	0 %	0 %	99 %	19 %
France	0 %	0 %	0 %	0 %	99 %	18 %
Ireland	0 %	0 %	0 %	0 %	99 %	5 %
Spain	0 %	0 %	0 %	0 %	98 %	24 %

## B.2 EU NATIONAL MARKETS REPORTED DETENTIONS DATA

Data on reported detentions in the national markets are loaded into the IP Enforcement Portal on the basis of the data reported by different EU enforcement authorities. They are loaded yearly, but in different bulks of data depending on the enforcement authority.

### B.2.1. Availability of records

Different degrees of availability of records on the reported detentions for all EU Member States' national markets exist in the IP Enforcement Portal, as shown in Table B-3 below <sup>(35)</sup>:

Table B-3: Availability of records for national markets detentions per reporting EU Member State and year

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	90 %	90 %	90 %	90 %	90 %
Bulgaria	100 %	100 %	100 %	100 %	100 %
Croatia	100 %	100 %	100 %	100 %	100 %
Cyprus	100 %	100 %	100 %	100 %	100 %
Czech Republic	100 %	100 %	100 %	100 %	100 %
Denmark	100 %	100 %	100 %	100 %	100 %
Estonia	100 %	0 %	0 %	0 %	0 %
Finland	100 %	100 %	100 %	100 %	100 %
France	0 %	100 %	100 %	100 %	100 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	100 %	100 %	100 %
Hungary	0 %	0 %	0 %	0 %	100 %
Ireland	0 %	100 %	100 %	100 %	100 %
Italy	100 %	100 %	100 %	100 %	100 %
Latvia	0 %	0 %	100 %	100 %	100 %
Lithuania	100 %	100 %	100 %	100 %	100 %
Luxembourg	100 %	100 %	100 %	100 %	0 %
Malta	100 %	100 %	100 %	0 %	100 %
Netherlands	100 %	100 %	100 %	100 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	100 %	100 %	100 %	100 %	100 %
Romania	100 %	100 %	100 %	100 %	100 %
Slovakia	100 %	100 %	100 %	100 %	100 %
Slovenia	0 %	0 %	0 %	100 %	100 %
Spain	100 %	100 %	100 %	100 %	100 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

(35) The percentage of availability of data includes the estimate of the percentage of volume of detentions made in the national market of a given Member State by the enforcement authorities of those Member States participating in the reporting exercise. As an example, it is estimated that the number of detentions issued by the UK enforcement authorities that participate in the exercise (the Police of Scotland and Scotland Trading Standards) covers 15 % of total detentions in the UK national market, the remaining 85 % of detentions being performed by national market enforcement authorities that are not participating in the reporting exercise (England and Wales Trading Standards, the Police of Northern Ireland and the PIPCU). The UK enforcement authorities that participate in the exercise delivered data for 2013, 2014, 2015 and 2016, but not yet for 2017.

Records on national markets detentions are systematically not available from Austrian, German, Polish and Swedish enforcement authorities. Estonia stopped sending data in 2014. At the moment of drafting this report, data for 2017 detentions are still missing from Luxembourg, Netherlands and the United Kingdom.

Information provided by those Belgian enforcement authorities participating in the exercise is estimated at 90 % of the national market detentions for the whole country. Similarly, the information provided by those enforcement authorities of the United Kingdom participating in the exercise is estimated at 15 % of the national market detentions performed in the whole country.

#### **B.2.2. Description, availability and quality of fields**

- Among the fields in national markets detentions records reported in the IP Enforcement Portal, a basic set is present systematically, as long as the records are available. They exist in all the available records, only for the EU Member States and in the years where records exist. These are the fields describing the frequency of the reporting (daily, monthly, quarterly or yearly), the date of the detention, the identification of the national markets detention authority, the country of detention, the subcategory of product detained and the quantity of products detained.

The values of the field describing the frequency of the reporting in the detentions show that almost 13 % of around 135 000 records on detentions in the national markets during the period 2013-2017 are daily, almost 87 % are monthly and less than 1 % are yearly, with a slow trend to move from 100 % monthly frequency in 2013 towards 58 % monthly and 41 % daily in 2017. These values seem to show that, in many cases, the records available for detentions in national markets result from a time aggregation of several similar detention operations during a certain period. This fact jeopardises the possibility of measuring the number of detention procedures as defined under footnote 22.

There are 43 subcategories used to describe the types of products detained in the national markets, 36 corresponding to the goods detained at EU borders plus 7 more added (however, among the latter, one is '16a – Not provided'). The subcategories are classified under the same 12 main categories within the classification used by DG TAXUD plus another 4 main categories, defined to accommodate the 7 additional subcategories previously mentioned. The additional categories and subcategories can be seen in Table D-1 and Table D-2 in Annex D.

The values' range of the field describing the quantity of products detained in the EU national markets varies between (0-99] units in 75 % of the records, between [100-1 000] units in 18 % of the records and is higher than 1 000 units in 7 % of the records. Some 375 records report quantities of products detained beyond 100 000 units, mainly under the subcategories *Clothing accessories*, *other goods* and *Toys*, up to 14 million units detained by the Italian Guardia di Finanza in July 2015 for products under the subcategory *Other goods*, in Rome. The historical distribution of these ranges of values shows a reasonably stable pattern.

- The field containing the value <sup>(33)</sup> of the products detained in the national markets presents some gaps of availability, although it contains values in 99.95 % of the records. Indeed 66 records, totalling some 172 000 items detained in the national markets (0.06 % of the total number of items detained in the national markets during the period at stake), do not contain any indication of their value. They correspond to the product subcategories *Online sale/offer of counterfeit products* and *Not provided*, for which no estimation of value was possible. They mainly correspond to 'bulk uploads' of data from national markets enforcement authorities from Cyprus (2013 and 2014), Lithuania (2013 till 2017), Malta (2013 till 2017), Romania (2013 till 2017) and Slovenia (2016 and 2017) (see Table B-4 below).

Table B-4: Availability of data for the field containing the value of the products for national markets detentions per reporting EU Member State and year

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	90 %	90 %	90 %	90 %	90 %
Bulgaria	100 %	100 %	100 %	100 %	100 %
Croatia	100 %	100 %	100 %	100 %	100 %
Cyprus	80 %	80 %	100 %	100 %	100 %
Czech Republic	100 %	100 %	100 %	100 %	100 %
Denmark	100 %	100 %	100 %	100 %	67 %
Estonia	100 %	0 %	0 %	0 %	0 %
Finland	100 %	100 %	100 %	100 %	100 %
France	0 %	100 %	100 %	100 %	100 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	100 %	100 %	100 %
Hungary	0 %	0 %	0 %	0 %	100 %
Ireland	0 %	100 %	100 %	100 %	100 %
Italy	100 %	100 %	100 %	100 %	100 %
Latvia	0 %	0 %	100 %	100 %	100 %
Lithuania	0 %	0 %	0 %	0 %	0 %
Luxembourg	100 %	100 %	100 %	100 %	0 %
Malta	0 %	0 %	0 %	0 %	0 %
Netherlands	100 %	100 %	100 %	100 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	100 %	100 %	100 %	100 %	100 %
Romania	0 %	20 %	20 %	20 %	20 %
Slovakia	100 %	100 %	100 %	100 %	100 %
Slovenia	0 %	0 %	0 %	75 %	36 %
Spain	100 %	100 %	100 %	100 %	100 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

Setting aside those records without any value, the values' range in this field, which describes the estimated value of products detained in the EU national markets, varies between (EUR 0-EUR 1 000] in 49 % of the records, between (EUR 1 000-EUR 10 000] in 35 % of the records and is higher than EUR 10 000 in 16 % of the records. Some 960 records report detention values beyond EUR 1 million, mainly under the subcategories *Clothing accessories*, *Bags*, *wallets*, *purses* and *Clothing*, up to EUR 774 million detained by the Italian Guardia di Finanza in May 2014 for products under the subcategory *Watches*, in Pordenone. The historical distribution of these ranges of values shows a reasonably stable pattern.

- There is a third set of fields in the records about detentions in the national markets whose rate of availability varies enormously, even across Member States and years where records are available.

The fields describing the identification of the detention case and the identification of the detention procedure<sup>(22)</sup> are respectively available in about 50 % and 1 % of the records concerning national markets detentions.

The field 'City' contains more precise information on the geographical place of the national market detention. 87 % of the national markets detentions contain information on the city/region of detention with,

however, a historical slow trend downwards in the availability of this field: almost 100 % of the records on national markets detentions existing in 2013 contained information about the concrete place of detention, whereas this rate goes down to around 75 % in 2017.

Around 500-550 different values (cities, regions, places) appear for this field. However, the quality of the existing data could be improved:

- some Member State national market enforcement authorities report regions (Spain, Greece); others, cities (Portugal) and others, cities and regions mixed (Italy), whereas some authorities, e.g. in France, in the Netherlands and in Lithuania, do not provide any information for this field;
- the data are not normalised/cleaned, e.g. there are 6 slightly different values referring to Brussels and there are fields that contain the name of a city, a postal code, a street and a number all together.

The Table B-5 below summarises the availability of the field 'City' per Member State and year:

**Table B-5: Availability of data for the field 'City' for national markets detentions per reporting EU Member State and year**

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	87 %	90 %	90 %	89 %	89 %
Bulgaria	0 %	100 %	100 %	100 %	33 %
Croatia	100 %	5 %	41 %	0 %	0 %
Cyprus	0 %	0 %	69 %	99 %	100 %
Czech Republic	100 %	100 %	100 %	100 %	100 %
Denmark	100 %	100 %	100 %	100 %	100 %
Estonia	100 %	0 %	0 %	0 %	0 %
Finland	100 %	100 %	0 %	0 %	0 %
France	0 %	0 %	0 %	0 %	0 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	38 %	41 %	0 %
Hungary	0 %	0 %	0 %	0 %	0 %
Ireland	0 %	100 %	0 %	0 %	98 %
Italy	100 %	100 %	100 %	100 %	100 %
Latvia	0 %	0 %	100 %	100 %	41 %
Lithuania	0 %	0 %	0 %	0 %	0 %
Luxembourg	100 %	0 %	0 %	0 %	0 %
Malta	0 %	0 %	0 %	0 %	0 %
Netherlands	0 %	0 %	0 %	0 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	100 %	70 %	77 %	8 %	73 %
Romania	0 %	0 %	0 %	0 %	0 %
Slovakia	100 %	100 %	100 %	100 %	100 %
Slovenia	0 %	0 %	0 %	0 %	0 %
Spain	100 %	100 %	100 %	100 %	100 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

The field ‘*Detention Place*’ contains information about the type of place where the national market detention was issued (factory, street market, marketplace, warehouse). The level of reporting in this field is low (on average 11 % of the national markets detentions records between 2013 and 2017 contain this information), with a historical trend slowly increasing, from almost 0 % of the national markets detention records showing data in this field in 2013 to 22 % of the records showing data in 2017.

Table B-6 summarises the availability of the field ‘*Detention Place*’ per Member State and year:

**Table B-6: Availability of data for the field ‘*Detention Place*’ for national markets detentions per reporting EU Member State and year**

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	0 %	0 %	12 %	89 %	78 %
Bulgaria	0 %	100 %	100 %	100 %	33 %
Croatia	0 %	0 %	23 %	0 %	0 %
Cyprus	0 %	0 %	0 %	99 %	98 %
Czech Republic	0 %	0 %	0 %	0 %	0 %
Denmark	93 %	55 %	100 %	100 %	100 %
Estonia	0 %	0 %	0 %	0 %	0 %
Finland	0 %	0 %	0 %	0 %	0 %
France	0 %	0 %	0 %	0 %	6 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	0 %	0 %	0 %
Hungary	0 %	0 %	0 %	0 %	0 %
Ireland	0 %	0 %	0 %	0 %	0 %
Italy	0 %	0 %	0 %	0 %	0 %
Latvia	0 %	0 %	0 %	100 %	0 %
Lithuania	100 %	100 %	100 %	100 %	100 %
Luxembourg	0 %	0 %	0 %	0 %	0 %
Malta	0 %	0 %	0 %	0 %	0 %
Netherlands	0 %	0 %	0 %	0 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	0 %	2 %	86 %	57 %	74 %
Romania	100 %	100 %	100 %	100 %	100 %
Slovakia	0 %	0 %	85 %	93 %	100 %
Slovenia	0 %	0 %	0 %	0 %	0 %
Spain	0 %	4 %	100 %	100 %	100 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

The field describing the country of origin of the products is only available in 17 % of the registers related to detentions in the national markets, with even a historical trend downwards in filling in this field: almost 40 % of the registers had information in this field in 2013, whereas this rate decreases to 11 % in 2017. Moreover, the level of information is somehow biased by Member State: national markets enforcement authorities from countries such as France and Estonia seem to partially report on the country of origin of the products detained, whereas other countries (Italy, Hungary) do not seem to report these data at all. In total, some 60 different countries of origin appear in the national markets data (versus some 170 different countries of origin cited by the EU border detentions records). Moreover, the existing data seem to show, for some Member States’ border detention data, what seems to be a second bias, where the only country of origin mentioned is the country of detention.

Table B-7 summarises the availability of the field ‘Country of Origin’ per Member State and year:

Table B-7: Availability of data for the field ‘Country of Origin’ for national markets detentions per reporting EU Member State and year

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	90 %	90 %	29 %	16 %	20 %
Bulgaria	0 %	0 %	1 %	0 %	33 %
Croatia	0 %	0 %	0 %	0 %	0 %
Cyprus	0 %	0 %	0 %	0 %	0 %
Czech Republic	100 %	0 %	0 %	0 %	0 %
Denmark	0 %	11 %	0 %	0 %	0 %
Estonia	100 %	0 %	0 %	0 %	0 %
Finland	0 %	0 %	0 %	0 %	0 %
France	0 %	63 %	67 %	66 %	62 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	0 %	0 %	0 %
Hungary	0 %	0 %	0 %	0 %	0 %
Ireland	0 %	100 %	0 %	0 %	0 %
Italy	0 %	0 %	0 %	0 %	0 %
Latvia	0 %	0 %	100 %	100 %	100 %
Lithuania	0 %	0 %	0 %	0 %	0 %
Luxembourg	100 %	0 %	0 %	0 %	0 %
Malta	0 %	0 %	0 %	0 %	0 %
Netherlands	0 %	0 %	0 %	0 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	56 %	26 %	6 %	5 %	39 %
Romania	0 %	0 %	0 %	0 %	0 %
Slovakia	100 %	100 %	0 %	0 %	0 %
Slovenia	0 %	0 %	0 %	0 %	0 %
Spain	0 %	0 %	0 %	0 %	0 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

The field ‘Product Type’ contains the not-normalised, lowest level description of the type of products detained. It is a field hardly filled in: only 1-2 % of the existing records on national markets detentions issued between 2013 and 2017 contain this information, with an unstable historical trend upwards and downwards. Some 190 different terms are used. In terms of quality, they are somehow not normalised (e.g. two similar terms for *packing material* or *eau de cologne*), nor ‘taxonomised’ (e.g. *sports wear* overlapping with *sport jacket* or *sport pants*) and not always aligned with the second level of products description (the subcategory of the product, see first bullet point in this section on page 62), with a few of them (*sticker*, *packing material*) classified in two different subcategories.

The field ‘Made in EU’ contains information about whether the products detained were made in the EU, with two possible normalised values (YES/NO) and the possibility of having it empty. The level of reporting about in this field in national markets records is low (on average 14 % of records have this information), with a historical deteriorating trend, from 37 % of the national markets detentions records showing any

data in this field in 2013 to 2 % of the records showing any data in 2017. Moreover, the level of quality of the info contained seems doubtful since, when filled in, it is almost 100 % filled in as '*Not Made in EU*'.

The field '*IPR\_Type*' contains normalised information about the IP rights (IPR) evoked when detaining products. Several types of IPR can be evoked and the same record can contain one or several types of IPR. One of the possible values of the field is '*Not provided*' which, although unspecific, indicates that one IPR has been infringed. 100 % of the records on national markets detentions between 2013 and 2017 contain at least 1 IPR, although in 28 % of the records the value used is '*Not provided*'. The number of national markets detentions records using the field '*Not provided*' had a clear trend downwards (until 2017, when the Hungarian enforcement authorities, and to a much lesser extent the French ones, stopped reporting this field in detail). Of those records in national markets detentions reporting on specific IPR (thus using a value other than '*Not provided*'), 84 % have 1 IPR, 14 % have 2 IPR and 2 % have 3 IPR. Among the IPR cited in national markets detentions records, 72 % are trade marks, 16 % are copyright, 10 % are designs and 2 % patents, the remaining IPR being negligibly reported in this set of records. The distribution of IPR per subcategory of data show some inconsistencies (as some 560 records belonging to the subcategory *Clothing*, in which the copyright has been the only IPR evoked or 7 registers belonging to the subcategory *Sunglasses* or *Clothing*, in which plant variety has been the only IPR evoked).

Table B-8 below summarises the availability of the field '*IPR\_Type*' per Member State and year:

Table B-8: Availability of data for the field 'IPR Type' for national markets detentions per reporting EU Member State and year (including the value 'Not provided')

Country	2013	2014	2015	2016	2017
Austria	0 %	0 %	0 %	0 %	0 %
Belgium	90 %	90 %	90 %	90 %	90 %
Bulgaria	0 %	100 %	100 %	100 %	100 %
Croatia	100 %	100 %	100 %	100 %	100 %
Cyprus	100 %	100 %	100 %	100 %	100 %
Czech Republic	100 %	100 %	100 %	100 %	100 %
Denmark	100 %	100 %	100 %	100 %	100 %
Estonia	100 %	0 %	0 %	0 %	0 %
Finland	100 %	100 %	0 %	0 %	0 %
France	0 %	100 %	100 %	100 %	100 %
Germany	0 %	0 %	0 %	0 %	0 %
Greece	0 %	0 %	100 %	100 %	100 %
Hungary	0 %	0 %	0 %	0 %	100 %
Ireland	0 %	100 %	0 %	100 %	100 %
Italy	100 %	100 %	100 %	100 %	100 %
Latvia	0 %	0 %	100 %	100 %	100 %
Lithuania	100 %	100 %	100 %	100 %	100 %
Luxembourg	100 %	0 %	0 %	0 %	0 %
Malta	100 %	100 %	100 %	0 %	100 %
Netherlands	100 %	100 %	100 %	100 %	0 %
Poland	0 %	0 %	0 %	0 %	0 %
Portugal	100 %	100 %	100 %	100 %	100 %
Romania	100 %	100 %	100 %	100 %	100 %
Slovakia	100 %	100 %	100 %	100 %	100 %
Slovenia	0 %	0 %	0 %	100 %	100 %
Spain	100 %	100 %	100 %	100 %	100 %
Sweden	0 %	0 %	0 %	0 %	0 %
United Kingdom	15 %	15 %	15 %	15 %	0 %

## Annex C. DG TAXUD CLASSIFICATION OF PRODUCTS FOR DETENTIONS AT EU BORDERS

Table C-1: Upper-level DG TAXUD products classification

Upper_Category
01 Foodstuffs, alcoholic and other beverages
02 Body care items
03 Clothing and accessories
04 Shoes including parts and accessories
05 Personal accessories
06 Mobile phones including parts and technical accessories
07 Electrical/electronic and computer equipment
08 CD, DVD, cassette, game cartridges
09 Toys, games (including electronic game consoles) and sporting articles
10 Tobacco products
11 Medicines
12 Other

Table C-2: Lower-level DG TAXUD products classification (subcategories) <sup>(36)</sup>

Category	Category Short Name
1a - foodstuffs	Foodstuffs
1b - alcoholic beverages	Alcoholic beverages
1c - other beverages	Other beverages
2a - perfumes and cosmetics	Perfumes and cosmetics
2b - other body care items	Other body care items
3a - clothing (ready to wear)	Clothing
3b - clothing accessories	Clothing accessories
4a - sport shoes	Sport shoes
4b - other shoes	Non-sport shoes
5a - sunglasses and other eye-glasses	Sunglasses
5b - bags including wallets; purses; cigarette cases and other similar goods carried in the pocket/bag	Bags, wallets, purses
5c - watches	Watches
5d - jewellery and other accessories	Jewellery
6a - mobile phones	Mobile phones
6b - parts and technical accessories for mobile phones	Mobile phone access.
7a - audio/video apparatus including technical accessories and parts	Audio/video apparatus
7b - memory cards; memory sticks	Memory cards/sticks
7c - ink cartridges and toners	Ink cartridges
7d - computer equipment (hardware) including technical accessories and parts	Computer equipment
7e - other equipment including technical accessories and parts	Other electronics
8a - recorded (music; film; software; game software)	Recorded CDs/DVDs
8b - unrecorded	Unrecorded CDs/DVDs
9a - toys	Toys
9b - games (including electronic game consoles)	Games
9c - sporting articles (including leisure articles)	Sporting articles
10a - cigarettes	Cigarettes
10b - other tobacco products	Other tobacco
11a - Medicines	Medicines
12a - machines and tools	Machines/tools
12b - vehicles including accessories and parts	Vehicle accessories
12c - office stationery	Office stationery
12d - lighters	Lighters
12e - labels; tags; stickers	Labels, tags, stickers
12f - textiles	Textiles
12g - packaging materials	Packaging material
12h - other	Other goods

(36) The category short name 'recorded CVs/DVDs' refers to any kind of support for recording, in particular to USB sticks.

## Annex D. ADDITIONAL CLASSIFICATION OF PRODUCTS FOR DETENTIONS IN EU NATIONAL MARKETS

Table D-1: Additional upper-level products classification

Upper_Category
13 Furniture
14 Construction materials and machinery
15 Online counterfeit and pirate products
16 Not Provided

Table D-2: Additional lower-level products classification

Category	Category Short Name
13a - Private residence furniture	Home furniture
13b - Office furniture	Office furniture
13c - Other furniture	Other furniture
14a - Construction materials	Construction materials
14b - Construction machinery	Construction machinery
15a - illegal streaming/downloading	Illegal
15b - Online - sale/offer of counterfeit products	Online sale/offer of counterfeit products
16a - not provided	Not provided

## Annex E. METHODOLOGICAL NOTES FOR COMPARING DETENTIONS AT EU BORDERS WITH DETENTIONS IN EU NATIONAL MARKETS

To analyse the differences between the types of subcategories of goods most detained at EU borders and in EU national markets, the comparison is based on the share that the detentions of a certain type of products,  $i$ , represented, both in terms of number of items and value, as a fraction of the total detentions of all types of goods.

That share was calculated, for the respective top 15 TAXUD subcategories, for detentions at EU borders in Section 8.1.2 (see Table 8-2 and Table 8-3) and for detentions in EU national markets in Section 9.1.3 (see Table 9-3 and Table 9-4) and showed clear discrepancies between the type of products detained at EU borders and in EU national markets.

However, to make the comparison appropriate, it is important to choose a subset of Member States and years in which there is a solid availability of data on detentions at both EU borders and in Member State national markets. Since the data on detentions at EU borders are available for all Member States and years (see Section B.1.1 in Annex B), the solidity of the set of countries and years to be chosen is determined by the availability of data on detentions in Member State national markets (see Table B-3 in Annex B). On the basis of that availability, the analysis described hereinafter has been **restricted to the years 2015 and 2016 and to the 28 EU Member States except Austria, Estonia, Germany, Hungary, Malta, Poland, Slovenia, Sweden and the United Kingdom** (the selected subset).

Be the share, **in terms of quantity of items**, of detentions at EU borders of the goods of subcategory  $i$  for the selected subset:

$$QShare_i^{EUborder}$$

(e.g.:  $QShare_{cigarettes}^{EUborder} = 25.43\%$ )

Be the share, in terms of quantity of items, of detentions in EU national markets of the goods of subcategory  $i$  for the selected subset:

$$QShare_i^{EUintmark}$$

(e.g.:  $QShare_{cigarettes}^{EUintmark} = 0.76\%$ )

It is defined the delta between the share, in terms of quantity of items, at EU borders and the share in EU national markets as the difference between the two, taken that at EU borders as the minuend:

$$\Delta QShare_i = QShare_i^{EUborder} - QShare_i^{EUintmark}$$

(e.g.:  $\Delta QShare_{cigarettes} = 25.43\% - 0.76\% = 24.58\%$ )

High positive values of  $\Delta QShare_i$  imply that the detentions of goods of subcategory  $i$  are, in the selected subset of years and Member States, proportionally much more voluminous, in terms of quantity of items, at EU borders than in EU national markets, whereas high negative values of  $\Delta QShare_i$  imply that the detentions of goods of subcategory  $i$  are proportionally much more voluminous, in terms of quantity of items, at EU national markets than in EU borders, again in the selected subset.

Analogously, be the share, **in terms of estimated value**, of detentions at EU borders of the goods of subcategory  $i$  for the selected subset:

$$VShare_i^{EUborder}$$

(e.g.:  $VShare_{watch}^{EUborder} = 19.75\%$ )

Be the share, in terms of estimated value, of detentions in EU national markets of the goods of subcategory  $i$  for the selected subset:

$$VShare_i^{EUintmark}$$

(e.g.:  $VShare_{wa}^{EUintmark} = 8.00\%$ )

It is defined the delta between the share, in terms of estimated value, at EU borders and the share in EU national markets as the difference between the two, taken that at EU borders as the minuend:

$$\Delta VShare_i = VShare_i^{EUborder} - VShare_i^{EUintmark}$$

(e.g.:  $\Delta VShare_{watches} = 19.75\% - 8.00\% = 11.75\%$ )

High positive values of  $\Delta VShare_i$  imply that the detentions of goods of subcategory  $i$  are, in the selected subset of years and Member States, proportionally much more voluminous, in terms of estimated value, at EU borders than in EU national markets, whereas high negative values of  $\Delta VShare_i$  imply that the detentions of goods of subcategory  $i$  are proportionally much more voluminous, in terms of value, in EU national markets than at EU borders, again in the selected subset.



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