



# **The Economic Impact of Counterfeiting and Piracy**

**Conference on Industrial Property Rights  
in the Internal Market**

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# Economic Impact of Counterfeiting and Piracy

- **Phase 1: Counterfeit and pirated products**
  - Scope: Tangible products that infringe trademarks, copyrights, patents or design rights, report published in May 2008
- **Phase 2: Digital piracy**
  - This will shortly be presented to Governments for approval, and includes a case study of the sports rights owners sector
- **Phase 3: Other IPR infringements**
  - Yet to be scoped and funded and must take account of progress in Doha Development negotiations
  - If it goes ahead will cover *inter alia* Geographical Indicators

# Sectoral case studies

## Sectors studied in depth

- automotive products
- food/drink products
- pharmaceuticals
- tobacco products
- music recordings
- motion pictures and other video content
- electrical components (including batteries)

## Other sectors considered

- luxury goods, perfumes and fashion clothes
- chemicals and pesticides
- sportswear and other branded clothing
- personal care, toiletry and household products
- books
- industrial and consumer motor lubricants
- aircraft components
- toys
- computer software

## ► Magnitude of the problem

- **Measurement needs rigorous methodology, but data is hard to find**
  - activities are illicit and clandestine
  - enforcement and customs data are sparse, incomplete and inconsistent
  - enterprises may be reluctant to divulge data
- **Analysis showed that international trade in counterfeit or pirated products could have been up to US\$ 200 billion in 2005**

The figure **does not include**

- domestically produced and consumed products
- non-tangible pirated digital products

If added, the figure could be several hundred billion dollars higher

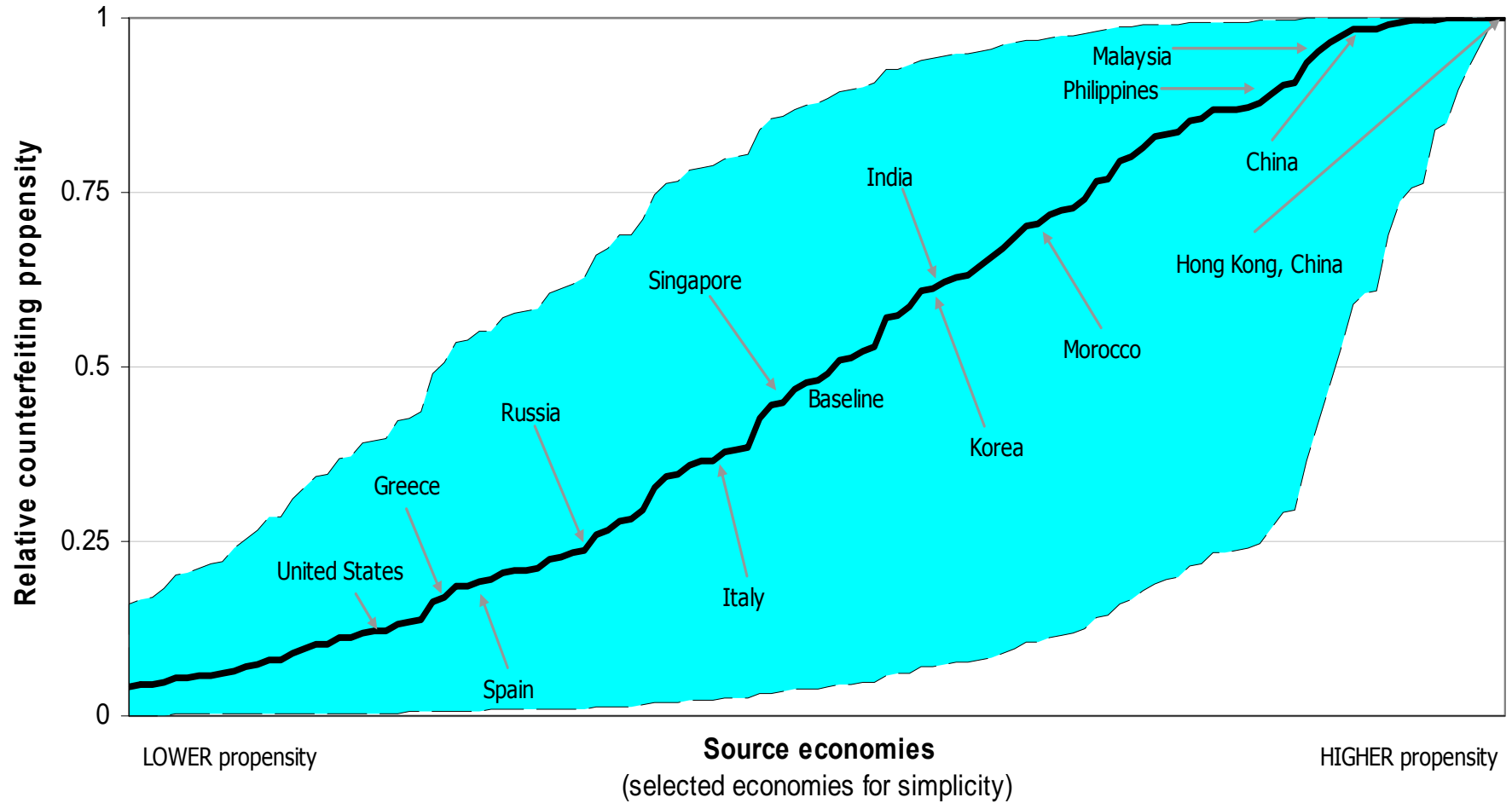
- **Earlier figure of 5-7% of world trade was ill-defined, lacked rigorous foundation and could not be confirmed or disproved**

## ► Main Effects

### Counterfeiting and piracy...

- can impact negatively on innovation and growth
- can affect the structure (but not necessarily volume) of trade
- may reduce employment where originals are produced
- can reduce foreign direct investment (FDI) where C&P takes place
- damages sales volume, profits, brand value and capitalisation of rights' owners, and can lead to unwarranted potential legal liability
- can seriously affect health and safety of users
- can negatively affect consumer confidence
- reduces tax revenues to governments
- induces high costs on governments and industry to combat C&P
- encourages participation by organised crime and corruption

## Relative Propensity Index for importing counterfeit goods from source economies



Source: OECD

# Why do people produce/consume C&P?

## Counterfeit or pirate supply

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### Driving factors

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#### Market characteristics

- High unit profitability
  - Large potential market size
  - Genuine brand power
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#### Production, distribution and technology

- Moderate need for investments
  - Moderate technology requirements
  - Unproblematic distribution and sales
  - High ability to conceal operation
  - Easy to deceive consumers
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#### Institutional characteristics

- Low risk of discovery
- Legal and regulatory framework
- Weak enforcement
- Penalties

## Knowing demand for counterfeit or pirated products

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### Driving factors

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#### Product characteristics

- Low prices
  - Acceptable perceived quality
  - Ability to conceal status
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#### Consumer characteristics

- No health concerns
  - No safety concerns
  - Personal budget constraint
  - Low regard for IPR
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#### Institutional characteristics

- Low risk of discovery and prosecution
- Weak or no penalties
- Availability and ease of acquisition
- Socio-economic factors

## ► **Distribution channels**

- **While many counterfeited goods are smuggled, most are transported using normal commercial transport services**
  - often with appropriate documentation (such as Bills of Lading)
  - products are accurately described as it is not always clear when these may be counterfeited
  - this places considerable onus on customs officials to determine provenance, as many counterfeits can only be identified by rigorous testing (eg car parts, pharmaceuticals)
  - extensive use of Free-Trade Zones

# Laws & regulations often ineffective

- Not properly enforced
- Insufficient public enforcement resources
- Low priority in courts
- Protection of locals
- Courts often lenient because counterfeiting and piracy are not considered to be serious crimes
- Penalties don't always deter

# Importance vs. Priority

- Most governments have labelled counterfeiting and piracy as **important** problems.
- However, not always matched by **priority**. Other illicit activities are being given first call on resources (for example, drugs, people smuggling, gun running)
- Governments may better respond to these problems if they appreciate the corrosive effects of C&P.
  - especially if they took full account of the role of organised crime, the effects on health and safety, foregone tax revenue and weakened incentive to innovate

# Improving data collection

- This study has highlighted just how poor data really is
- Governments and industry can help by maximising the value of data by ensuring that it is
  - systematically collected
  - comparable
  - comprehensive
- The reporting framework developed by the World Customs Organization (WCO) offers a useful template for other law enforcement agencies and industry
- Many cited estimates of the scope and magnitude (and especially impact) of counterfeiting and piracy appear to be guesswork.

# Further information available

>>> Contact us

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