

FRENCH CUSTOMS ON THE MOVE TO FIGHT THE SCOURGE OF COUNTERFEITING

Counterfeiting is a social and economic scourge

Counterfeiting is now found in all sectors: toys, textiles, drugs, household appliances, automotive spare parts, cigarettes, perfumes, software and digital products, to name but a few.

The OECD estimates that **counterfeits represent around 5% to 7% of world trade** today for a **volume of approximately €193 billion**.

France is particularly at risk due to its famous brand names and the creativity of its artistic firms. Counterfeiting costs the country some 30,000 to 40,000 jobs a year, and **€6 billion in losses for the French economy**. Half of all French businesses report that they are victims of this crime.

Customs' position with respect to the flow of goods gives it a key role in combating counterfeiting. It can inspect merchandise as it enters, passes through and leaves French territory. The main points of entry for counterfeit goods are air- and seaports, and this are where most counterfeit goods are intercepted and seized.

The entire customs administration is working to curb the threat posed by counterfeiting to the economy, employment and consumer health and safety.

2009: significant results in the fight against fraud, with a record number of seizures

In 2009, stepped-up Customs inspections resulted in a record number of counterfeits seized with **7 million items, topping the 6.5 million seized in 2008, an increase of 7.7% (excluding cigarettes)**.

The same trend is reported for the number of offences established by French Customs. These rose from 16,280 in 2008 to a record 18,520 in 2009 (+13.7%). Asia continued to take first place for the production of counterfeit items with 89.6% in 2009 (73.5% in 2008), China alone (including Hong Kong) producing slightly over 85%. The EU took second place with 5.5% of counterfeits (excluding cigarettes). It was followed by Turkey (1.8%), and Africa and the Middle East (1.2%).

2009 witnessed an increase in the number of items seized, as well as a wider variety of counterfeited items. For instance, in 2009, the **'miscellaneous items'** category numbered 4.6 million counterfeits.

Textile products (clothes, clothing accessories and household linen) made up over **16% of counterfeits with 1,154,900 items seized**.

Games and toys, a rapidly expanding sector (+ 103% from 2008 to 2009), accounted for **9% of all counterfeit items seized in 2009** (617,787 items as opposed to 303,639 in 2008).

Medicines accounted for **4.6% of all counterfeit items seized**, with 2009 seeing a **wider variety of medicines** (anti-inflammatories, painkillers and antiseptics) and medical equipment (especially stethoscopes).

On the other hand, seizures of healthcare products, cosmetics and perfumes fell **in 2009 to 273,676 counterfeit items**, down from 463,019 items in 2008 (-41%).

French Customs in the forefront of the fight against Internet counterfeit sales

Like online commerce, **Internet fraud is constantly changing**. Customs control over this channel has therefore been increased and in March 2009 a dedicated "Cybercustoms" operations unit was set up. As a result, **the number of infringements reported has constantly risen, reaching a total of 8,338 in 2009**.

This figure accounts for 51.2% of all inspections carried out by Customs officers in the area of counterfeits, and is an increase of 52.3% over 2008 (5,475 infringements reported).

Customs interceptions, mainly carried out at airport sites, are on the rise: **in 2009, the number of items passed the one million mark, with the interception of 1,281,794 articles sent by express carrier and post** (18.3% of all items seized), more than double the previous year's figure (+105.7%).

Be very careful on the Internet!

Be on your guard, especially on online auction sites, which could well be selling counterfeit articles.

Try to always check on the seller's geographic location (delivery and post & packaging charges are good indications) and that the seller does not have a large stock of the product (single items are a good sign).

When in doubt, contact the company that manufactures the authentic products.

An arsenal of anti-counterfeiting measures and partnership with businesses: an effective tool

The law of 29 October 2007 gave a boost to Customs' powers of investigation into counterfeiting and extended the customs offence of counterfeiting to include infringement of registered designs. It strengthened cooperation with rights holders, which determines the effectiveness of action against counterfeiting.

In 2009, French Customs continued its partnership with businesses exposed to counterfeiting, thanks to a scheme that enables businesses to apply to Customs to take action.

Businesses seeking to protect their intellectual property rights can contact the General Directorate of Customs and Excise to set in motion this free, easy, one-year-renewable scheme.

Rights holders have flocked to the scheme, which provides an unparalleled opportunity for exchange of information and expert knowledge: 1,117 applications were filed in 2009, compared with 1,035 in 2008.

This means that any business can apply to Customs to take action, regardless of size (from VSMEs to multinational groups) and the intellectual property rights concerned (brands, registered designs, copyright, patents, designation of origin, etc.).

The customs protection available via this partnership is key to the effectiveness of anti-counterfeit action: customs draws on the rights holders' expertise to pinpoint seizures of goods and the rights holders win out with the legal protection of their intellectual property rights.

Counterfeiting: a blight on the national economy

Copying a product is theft: counterfeiting is a serious breach of intellectual property rights, since the counterfeiter steals the profit, usurps the reputation and reaps the benefit of all the investment that has gone into the product's design, advertising and market positioning.

This form of unfair trading cuts into bona fide businesses' market shares, resulting in job losses in all sectors of the economy.

In the space of just a few years, the development of the Internet has powered this illegal activity forwards from small-scale production into a full-blown industry generating huge profits.

Counterfeiting deals a considerable blow to law-abiding traders and manufacturers, not to mention holders of copyrights and related rights.

Active co-operation with the businesses exposed to counterfeiting is needed to fight this scourge.

Yet counterfeiting attacks more than innovation and growth. It also seriously cheats consumers.

Counterfeiting: a danger to consumers

Counterfeiting strikes at the very heart of public health and safety.

To increase their profits, counterfeiters will not think twice about using bogus spare parts, especially in cars, and substandard production methods resulting in inflammable toys, pharmaceutical and hygiene products containing too little or too much of the active ingredient, allergenic perfumes, and food processors without certified safety systems.

A counterfeiting product never undergoes statutory compliance tests. It may cause serious bodily harm to the user.

A few tips on how to spot a counterfeit product

The following tips will help you spot a counterfeit so that you, the consumer, do not fall victim to the dangers of counterfeits.

Tip No. 1: The point of sale

Avoid points of sale that are not of well-established repute and shop at official retailers especially when abroad.

Tip No. 2: Product quality

Look at the symmetry of the lines, the stitching, the sturdiness of the fabric or materials used, poor colour combinations, finishing, etc.

Tip No. 3: The price

Be wary of unusually low prices since only the "underground sectors" can put products this cheap on the market.

Always ask for a receipt or invoice and check that the retailer accepts all types of payment and not just cash.

Tip No. 4: The label

Take a close look at the label: poor quality printing and spelling mistakes are generally a sign of a counterfeit.

Make sure the product bears the European (CE) and/or national (NF, etc.) standard logos.

Tip No. 5: The packaging

Make sure that the packaging is of good quality and matches the product's value. A so-called "luxury" product packaged in a plastic bag or cardboard box is generally likely to be a counterfeit.

Certificates of authenticity, warranty details and after-sales service are all important factors to consider.

Heavier penalties for buyers

You may be tempted to buy a counterfeit item at home or when travelling abroad.

Be aware that the possession, import or export of a counterfeit product is an offence subject to heavy customs and criminal penalties (immediate confiscation of the merchandise, customs fines and prison sentences).

In order to combat the growth in counterfeiting, **the arsenal of anti-counterfeiting measures, under both customs law and general law, is especially severe, with prison sentences of up to 5 years and fines of up to €500,000.**

Cracking down on counterfeits is a **major priority for the French General Customs and Excise Directorate**, which is more determined than ever to stop the scourge of counterfeiting. As part of this action, it has stepped up its controls to combat "counterfeiting tourism", particularly active in the summer season.

WARNING : Customs officials products during customs clearance procedures, including merchandise sent by post and express carrier, at itinerant points of sale and major marketplaces (stallholders, around stadiums, etc.), and even on the roads.

COUNTERFEITING IS NOT JUST ABOUT COPYING A PRODUCT BRAND: IT INCLUDES POSSESSION AND CIRCULATION OF COUNTERFEIT PRODUCTS!

When you buy a counterfeit product:

- ˘ You never get a bargain;
- ˘ You commit a customs offence if it is a counterfeit branded product;
- ˘ You become an offender by the mere fact of possessing it and risk confiscation of the item, a heavy fine and a prison sentence;
- ˘ You are buying an illegally manufactured product and are financing a criminal organisation.

BE ON YOUR GUARD !



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FRENCH CUSTOMS, YOUR PARTNER IN THE FIGHT AGAINST COUNTERFEITING