**Counterfeit Smuggling**

Introduction

Counterfeit smuggling refers to the smuggling of goods in contravention of intellectual property rights and trademarks. Goods including cigarettes, alcohol, foodstuffs, pharmaceuticals, cosmetics, electronics, and clothing and fashion accessories are frequently smuggled by sea.

Counterfeit smuggling takes a number of forms. The first is the concealing of finished products, either physically in ship cargos or by mislabelling of shipments through false paperwork.[1](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-1-45) Goods may be mislabelled  or the names of legitimate import companies used to create a veneer of legitimacy. The second is the shipping of unfinished counterfeit goods for subsequent branding at destination.[2](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-2-45)

Counterfeits are smuggled by both land and sea. However, container shipping currently dominates in terms of volume and value of counterfeit goods seized.[3](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-3-45) In 2016, containerships accounted for 56 per cent of the total value of seized counterfeits despite only 10 per cent of total seizure cases involving ships and boats.[4](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-4-45) Between 2014-2016, it is estimated that 86 per cent of counterfeit perfumes and cosmetics and 81 per cent of fake footwear were shipped via maritime routes.[5](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-5-45) The COVID-19 pandemic intensified this problem because other smuggling routes were restricted due to travel restrictions and border closures.[6](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-6-45)

There are several key maritime smuggling routes for counterfeit goods. One is that from China to Southeast Asia, from where goods are then moved across the world.[7](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-7-45) North Korea is also a significant source of counterfeit goods, especially cigarettes.[8](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-8-45) Southeast Asia and India also both act as significant sources of counterfeit goods.[9](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-9-45) Hong Kong and Singapore are used as a transhipment point to hide the origin of the goods.[10](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-10-45)

A large stack of shipping containers

Description automatically generated*By*[*Todd Lapin*](https://www.flickr.com/photos/telstar/5701252565/in/photolist-62JAWa-x3KQhm-84kX2t-ad2BQ3-9FNrjM-9FNpL2-9FNySt-NWQt2h-9FRkUh-9FRpSb-acYPZZ-NfJnd9-9FNFMZ-9FNvuP-NfJmUo-PhCGuW-9FRAq7-9FNrNx-ad2DYE-yYMkU1-9FNquZ-NfJk87-9FNqap-9FNw2B-NfJjQo-9FRCXS-bs8XWX-dVMhB7-3h5aAH-ptm7qc-9w3kHg-oDf3bQ-bE83qB-4qPcRr-82fwLo-pstuKa-NfJkwJ-cKibz-4uJbq5-8p51Mu-8P8efK-3ciRMQ-sevifY-ct5SK9-bs8Yh4-82crT8-boDpVW-prZ7FX-4U7q5f-7jgogy)*(Attribution-NonCommercial 2.0 Generic (CC BY-NC 2.0)*

Characteristics

*Perpetrators*

The criminalization of counterfeiting various according to scale and geographical location. In much of Asia for example, counterfeit smuggling is often perceived as a minor infraction.[11](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-11-45) Counterfeit smuggling tends to take place on a small scale and does not involve large criminal networks.

Elsewhere, there is significant involvement from organised criminal gangs. The Neapolitan Camorra, for example, has traditionally sold counterfeit designer accessories.[12](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-12-45) Other groups involved include various Triad and Yakuza organisations.[13](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-13-45)

*Motivation*

Counterfeit smuggling is attractive because of its profitability and relatively low risk. A container of cigarettes, for example, can be produced in some countries for as little as USD $100,000 but sold for $2 million in the United States.[14](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-14-45) The online sale of such goods has also led to the expansion of the market for counterfeits.[15](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-15-45)

Scope

As with most illicit activities, the scale of counterfeit smuggling is difficult to ascertain. Many estimates depend on extrapolating from seizures to approximate volumes and the value of the trade. Based on these calculations, the OECD and EU IPO put the estimate of imports of counterfeit (and pirated goods) to be USD $509 billion, or 3.3 per cent of total global trade in 2016.[16](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-16-45). In the EU, imports of counterfeit and pirated goods reached EUR 119 billion in 2019, representing 5.8 per cent of all goods entering the EU[/efn\_note][EUIPO and Europol 2022](https://www.europol.europa.eu/publications-events/publications/intellectual-property-crime-threat-assessment-2022)[/efn\_note] Both estimates use customs seizure data to extrapolate these figures.

Counterfeits appear to be one of the most commonly smuggled illicit goods. The UNODC/World Customs Organization Container Control Programme for example has reported that more than one-third of shipping containers stopped and seized worldwide contain counterfeit goods.[17](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-17-45) China alone intercepts around 27,000 counterfeit exports every year.[18](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-18-45)

There are also various estimates the types of counterfeits smuggled. The WHO, for example, suggests that up to 1 per cent of medicines in the developed world and 10 per cent in much of the developing world are counterfeit.[19](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-19-45) In some areas of Asia and Africa this figure may be as high as 30 per cent.[20](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-20-45) This is consistent with an estimate that one third of malaria medicines in East Asia and Sub-Saharan Africa are counterfeit.[21](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-21-45)

Counterfeit cigarettes are similarly ubiquitous. For example, the National Statistical Institute of Italy estimates that the smuggling and counterfeit of cigarettes into Italy on the total value of illegal imports is 11.3%.[22](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-22-45)

Impact

The illicit trade in counterfeits has economic, security, environmental and human impacts.

Most obviously, the trade has and economic impact on the revenue of businesses who have their intellectual property copied.[23](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-23-45) The most recent EU Status Report on Infringement estimates that the European pharmaceutical industry lost EUR 9.6 billion in sales due to counterfeits during the period 2012-2016, representing 3.9% of the total.[24](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-24-45) Counterfeiting can also increase costs for businesses through investigation and litigation.[25](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-25-45) In order to protect their band, many businesses use costly anti-counterfeiting technologies such as identifiers in products and packages.[26](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-26-45) An indirect cost is the loss of reputation if products do not meet expectations, and companies’ reputations for quality and safety can be put at risk.[27](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-27-45)

There can also be a negative economic impact for states. Counterfeit goods do not have duty paid on them, while in producer countries there can be a loss of corporate taxes and VAT.[28](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-28-45) An example is in the EU, where a single container of smuggled cigarettes (10 million cigarettes) represents an average loss of customs duty, excise duty and VAT of EUR 1.5 million.[29](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-29-45) The trade in counterfeit goods increases corruption and law enforcement costs, especially as some counterfeits are expensive to detect.[30](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-30-45) At the same time, the counterfeit trade can provide an important source of revenues for organized criminal groups, which can be used to facilitate other criminal activities.[31](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-31-45)

The sale of counterfeit goods can have security implications. North Korea’s production of illicit cigarettes, for example, enables sanctions evasion.[32](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-32-45) North Korea has also been the source of counterfeit currency.[33](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-33-45) Terrorist organisations have been linked the production and shipment of counterfeit goods. Mokhtar Belmokhtar, a former senior commander of Al-Qaeda in the Islamic Maghreb, for example, was often referred to as Mr. Marlboro for his involvement in cigarette smuggling. [34](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-34-45) Other high-profile groups implicated have been Hezbollah, the Real IRA, and Hamas.[35](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-35-45)

The negative environmental impacts of counterfeiting are often understated.[36](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-36-45) Because the production of counterfeit goods is not regulated, toxic dyes and chemicals may be disposed of illegally.[37](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-37-45) When goods are seized, they are often difficult to dispose of in an environmentally safe manner because it is unclear as to how they were made and which materials were used.[38](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-38-45)

Human health and safety can also be impacted. Substandard medication may have the wrong dosage of active ingredients or none at all.[39](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-39-45) In some cases, counterfeit medicines have contained toxic substances such as rat poison.[40](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-40-45) Counterfeit medicines have also been shown to make diseases difficult to treat because they contribute to the development of drug-resistant strains.[41](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-41-45) They can risk undermining confidence in government public health programmes if medicine is seen as ineffective.[42](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-42-45)

Counterfeit alcohol and cigarettes have additional negative impacts on human health, especially as they may use substandard, toxic, or waste products.[43](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-43-45) Counterfeit electronics can affect safety too, whether because they contain volatile chemicals or lack the safety features of legitimate goods.[44](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-44-45)

Labour exploitation is rife in the counterfeit industry. Illicit factories often have poor working conditions.[45](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-45-45) Because jobs in the production of counterfeit goods tend to be unregulated and low paid, workers are placed in a vulnerable position and are not granted the same protections as they would be in the regular employment market.[46](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-46-45) Lack of regulation may facilitate the exploitation of vulnerable groups in the production phase, including children.[47](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-47-45) Evidence also suggests that victims of migrant smuggling have been coerced into selling or producing counterfeit goods.[48](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-48-45)

Linkages & Synergies

Due to the involvement of transnational criminal networks in counterfeiting, the trade is often linked to other forms of criminality. Most stark are the links between this form of smuggling and other smuggled goods, such as narcotics and firearms, where similar routes and modus operandi are used.[49](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-49-45)

Responses

*International*

Globally, responses to counterfeiting centre around Intellectual Property (IP) and border protections. The Paris Convention (1883), which recognised the protection of trademarks in across national borders forms the foundation of modern IP law.[50](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-50-45) This was succeeded by the World Trade Organisation (WTO) and the adoption of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which enhanced uniform IP protection.[51](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-51-45) TRIPs sets minimum protection standards for various IP rights which must be applied by WTO member states. It places an obligation on States Parties to apply criminal measures when trademark counterfeiting is committed on a commercial scale.

The Anti-Counterfeiting Trade Agreement (ACTA) is a multilateral treaty that enhances the TRIP measures.[52](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-52-45) The agreement aims to establish an international legal framework for targeting counterfeit goods and generic medicines. However, it has proven controversial and to date there are insufficient ratifications for the agreement to have come into force.[53](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-53-45)

There are also regulations for specific counterfeit goods. For example, the World Health Organization’s (WHO) Framework Convention on Tobacco Control (FCTC) entered into force in 2005 includes provisions on combating illicit trade in tobacco products.[54](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-54-45)

The United Nations Office on Drugs and Crime (UNDOC) and the World Customs Organization (WCO) launched the UNODC-WCO Container Control Programme (CCP) in 2004.[55](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-55-45) The main purpose of the programme is to facilitate the tracking of containers from the port of origin to the port of destination by collecting the information on the routes of the freight containers through Container Status Messages (CSM) data. At an operational level, it trains officials to confiscate counterfeits, develops capacity amongst customs organisations, and carries out specific operations.

The World Health Organisation launched an International Medical Products Anti-Counterfeiting  
Taskforce (IMPACT) to target counterfeit medicines through collaboration.[56](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-56-45) It maintains a global dataset and trains national focal points for enhanced communication. In 2013, WHO launched the Global Surveillance and Monitoring System to encourage countries to report incidents of substandard and falsified medical products in a structured and systematic format, to help develop a more accurate assessment of the problem.[57](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-57-45)

There are also regional initiatives, such as the EU’s ConTraffic. This aims to support customs authorities dealing with containerised cargo by developing information technology tools that assist authorities in their risk assessment activities.[58](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-58-45) There is also an Intellectual Property Crime Coordinated Coalition based at EUROPOL which launches various international law enforcement operations against counterfeit goods.[59](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-59-45)

*National*

Efforts to combat counterfeit smuggling continue to face difficulties.[60](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-60-45) This is especially so at a national level. Some countries have insufficient IP border protections in place for example, with regions such as Southeast Asia intercepting only few counterfeit goods at their ports.[61](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-61-45)

Even in countries with more developed capacity, customs officials have limited ability to adequately monitor and inspect the thousands of containers that enter on a single ship.[62](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-62-45) Searches are labour intensive and require specialized training.[63](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-63-45) Non-intrusive imaging has cost barriers because it is expensive to both purchase and maintain, and its efficiency is questionable because counterfeit goods may be difficult to distinguish from legitimate goods. Only 2 per cent of containers are inspected globally.[64](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-64-45)

*Private Sector*

Anti-counterfeiting measures are also undertaken by the private sector. Many large companies dedicate resources to IP protection and enforcement,[65](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-65-45) though they often have difficulties applying these in countries where counterfeit trafficking is especially prevalent.[66](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-66-45)

Global shipping firms agreed to a joint ‘Declaration of Intent to Prevent the Maritime Transport of Counterfeit Goods’ in 2020.[67](https://www.safeseas.net/evidence/2020/02/10/counterfeits-smuggling/#easy-footnote-bottom-67-45) The declaration marked the first time the global shipping industry and brand owners had made a public commitment to work together to disrupt the transport of counterfeit goods on ships. The declaration acknowledges the negative impact of counterfeits on international trade, and encourages signatories to embrace a zero tolerance for counterfeiting and to collaborate through joint working groups in order to develop a detailed series of non-binding measures or best practices. These include application of appropriate due diligence, improving risk profiling and conducting training for their employees.

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