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# Combating the Infringements of European IPR in Third Countries An Enhanced Role for HKC?

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# BACKGROUND

In today's world policy makers responsible for IP are faced with two major challenges:

1. Creating an IP framework which adapts and keeps pace with the rapid changes in technology and markets
2. Get policy right on protection and enforcement of IP rights not only in the EU but equally in countries outside the European Union.

In a globalised economy and with businesses increasingly relying on global supply chains lack of proper IP protection in some jurisdictions can dramatically affect businesses.

Counterfeiters and pirates are quick to exploit such loopholes and their activities do not just hurt businesses, but also governments (lost tax and tariff revenue) and consumers (poorer quality products that are unregulated and can be unsafe)

For example two recent cases:

1. Counterfeit pesticides: 28 tonnes of counterfeit pesticides seized that could have had a devastating impact on public health;
2. Counterfeit power tools: 60 arrests were made and 800 tonnes of counterfeit products were seized, representing a value of EUR 12 million, during the search of 143 warehouses in Belgium, France and Germany

# THE CONTEXT

- EU economic competitiveness relies on innovation, creativity and brand exclusivity
- Need to improve the protection of innovation made in Europe when exported
- Intellectual property (IP) is an essential element enabling EU industries to grow and compete globally, which in turn creates jobs, improves the economy, and advances living standards.
- Investment in IP creates new products and services that strengthen EU's competitiveness in global markets
- As a result of the critical importance of IP to EU businesses, workers, and the economy, IP theft is a growing concern for all

## THE CONTEXT (2)

- Declining barriers to trade, improved communications technology and reduced transportation costs have given rise to new production patterns
- Functionally integrated activities are increasingly split up across both organizational and geographical boundaries.
- Dividing up the production chain in order to exploit to a maximum the relative advantages of diverse sources enables EU companies to maximise their competitiveness while maintaining added value in high cost locations.
- To enable EU companies to maximise their competitiveness and continue to defend their position as up-market, technology oriented global suppliers they must be able to use of inputs from both intra and extra EU sources
- Only possible if this can be done without the risk of their IPRs being misappropriated

## The Backside of the Medal

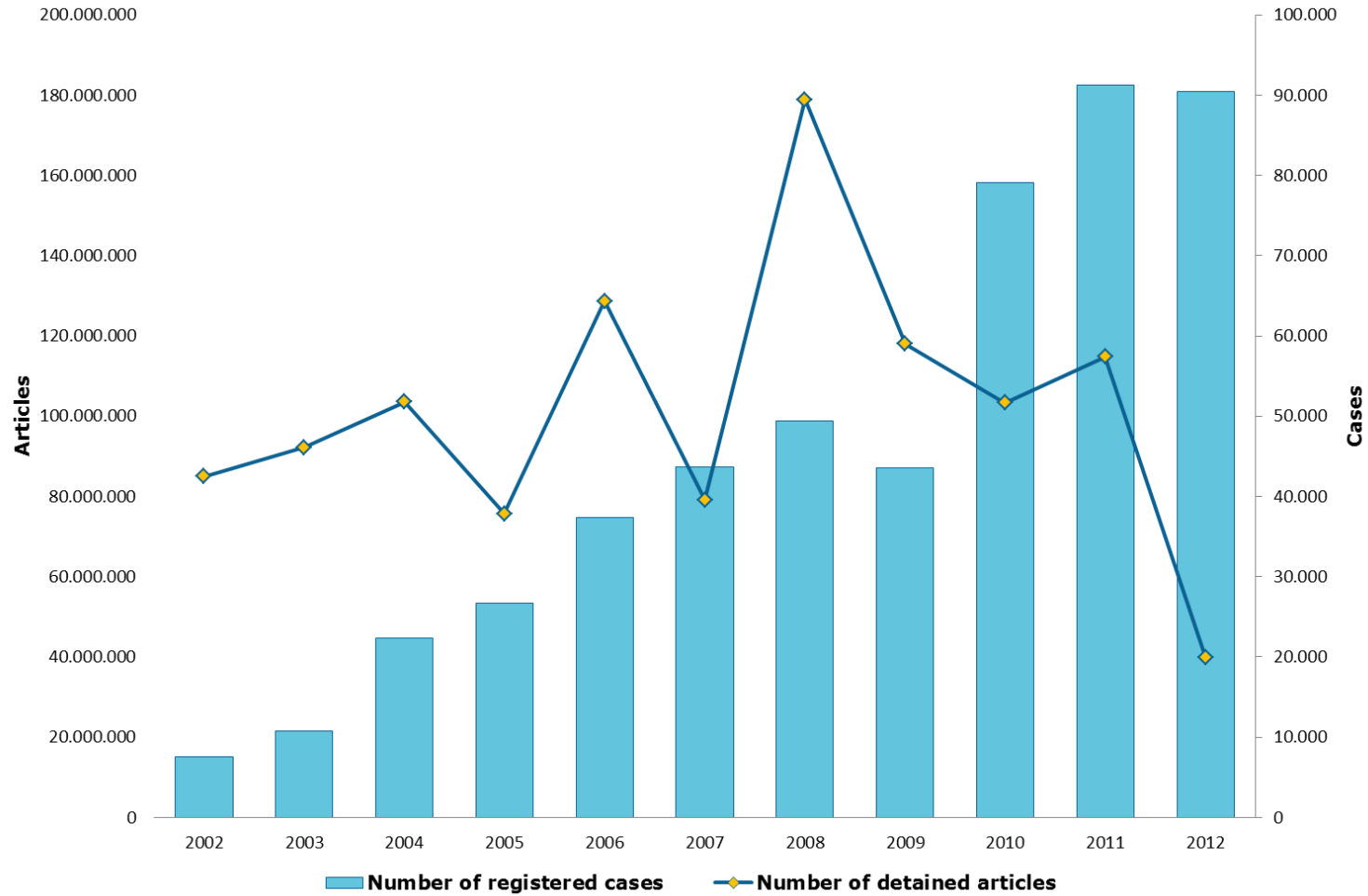
- The growing value of IPR is an indicator of success.
- But it also makes IP attractive to counterfeiters and pirates.
- Infringers make full use of advances in technology and trade, adopting modern business models to control the production, distribution and sale of illicit goods across borders and continents. The internet is one such tool.
- Counterfeiting and piracy have a dramatic and damaging effect on business and they have the potential to become even more problematical due to the recent economic downturn and the growing range of fake products being sold.
- Widespread violations of IPRs in certain third countries





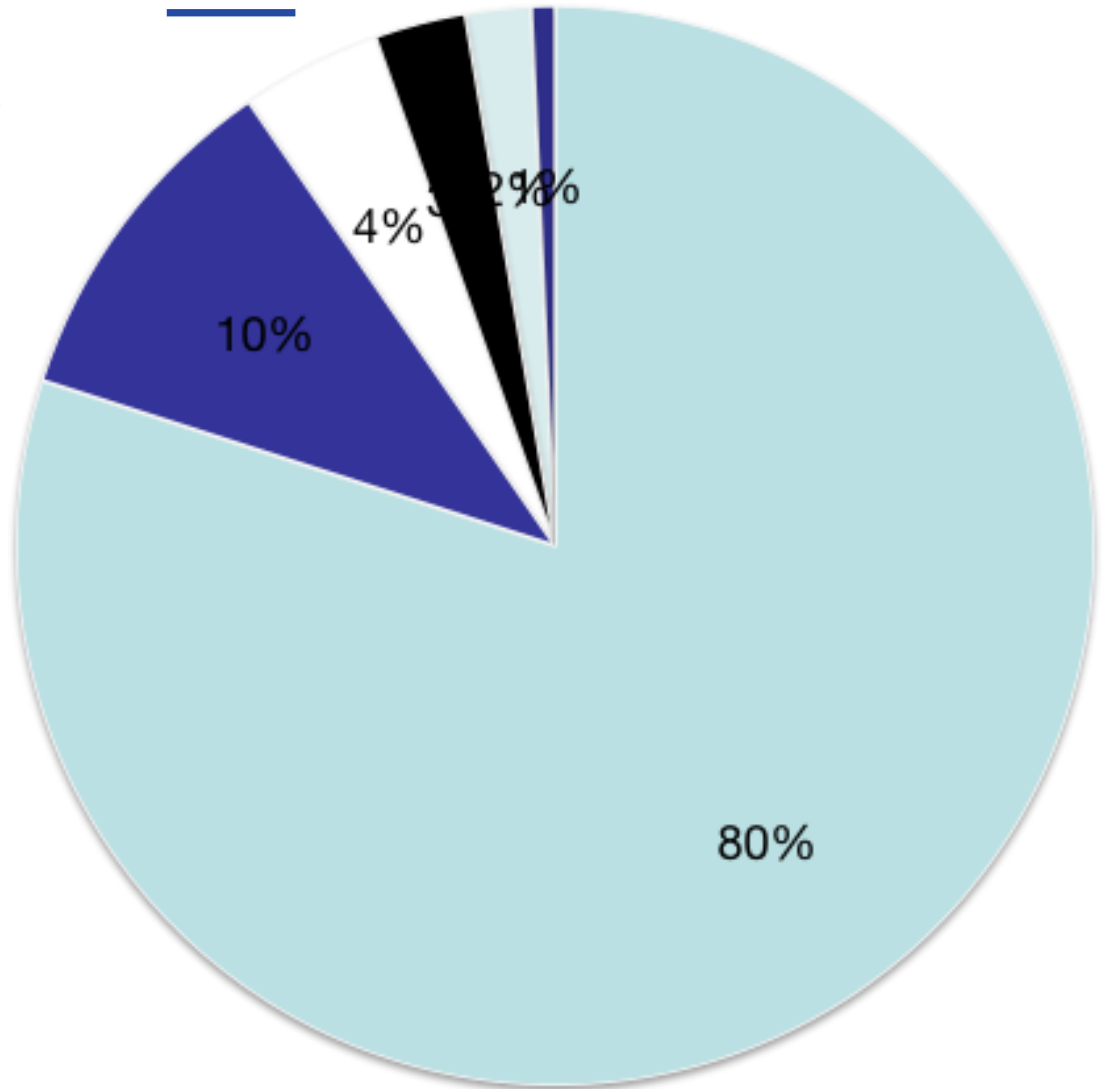
# **THE PROBLEM**

- Despite real commitments, EU businesses continue facing major IPR problems in many countries and further improvement is still needed, especially due to the pressure of the 'Internet World'.
- With 64.51% China remains with the country from where most of the suspected IPR infringing goods were coming.
- But HKC appears in third place in terms of articles seized (with 7.79% of the IPR infringing goods) and in second place when provenance is estimated in relation to value (10.05%).



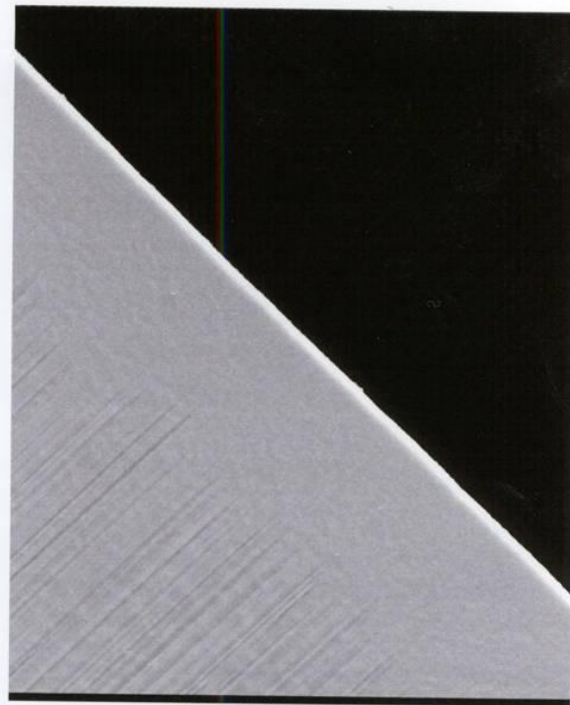
## Provenance in Relation to value

China	77,08%
HKC	10,05%
Turkey	4,06%
UAE	2,64%
Morocco	1,90%

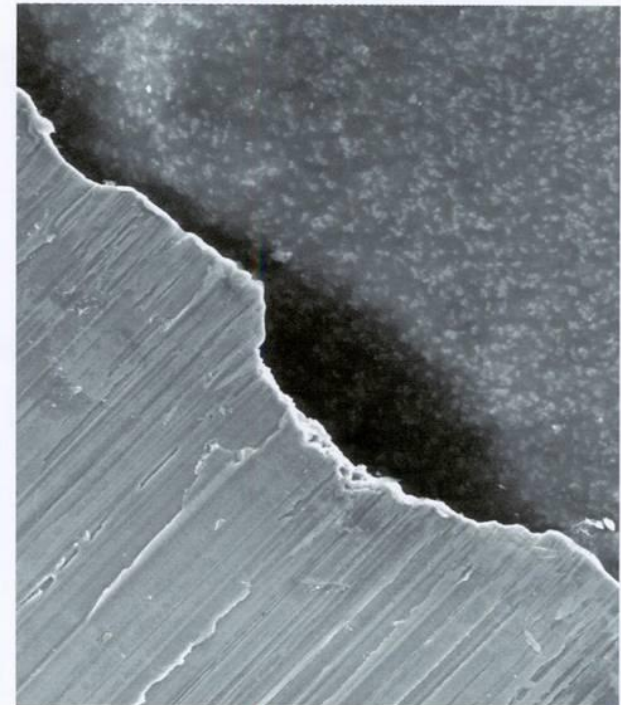


# THE PROBLEM (2)

Fake  
razor  
blades



Edge of BIC razor blade  
12 th May 2000. Magnification 1000 X



Counterfeit from YEMEN  
Edge of white single edge razor. 02 april 2001.  
Magnification 1000 X

# THE PROBLEM (3)





# **COOPERATION ACTIVITIES**

- EU and China have one of the most important bilateral trade relationships, but this will not be sustainable if we do not properly address enforcement problems.
- Since 2004 EU and China have established a good co-operation on IPR issues, through in particular an IP Dialogue and an IP Working Group.
- Technical cooperation programmes such as IPR1, IPR2 and IP Key.
- Custom Action Plan 2009-2012 (under revision).



## **COOPERATION ACTIVITIES (2)**

- Our co-operation has addressed a wide range of IPR issues such as the review of China's IP laws
- While problems remain progress has been noted in a number of areas; China made concrete efforts to improve IPR protection and enforcement (Special Campaign in 2009-2010 and creation of a permanent coordination structure on enforcement since 2012, the "Leading Group")
- Implementation and enforcement challenges remain, in particular at sub-central level

# **Enhanced Bilateral Cooperation**

- New settings for an enhanced bilateral cooperation
- IP WG meetings: continue twice a year but extended to engagement with the provinces
- Establishment of Joint Action Plans
- IP Dialogue: continue once a year but will also monitor a dedicated yearly IP Action Plan
- As from July 2013 the new technical cooperation programme IP Key will be launched to support the Dialogue



## **THE ROLE HKC CAN PLAY**

- In general terms problems in relation to IP protection in HKC limited, but growing concern about its role as a key source of counterfeit and pirated products destined for the EU market
- While most of the products are most likely produced in China, HKC is a key link in the supply chain as a transshipment point and must make further efforts to contain the problem
- Rightholders clearly also have a role to play and European industry is ready to assume their responsibilities

# **MAIN CONCERNS AS REGARDS HKC**

Main EU concerns:

1. Burdensome and costly procedures for recordation of trademarks which particularly affects SMEs
2. The evidentiary burdens for rightholders, e.g. the need to have each and every item verified as being counterfeit
3. The rightholders tends to be notified very late stage in the process of a seizure which leaves little time to provide information/intervene.

# SCOPE FOR FURTHER COOPERATION WITH HKC

- The EU is ready to explore scope for further cooperation
- **THANK YOU**





For more information:

<http://ec.europa.eu/trade/creating-opportunities/trade-topics/intellectual-property>