

Full Report from the Operational Customs Workshop 2006 World Cup Germany“ Combating Counterfeiting and Piracy”

Organized jointly by the World Customs Organization WCO, the European Commission and the Federation of the European Sporting Goods Industry FESI and held in Brussels on May 29 and 30, 2006

A. Summary of the Workshop:

The WCO workshop gathered high-ranking customs officials from all around the world, led by Michel Danet, Secretary General of the WCO and Christophe Zimmermann, who has initiated this event. The European Commission was represented by John Pulford, Head of DG Taxation and Customs Union and Didier Herbert, Head of DG Enterprise. Brand representatives from adidas, FIFA, Nike, Puma, Umbro gave presentations and FESI was represented by its Secretary General Alberto Bichi, the WFSGI by the undersigned.

The Workshop was aimed to be a starting point for a continuous cooperation between the customs authorities at global, regional and national level and the private sector (including the sporting goods brands, the respective industry federations such as FESI and the WFSGI and other rights holders like sponsors and organizers of major sports events such as the Soccer World Cup and the Olympics).

For 2006 FIFA World Cup Germany and the fight against counterfeits and piracy in conjunction with this forthcoming event, the WCO has established a special project under the name Lion, which provides concrete help and contacts to customs authorities all over the world (see full Report in the For Members Only Section).

The main conclusions were:

- A sharp increase of counterfeit and piracy activities (between 1998 and 2004 the number of customs seizures e.g. increased 1000%!!) with more and more sophisticated techniques, production and ever-changing (trans)shipment practices of the criminals requires more than ever a close and pro-active cooperation between the legitimate rights owners and customs; everything is counterfeited from faked food, pharmaceuticals to automotive and aircraft spare parts with quite often tremendous health risks for the society;
- The customs can stop shipments of faked products in big bulk and are an ideal pressure point in the fight against these criminal activities, 90% of all seized faked goods were the result of customs seizures (!!);
- Not only import, but also export controls are needed as already existing in several countries;
- The customs can tell the private sector based on their frontline first hand experience, where the loopholes and deficits are at legislative and factual level, the private sector represented by its industry federations such as FESI and the WFSGI can then help with lobbying efforts to improve protection and enforcement standards;
- The sporting goods industry is in a unique position to e.g. send anti-counterfeiting messages to the consumers by the top athletes endorsed by the brands and hence to get also the attention of kids, parents, teachers and others to educate such consumers globally why to refrain from buying faked merchandise;
- The German chancellor Angela Merkel has put the topic of IP protection and Enforcement on the agenda the next G8 summit meeting in 2007, when Germany will preside;
- Preventive risk management systems combined with new technology will become the key issues in the fight against counterfeits within the next few years, here Customs and the (Sporting Goods) Industry MUST closely cooperate to ensure that any such technology e.g. in supply chain management meets the needs of the customs and is at least compatible with what they use to detect illegal traffic of goods;
- Private sector expert initiatives such as Union des Fabricants (in France) and APM (in Germany) help rights holders to fight illegal trade, leading sporting goods brands are members of such initiatives at working (mostly inhouse legal department) level;
- The huge and exponentially increasing volume of Internet-based trade poses new challenges and also threats to customs and the legitimate rights holders;
- It is currently contemplated to implement a special brand protection project in terms of a mixed WCO and private sector expert task force for future major and global sports events (in particular with respect to Beijing 2008) for continuous and close cooperation prior, during and after these landmark events.

B. Practical Guidance for Rights Holders and WFSGI Members to cooperate globally with Customs in Conjunction with FIFA World Cup Soccer 2006 in Germany:

1. The WCO has established a special project to fight counterfeiting and piracy practices in conjunction with the World Cup 2006 in Germany under the name " Project Lion". Responsible for coordinating this project at global customs level is Ms. Heike Barczyk, Head of the Regional Intelligence Liaison Office (RILO) in Germany. Her contact data are:

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Attached to this Report you find a list of the participating countries and of the responsible persons in the Lion Project. Sporting goods brands, FIFA and any of its marketing partners who are authorized to show the FIFA name and World Cup 2006 logos on their products are urged to report any information and provide hints on suspicious deliveries, shipments and the like to the responsible customs officials in the respective country specified in the list.

If more than one country is involved, please contact office@rilo-we.org .

The project Lion starts from June 1 and runs until July 31, 2006, but may be extended beyond such date, if required.

2. Beyond and apart from the special project staged by WCO for the 2006 FIFA World Cup Germany, Heike Barczyk and her colleagues at national level are certainly willing to assist - if feasible and within the scope of the customs responsibilities and duties - in the event of any similar scenarios dealing with suspicious illegal traffic of goods which may violate the established intellectual and industrial property rights of sporting goods brands in any other manner.

c. **Special Problem Zones for the Customs Authorities, where the Industry can be of help:**

- Important laws like the TRIPS Agreement send a wrong signal, when they allow consumers to take faked goods home if the commercial value of such counterfeits is not exceeding 300 EUR (currently approx. 370 USD);

Recommended Action: Lobbying Efforts to be made by the Industry federations and the sporting goods trade in close consultation with the WCO to change such laws;

- Shipment of Counterfeits in small consignments like parcels sent by mail constitutes an ever growing problem for the customs authorities worldwide, plus the Universal Postal Code shows many numerous and significant deficits, which render it impossible or even in some cases prevent customs to act.

Recommended Action: same as above

- In several countries (like in Canada or worse in Mexico) customs authorities are by law not even authorized to make border seizures of suspicious shipments

Recommended Action: same as above

- Counterfeiters are moving to higher end faked consumer goods sold in prime locations, which makes it extremely difficult, if not impossible for Customs Authorities to tell the differences between fakes and genuine products; the Nike representative called this trend the most dangerous threat to the sports brands;

Recommended Action: Follow the example of the leading sports brands and record the most relevant criteria which distinguish fakes from originals (including the listing of authorized service and trading partners such as freight forwarders, distributors, licensees, etc.) with the customs and update such database continuously AND invest in more sophisticated and more secure state of the art anti-counterfeit technology (preferably: find industry solutions in close consultation with the WCO who know the needs of their frontline teams). Continuously educate the customs authorities, be proactive !

- Additional New Problem areas: The Free trade Zones and the Internet Trade

Recommended Action: Continuous exchange of experience between sports brands and WCO; Joining anti-counterfeit programs of providers like EBAY (e.g. VERO of Ebay for Intellectual Property owners)

- Not only import, but export controls by customs are needed to efficiently combat counterfeiting and piracy, but very often governments are hesitant to create the necessary legal environment

Recommended Action: Lobbying Efforts to be made by the Industry federations and the sporting goods trade in close consultation with the WCO to introduce such laws in particular in those countries where the respective products are manufactured;

D. **Miscellaneous:**

- In the Press Conference on July 29, 2006 I urged the media to tell their readers and spectators that the purchase of faked products supports the organized crime and maximizes the profits of drug cartels all over the world;
- Further, that the NGOs and the media should not only look at the working conditions in factories in developing and other countries, where sporting goods are produced, but should also fight against the illegal operations producing counterfeits under very frequently most humiliating conditions for the workers (including the use of child labor and blatant disrespect for the compliance with minimum health and environmental standards in such sweatshops).
- **Prime Objective of the Workshop: To create a permanent platform where the private sector in the sports-related field and the WCO (same as the national or regional customs authorities) are continuously in touch, are cooperating, develop joint strategies and exchange know how and experience with the ultimate goal to win the fight against counterfeiters and pirates and not to lose it.**

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