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COMMISSION STAFF WORKING DOCUMENT

**Report on the protection and enforcement of intellectual property rights in third
countries**

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1. INTRODUCTION

The European Union (EU) is the place of innovation, with a rich history of technological, scientific and creative advancements. It is home to world-class universities and research institutions, advanced industries and a highly skilled workforce. These factors drive innovation across the various sectors in the EU, from culture and agriculture to pharmaceuticals, aerospace, software and renewable energy.

As stated in Mario Draghi's report *The future of European competitiveness* (September 2024)¹, the innovation gap between the EU and the United States (US) and China has widened in recent decades. Lower levels of investment into research and development (R&D) in the EU are among the main reasons for this innovation gap. While public funding in R&D in the EU is on par with the US and higher than in Japan and China, lower private R&D spending is the main reason for the EU's R&D spending gap. EU underspending is mostly attributable to the business sector, whose R&D expenditures account for about 1.3% of GDP, well below the level of 2.4% in the US and of 1.9% in China. Private sector investment into R&D is therefore key to closing the EU's innovation gap.

A strong and reliable intellectual property (IP) framework globally plays a crucial role in helping the private sector dependent on innovation to recoup investments made in R&D. Intellectual property rights (IPR), such as copyright, trade marks, designs, patents, geographical indications (GIs), plant variety rights and trade secrets provide creators, inventors and companies, including small and medium-sized enterprises (SMEs), with the legal tools to safeguard their innovation, generate revenue streams and recover the costs of innovation.

IPR-intensive industries are key contributors to the economy, providing valuable and sustainable employment opportunities for society². They contribute to more than 47% of the EU's total annual GDP and make a significant contribution to EU's external trade, with more than 80% of EU exports generated by the IPR-intensive industries. Furthermore, companies owning IPR estimate a 41% higher revenue per employee³. This positive relationship between IPR ownership and firm performance is particularly strong in the case of SMEs, which register a 44% higher revenue per employee.

Given the significant impact of IP on EU's competitiveness, the EU promotes the harmonization and strengthening of IP protection and enforcement globally. As the world's economies have become closely interconnected and technology advances at a rapid pace, the risks to the EU-based rightholders have also become global. Establishing a level playing field with consistent regulatory frameworks not only facilitates international trade but also attracts foreign investment, encourages the transfer of technology and ensures that citizens have access to the most innovative and efficient technologies.

A weak framework of IP enforcement and protection in third countries, on the other hand, leads to a range of negative economic effects in those countries as well as in the EU. This is particularly evident in the case of widespread illicit activities such as counterfeiting and piracy.

¹ European Commission/Mario Draghi (September 2024), *The future of European competitiveness*.

[The Draghi report on EU competitiveness](#)

² A series of joint studies by the EUIPO and the EPO on *IPR-intensive industries and economic performance in the European Union* confirms that IP protection is a key driver of economic growth. According to the latest study from October 2022, the IPR-intensive industries contribute more than 47% of the EU's total annual GDP, amounting to EUR 6.4 trillion.

³ EPO/ EUIPO (January 2025), *Intellectual property rights and firm performance in the European Union*.

[Intellectual property rights and firm performance in the European Union. Firm-level analysis report, January 2025 - EUIPO](#)

According to the European Union Agency for Law Enforcement Cooperation (Europol), this represents as much as 2.5% of world trade or 461 billion USD⁴.

The loss encompasses not only the value of fake goods but also the associated impacts such as lost jobs, diminished tax revenue and the harm done to genuine brands. Such activities damage fair competition and create market distortion, hampering investments in research and innovation, as well as distort the job market⁵.

The impact is not limited to economic damage. Counterfeit goods, especially pharmaceuticals, cosmetics or electrical goods pose a substantial risk to consumer health and safety. IP infringements also carry serious environmental consequences, as criminal organisations engaged in IP infringement often bypass environmental norms to reduce costs.

As part of the European Commission's efforts to strengthen the protection and enforcement of IPR in third countries, this report has been published biennially since 2006, the last one dating from 17 May 2023.

Notably, its main objective is to identify third countries in which the state of IPR protection and enforcement (both online and offline) gives rise to the greatest level of concern for the EU and thereby to establish an updated list of so called "priority countries". This is not an exhaustive analysis of IPR protection and enforcement around the world. "Priority countries" are not necessarily those where IPR protection and enforcement are the most problematic in absolute terms but rather those where such deficiencies are deemed to cause the greatest economic harm to EU interests.

This report will help focus efforts and resources of the European Commission on countries and on the specific areas of concern, with the aim of improving IPR protection and enforcement worldwide. It devotes special attention to new developments since the last report and until 13 September 2024.

Additionally, the report also aims to inform rightholders about potential risks to their IPR when engaging in business activities in certain third countries and thus to allow them to design business strategies and operations to protect the value of their intangibles. It equally aims to be useful for authorities in third countries as a source of information.

2. METHODOLOGY

2.1. Sources

The Directorate-General for Trade of the European Commission conducted a targeted consultation of relevant stakeholders between 6 June and 13 September 2024. The results of this consultation form the basis of the present report. In addition, a number of other sources have been taken into account in the selection of the priority countries and in the description on the state of IPR protection and enforcement in these countries.

The targeted consultation sought specific information on the state of IPR protection and enforcement in countries outside the EU, including:

⁴ [Counterfeiting and Product Piracy | Europol](#)

⁵ An EUIPO and EUROPOL joint study on *Uncovering the ecosystem of intellectual property crime: A focus on enablers and impact* (October 2024) revealed that commercial companies are the primary targets of counterfeit product sales, resulting in significant losses in business profits, as well as a reduction in government tax revenues.

- (a) legal provisions (with the title, number of the legal norm and the respective articles) which reportedly breach international legal norms and standards in the area of IPR,
- (b) legal provisions that pose a challenge to the respondent concerning its IPR,
- (c) practical challenges, limitations, restrictions or discrepancies (such as procedures, backlogs, deterrence of sanctions, lack of expertise, speed, corruption, lack of political will, lack of awareness, etc.) which have a negative impact on IPR protection and enforcement,
- (d) concrete examples of deficiencies, weaknesses and ineffectiveness of administrative and judicial mechanisms in the area of IPR (i.e. IP offices, customs, police and courts),
- (e) any other systemic problems in the area of IPR in the country concerned, including information on the nature, scope and economic dimension of counterfeiting and piracy as well as on the level of cooperation between enforcement authorities and rightholders,
- (f) any action or measure taken by the respondent to address the problems identified and the outcome of such efforts,
- (g) concrete suggestions on how the problems identified could be addressed by the EU, and
- (h) progress made by the countries listed over the last 2 years (i.e. new legislation, administrative decisions, reorganisation, institutional reforms, new IP strategies, establishment of specialised IP courts, training programmes, cooperation with rightholders and higher budget lines for IPR, etc.).

Invitations to take part in the targeted consultation were sent to rightholders, consumer groups, industry associations, universities, EU Delegations and EU Member States. Over 70 responses were received. The majority of the respondents were associations representing rightholders and undertakings, mainly but not exclusively from the creative and innovative industries.

Beyond the consultation, the following additional sources have been taken into account in the preparation of the report:

- information received from EU Delegations and commercial representations,
- information received from the Commission's Directorate-General for Taxation and Customs Union on customs enforcement of intellectual property rights by EU Member States,
- data on actions against IPR infringement published by various governments,
- reports and studies by the European Union Intellectual Property Office (EUIPO),
- reports and assessments made by other relevant bodies and organisations (e.g. the OECD),
- information made public through WTO's Trade Policy Reviews,
- assessments carried out by Directorate-General for Trade's Market Access teams,
- judgments made by international bodies such as the WTO Dispute Settlement Body,
- the outcome of discussions the Directorate-General for Trade have had with third countries in the context of IP Dialogues/Working Groups/Committees,
- findings in EU IP SME Helpdesk reports and reports made in the framework of the IP Key Programmes⁶,
- World Intellectual Property Organisation's (WIPO) committee reports,

⁶ [Home | IPKEY](#)

- results from operations carried out by the European Anti-Fraud Office (OLAF) and Europol.

2.2. Selection

The following indicators were used for the selection of the priority countries:

- level of importance for EU operators,
- level of counterfeiting and piracy,
- level/quality of IP legislation,
- level of effectiveness of the implementation of legislation,
- attitude in bilateral relations and level of respect for IPR in international fora,
- level of respect for legal decisions in international fora (WTO Dispute Settlement),
- level of economic development (e.g. Gross National Income per capita levels, World Bank index ranking).

3. UPDATED LIST OF PRIORITY COUNTRIES

As in previous Third Country Reports, the updated list of priority countries remains split into three categories:

Priority 1: China

Priority 2: India, Türkiye

Priority 3: Argentina, Brazil, Ecuador, Indonesia, Nigeria and Thailand

China remains a **Priority 1** country for the EU due to the scale and persistence of problems in the area of IPR protection and enforcement, despite some progress in certain areas. China continued to amend and adapt its IPR legislation with a view of strengthening the IPR protection. Efforts to strengthen and streamline IPR enforcement also increased, but piracy and counterfeiting levels remain persistently high. Legal uncertainty and inconsistent application of laws remain major challenges. Local protectionism and indirect forced technology transfer continue to be major issues for EU stakeholders. While the progress made by the Chinese authorities is recognised and welcomed by the EU industry, more measures are needed to achieve a level playing field, greater legal certainty and a reduction in counterfeiting and piracy. According to the joint report by the European Commission and EUIPO on the *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023* (November 2024)⁷, China remains the main country of provenance (56.83% China plus 8.87 % from Hong Kong, China -a total of 65.7 %) for suspected IPR-infringing goods.

India and Türkiye remain **Priority 2** countries. Serious systemic problems have been identified in the area of IPR protection and enforcement in these countries, causing significant harm to EU businesses. Compared to the previous report, India and Türkiye made only limited progress in addressing these concerns.

Russia was listed in the 2021 report as a Priority 2 country. On 24 February 2022, Russia launched an unprovoked and unjustified invasion of Ukraine in violation of rules-based international order. In response, the EU and like-minded partners have adopted unprecedented restrictive measures with the aim of significantly weakening Russia's economic base and

⁷ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

[EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023 report](#)

depriving it of critical technologies as well as markets in order to curtail Russia's ability to wage war. The EU has suspended a Most-Favoured-Nation treatment within the WTO framework for Russia. In parallel, Russia has taken various measures aimed at negatively affecting the businesses from so-called "unfriendly nations", including EU Member States, operating in Russia and beyond. These retaliatory measures have also negatively impacted IPR and their enforcement. At the same time, the gradual closure of the public space in Russia and the increasing lack of information and transparency have also made it difficult to evaluate properly both the legislative developments and the enforcement of IPR in Russia. In view of the above, this report refrains from evaluating Russia.

Argentina, Brazil, Ecuador, Indonesia, Nigeria and Thailand remain **Priority 3** countries. Serious concerns in the area of IP, causing considerable harm to EU businesses, have been reported in these countries. The gravity and the number of problems identified in these countries are however lower than in Priority 2 countries.

In addition to the list of priority countries, this report includes information on countries with which the EU has concluded bilateral trade agreements and where one or several concerns related to the IP provisions of those agreements require further monitoring. Dedicated sections are provided below for Canada, Mexico and Viet Nam.

In addition, the EU continues to monitor other specific issues that are outstanding in the implementation of the commitments under the agreements concluded with the Republic of Korea as well as Colombia, Peru and Ecuador (ANDEAN) and Central America. In the case of the Republic of Korea, no major progress has been achieved during the reporting period concerning the remuneration for the public performance of recorded music, as covered by the EU-Republic of Korea Free Trade Agreement. However, some positive steps have been taken to analyse and possibly address the current situation. The implementation of provisions on the protection of Geographical Indications (GIs) contained in the EU-Colombia, Peru and Ecuador Trade Agreement and in the EU-Central America Association Agreement continues to require monitoring, particularly regarding effective implementation of the provisions for the protection of EU GIs. In particular, in the ANDEAN countries, a number of infringements have been observed, which risk to undermine protection of EU GIs in the three countries.

4. MAIN FINDINGS IN THIRD COUNTRIES

Legal uncertainties and diverging applications of law, as well as **forced technology transfer practices** and **high level of piracy and counterfeiting** continue to be a problem in China. These concerns discourage investment and put foreign operators –particularly in high-tech sectors– at risk of losing their competitive edge.

An **insufficient protection of trade secrets and the challenges in enforcing them** in a number of countries, notably in China and India, also causes irreparable harm to European businesses.

Among the main issues reported, stakeholders have in particular highlighted the insufficient human and financial resources, as well as the lack of training of the relevant IP authorities in countries such as Argentina, Brazil, Ecuador, Mexico and Türkiye. This limits their ability to effectively protect and enforce IPRs, leading to poor service quality and ineffective administrative decisions. As regards the **registration of patents and trade marks, as well as related procedures** (e.g. renewal or opposition), the IP offices in India, Türkiye and Thailand have a considerable backlog. The duration of patent examination is overly long in some countries, such as Brazil. This long procedure may even cover most of the patent term in countries like Thailand.

Restrictive patentability criteria applied in Argentina, India and Indonesia reduce or remove incentives to innovate, for instance in order to find more stable forms of compounds with longer shelf-lives, medicines which may be easier to store, dosages which are safer or reduce side-effects.

Rightholders continue to report concerns with the **system for protecting undisclosed test and other data generated to obtain a marketing approval** for pharmaceuticals in Argentina, Brazil, China, India, Indonesia and Türkiye, and for agrochemical products in Argentina and Türkiye.

In the area of copyright and related rights, problems with the functioning of the system of **collective management of rights** in Nigeria and Türkiye cause losses for rightholders and create mistrust amongst users, which ultimately has a negative effect on the creative industries in these countries.

As far as the **protection and enforcement of plant variety rights (PVR)** are concerned, EU breeders face a variety of problems, in particular related to the lack of effective legislation and protection of PVR in accordance with the 1991 Act of the International Convention for the Protection of New Varieties of Plants; and the lack of an effective PVR enforcement system. With regards to the lack of effective legislation, the most relevant problems are the overly broad exceptions to the breeders' rights and the limited scope of protection. EU stakeholders have reported deficiencies in their plant variety rights' regime in Argentina, China, Ecuador, India, South Africa, Türkiye and the United Arab Emirates (UAE).

Weak **IPR enforcement** continues to be a significant issue in all priority countries listed in the report. The key challenges stem from a lack of political will and resources, which results in inadequate technical infrastructure, limited capacities and expertise among judicial and enforcement authorities, poor coordination between enforcement bodies, ineffective sanctions for IPR infringements and insufficient public awareness of the value of intellectual property rights.

The **level of counterfeiting remains high** in many of the priority countries, causing serious revenue losses for both the EU and local industry. The problem is particularly serious in China, which continues to be the main source country of counterfeit goods imported into the EU. India and South-East Asian countries such as Indonesia, Malaysia, Thailand and Viet Nam are also significant sources of counterfeits. Regional transit hubs such as Hong Kong (China), Nigeria, UAE, Singapore and Türkiye, as well as destination countries such as Colombia, in which counterfeited products are sold on a massive scale, also continue to play an important role in this context.

Copyright piracy, especially online and satellite piracy, remains a major issue for European creative sectors. The problem remains widespread in Chile, China, Indonesia, Mexico, Thailand, Viet Nam, as well as Brazil despite the positive developments set out in this report.

A serious problem in the area of enforcement is the **lack of power for customs authorities to take ex officio actions** to detain, seize or destroy counterfeit and pirated goods at the border or to take action with respect to goods in transit. The customs authorities in Mexico and Saudi Arabia lack empowerment to take action *ex officio*. In some countries, even if customs authorities possess *ex officio* powers, these powers are not effectively implemented and border enforcement may not be sufficiently rigorous. For instance, in Türkiye, it is reported that the customs authorities do not apply *ex officio* actions frequently enough, while Argentina and Brazil do not ensure the effectiveness of their *ex officio* customs actions. Additionally, border

enforcement regimes of Canada, India, Indonesia and Thailand, as well as in the free trade zones in UAE, require further improvements.

Stakeholders also report that **counterfeit and pirated goods are often not destroyed** by the enforcement authorities and find their way back to the market. On other occasions, **destruction procedures take too long or may be dissuasively expensive** for rightholders. Concerns related to the destruction of infringing or allegedly infringing goods were reported in India, Indonesia, Malaysia, Mexico, Nigeria and UAE.

As regards **sanctions and penalties imposed for IPR infringements**, stakeholders report that they **are too low to have a deterrent effect** in Argentina, Brazil, Chile, India, Nigeria, Saudi Arabia, Thailand, Türkiye and Viet Nam.

Several of the EU's trading partners are yet to join important international conventions. Argentina, Brazil, China, Ecuador, India, Indonesia, Malaysia, Mexico, Saudi Arabia and Thailand have not yet acceded to the 1991 Act of the International Convention for the Protection of New Varieties of Plants. Argentina, Chile, Ecuador, India, Indonesia, Malaysia, Nigeria and Thailand have not yet acceded to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs. Argentina, Ecuador, Nigeria and Saudi Arabia have not yet acceded to the Madrid Agreement Concerning the International Registration of Marks and the Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks. Brazil and Saudi Arabia have not yet acceded to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. Thailand has not acceded the WIPO Performances and Phonograms Treaty. Argentina has not yet acceded to the Patent Cooperation Treaty.

5. EU ACTIVITIES IN THE CONTEXT OF IPR

5.1. Bilateral and Regional Level

5.1.1. Trade negotiations

The EU negotiates **bilateral and regional trade agreements**⁸ that include comprehensive IPR chapters, as well as stand-alone agreements on GIs. The IPR chapters aim at setting comparable levels of IPR protection to those existing in the EU, while taking into account the level of development of the trading partners. In doing so, the EU seeks to complement the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) by addressing new challenges, most notably the need to protect IPR in the digital environment. The EU also pursues adequate enforcement rules in its trade negotiations.

Since the last Third Country Report, several bilateral agreements between the EU and its trading partners have come into force or negotiations of such agreements (including IPR chapters) have been concluded at a political level. This includes agreements with MERCOSUR, Mexico, New Zealand, Tajikistan and Uzbekistan. Negotiations are currently ongoing with Australia, Eastern and Southern African countries (ESA5: Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe), India, Indonesia, Kazakhstan on GIs, Malaysia, the Philippines and Thailand.

⁸ [EU trade relationships by country/region](#)

5.1.2. IP Dialogues and IP Working Groups

The European Commission engages in regular dialogues with partner countries. Some of these IP dialogues or working groups take place in the framework of international agreements while others are organised in less formal contexts. Since the last Third Country Report, the European Commission has had such IP dialogues or working groups with countries of the Andean Community (Colombia, Peru and Ecuador), Canada, Central America, China, Japan, Mexico, the Republic of Korea, Switzerland, Taiwan, Türkiye, Ukraine, United Kingdom, the United States, Uruguay and Viet Nam.

The exchanges in the context of IP dialogues and working groups allow the European Commission to address specific issues in IPR protection and enforcement in respective countries. These include specific areas of concern with respect to the IP protection and enforcement in the countries listed in this report⁹.

The dialogues also allow the European Commission and counterparts in the EU's trading partners to present the state of play, including ongoing legislative procedures, preparation of accessions to multilateral treaties and specific data on IPR enforcement activities. Concerning GIs, continuous dialogue and technical cooperation aim at improving the understanding of the trading partners in view of better addressing cases of insufficient or poor protection.

5.1.3. Technical assistance and international cooperation programmes

The European Commission operates various EU-funded technical assistance and cooperation programmes that aim to strengthen IPR protection and enforcement in third countries, to assist EU rightholders seeking IPR protection in those countries and/or promote closer cooperation on IPR issues.

The European Commission has been steering **three IP Key cooperation programmes**¹⁰ for the period 2022-2024¹¹: **China** (4.67 million EUR), **South-East Asia** (4.33 million EUR) and **Latin America** (4.33 million EUR). These multi-annual IPR programmes, implemented and co-funded by the EUIPO, have enhanced the EU's cooperation with the respective countries or regions through concrete activities in the area of IPR protection and enforcement. IP Keys continued to provide relevant support to negotiations and implementation of EU trade agreements as well as IP Dialogues or Working Groups over the last two years. Cooperation under IP Keys has been instrumental in addressing EU concerns and areas for improvement in countries listed in this report. These IP Key programmes will end in 2025 and IP-related technical cooperation will be covered by other programmes.

The European Commission has also been steering the **AL-INVEST Verde Programme**¹², which has a component that seeks to achieve an enhanced use and effectiveness of IPR in Latin America, particularly in the MERCOSUR countries, for the period 2022-2025. It aims to expand and improve the use of IPR to boost opportunities for research cooperation and stimulate competitiveness and sustainable innovation in the region. In November 2023, a new edition of

⁹ IP Dialogues, Committees and Working Groups held in the reporting period with the Andean Community, Canada, China, Mexico, Türkiye and Viet Nam allowed the European Commission to raise specific issues regarding challenges identified in this report.

¹⁰ [Home | IPKEY](#)

¹¹ See Commission Implementing Decision of 1.12.2020 amending Commission Implementing Decision C(2020)2779 of 5.5.2020 on the financing of the 2020 Partnership Instrument Annual Action Programme for cooperation with third countries to be financed from the general budget of the European Union. [27 Partnership Instrument 2020.pdf](#)

¹² [Component 3 - Programme AL-INVEST Verde](#)

AL-INVEST was approved (AL-INVEST Next) to continue delivering in these key priority areas in the entire region of Latin America¹³.

The **Intellectual Property Rights and Innovation in Africa (AfrIPI)** project¹⁴, launched by the European Commission and implemented and co-financed by the EUIPO, became fully operational in 2021¹⁵. Its activities carried out on the African continent aim to promote intra-African trade, as well as African and European investment by strengthening the capacity of IP institutions, networks and tools, raising awareness among Micro, Small and Medium-sized Enterprises (MSMEs) and the productive sector of the value of IPR for African economies and supporting the implementation of priority actions linked to the African Union Continental Strategy for GIs¹⁶. AfrIPI also supports the evidence-based negotiations of annexes to the IP Protocol of the African Continental Free Trade Area. The Africa IP SME Helpdesk under the auspices of the AfrIPI project also assists EU SMEs in both protecting and enforcing their IPR in and/or relating to Africa by providing free information and services¹⁷. A second edition of AfrIPI is expected to be launched in 2025.

The European Commission launched in 2019 a **CarIPI**¹⁸ cooperation project for CARIFORUM states in furthering the implementation of the IPR component of the Economic Partnership Agreement (EPA) commitments with the EU. The objective of this project is to further upgrade and harmonise the CARIFORUM states systems for IP creation, protection, administration and enforcement in line with the EPA provisions and to contribute to regional integration in IPR. The first phase of CarIPI, implemented and co-funded by the EUIPO, lasted from November 2019 until April 2024. The second phase, which builds on the experience gained in the first phase, is planned from 2025 until 2029.

The **Association of South-East Asian Nations (ASEAN) Regional Integration Support** from the EU (ARISE Plus) programme¹⁹, implemented and co-funded by the EUIPO continued until June 2023, with the aim of supporting greater economic integration in ASEAN countries inter alia by improving IPR protection and enforcement. From 2024, under the EU-ASEAN Sustainable Connectivity Package, the **SCOPE Intellectual Property Rights (SCOPE IPR)**²⁰ aims to strengthen IP protection and enforcement across the ASEAN region. SCOPE IPR builds on the EU's continued support for IP rights protection in ASEAN to strengthen IP frameworks and foster collaboration across the region, ensuring ongoing progress in IPR protection.

The **EU-Republic of Korea IP Action**²¹ has been launched in March 2024. The Action is funded by the European Commission under the Neighbourhood, Development and International Cooperation Instrument (NDICI-Global Europe) and co-financed by EUIPO. The Action will last for 48 months and focuses on cooperation between EU and Republic of Korea in the areas of mutual interest.

The **EU-Japan Intellectual Property Action** within the Regional Multi-Annual Indicative Programme for Asia and the Pacific 2021-2027²² and financed under NDICI-Global Europe and co-financed by EUIPO has the objective to facilitate trade in IP intensive products between the EU and Japan, through effective cooperation in areas of common interest and greater

¹³ [IMMC.SWD%282024%29267%20final.ENG.xhtml.1_EN_autre_document_travail_service_part1_v6.docx](#)

¹⁴ [AfrIPI - International cooperation project](#)

¹⁵ [EU Trade agreements](#)

¹⁶ [36127-doc-au_gis_continental_strategy_enng_with-cover-1.pdf](#)

¹⁷ [Africa IP SME Helpdesk \(europa.eu\)](#)

¹⁸ [CarIPI | EU Funded IP Projects \(internationalipcooperation.eu\)](#)

¹⁹ [Home - Ariseplus Asean](#)

²⁰ [SCOPE IPR | EU Funded IP Projects](#)

²¹ [EU-RoK IPA | EU Funded IP Projects](#)

²² [mip-2021-c2021-9251-asia-pacific-annex_en.pdf](#)

alignment with existing European IPR policies, including on new technologies and specific challenges where new IP policies and rules may be developed.

The **EU4IP project**²³ aims to boost economic and cultural development, increase SME potential and raise investment attractiveness in Georgia, Moldova and Ukraine through contributing to an adequate and effective level of protection and enforcement of IPR in these three countries, in line with international and European best practices and in support of the opening of negotiations for EU accession. The project runs for 48 months from 1 January 2024.

The EUIPO actively collaborates with almost 60 national and regional non-EU intellectual property offices and international organisations, through **Memoranda of Understanding (MoU)**, aiming to create a more transparent and harmonized IP landscape for European companies worldwide. This cooperation focuses on promoting strong IP frameworks, streamlining trademark and design practices to foster better understanding and usage among international stakeholders. The EUIPO supports transparency and the availability of IP data through platforms like TM View, DS View and GI View, enhancing global visibility and accessibility of IP rights. Additionally, the EUIPO engages in sharing best practices, providing quality support and facilitating training and exchange opportunities to strengthen the capabilities of non-EU IP offices and promote effective IP management.

As an example, under the **MoU** signed in 2022 between the EUIPO and the Department for Promotion of Industry and Internal Trade (DPIIT) of **India**, the EUIPO and the Controller General of Patents, Designs and Trade Marks (CGPDTM) collaborated in technical workshops on cooperation, examination and practices, organised high-level meetings and cooperated in events related with SMEs and enforcement. In 2024, the EUIPO and CGPDTM organised an IP Manthan on Appeal systems (trade marks and designs) in India, aimed at the Indian IP user community and academia and a virtual meeting on the Hague Industrial Design system for Indian offices.

5.1.4. Other initiatives

The European Commission supports the IP capabilities of small and medium-sized enterprises through the **IP SME Helpdesk**, which is active in six different regions: China, Europe, India, Latin America, South-East Asia and Africa. The helpdesk, which provides SMEs with free information, trainings and web-based materials, has been instrumental in helping companies navigate the IP landscape and tackle IP issues in third countries.

5.2. Multilateral Level

5.2.1. WTO

The European Commission is an active contributor to IP protection and enforcement at multilateral level, in particular in the WTO TRIPS Council.

In June 2023, the EU co-sponsored a paper on *Research Collaboration Across Borders* and in October 2023, a paper on *Incubators and Accelerators Supporting Start-Ups Operating in a Cross-Border Environment*. In April 2024, the EU co-sponsored a paper on *IP Awareness and Creators* and another in July 2024 on *IP Awareness and Cooperation*. For the TRIPS Council meeting in November 2024, the EU presented a paper on *Education on IP*.

These papers are part of the activities of the Friends of IP and Innovation (FOII) group, which includes like-minded countries such as Australia, Canada, Chile, Israel, Japan, Norway,

²³ [EU4IP | EU Funded IP Projects](#)

Singapore, Switzerland and the United States. The papers trigger fruitful and lively discussions in the TRIPS Council which offer an opportunity for all WTO Members to share national experiences and best practices on various aspects of IP and innovation, highlighting the positive and significant role that intellectual property plays in their economies and in driving innovation.

The EU has submitted annual reports in 2023²⁴ and 2024²⁵ on actions taken or planned in pursuance of its commitments under Article 66.2 of the TRIPS Agreement (incentives provided to their enterprises or institutions for the purpose of promoting and encouraging technology transfer to least developed country Members). In addition, the EU has submitted annual reports in 2023²⁶ and 2024²⁷ in accordance with Article 67 of the TRIPS Agreement on technical cooperation programmes provided by the EU and EU Member States in favour of developing and least developed country Members, with the objective to facilitate the implementation of the TRIPS Agreement.

In 2022, the EU requested the establishment of a panel at WTO to rule on the legality of China's use of anti-suit injunctions to restrict EU companies from going to a foreign court to protect their patented technologies (case DS611). After having received the Panel report in early 2025, the EU initiated on 22 April 2025 an arbitration appeal with regard to certain findings of the Panel.

In January 2025, the EU requested consultations with China regarding China's setting of worldwide licensing terms for standard essential patents (case DS632). The measure contested by the EU allows Chinese courts to set global royalty rates for standard essential patents without the patent owner's consent.

The EU considers the Chinese measures to be inconsistent with the TRIPS Agreement.

5.2.2. WIPO

The European Commission remains actively engaged in WIPO's work. On enforcement of IPR this concerns, in particular but not exclusively, the Advisory Committee on Enforcement (ACE)²⁸. The European Commission also represented the EU and engaged actively in the two diplomatic conferences organised by WIPO that adopted in 2024 the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, as well as the Riyadh Design Law Treaty. Additionally, the European Commission supports WIPO ALERT²⁹

²⁴ IP/C/R/TTI/EU/4

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=r:/IP/CRTTI/EU4.pdf&Open=True>

²⁵ IP/C/R/TTI/EU/5

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/CRTTI/EU5.pdf&Open=True>

²⁶ IP/C/R/TC/EU/4

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/CRTC/EU4.pdf&Open=True>

²⁷ IP/C/R/TC/EU/5/Rev.1

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/CRTC/EU5R1.pdf&Open=True>

²⁸ The Advisory Committee on Enforcement (ACE) (<https://www.wipo.int/enforcement/en/ace/>) was established by the 2002 WIPO General Assemblies with a mandate to carry out technical assistance and coordination in the field of enforcement. The ACE focuses on coordinating with public and private organisations to combat counterfeiting and piracy, public education; assistance, coordination to undertake national and regional training programs for all relevant stakeholders and exchange of information on enforcement issues.

²⁹ WIPO ALERT is a secure, online platform to which authorised bodies in WIPO member states can upload details of websites or apps which have been determined to infringe copyright according to national rules.

<https://www.wipo.int/wipo-alert/en/>

and ensures synergies between this initiative and the MoU on online advertising and IPR³⁰. In terms of technical cooperation, the European Commission has collaborated with WIPO in the organisation of various activities on the protection and enforcement of IPR in third countries, notably through the IP Key Programmes.

5.2.3. OECD

The European Commission has been actively involved in the Working Party on Countering Illicit Trade (WP-CIT) under the OECD's Trade Committee. The WP-CIT provides a platform for cooperation and discussion of policies to combat illicit trade and to promote standards, good practices and shared understanding of effective measures to combat illicit trade and associated illicit finance.

Following the adoption of the *OECD Recommendation on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones*³¹ in 2019, the WP-CIT developed a certification scheme to assess and certify the compliance of free trade zones with the Code of Conduct. Currently, the WP-CIT is engaging with several countries to start pilot projects of certification of free trade zones. The certification will ensure that trade activities are conducted in compliance with the Code of Conduct, thereby enhancing the ability of the free trade zone to access broader export markets, secure financing and attract new customers. Furthermore, the WP-CIT facilitated the creation of the free trade zones expert network which will further support the implementation of the Recommendation and the Certification Scheme.

In the framework of the OECD, the EUIPO contributed to the preparation of several OECD-EUIPO studies. In June 2023, the EUIPO and the OECD released the study on *Why Do Countries Import Fakes?: Linkages and Correlations with Main Socio-Economic Indicators*³² and in 2024 a study on *Illicit Trade in Fakes under the COVID-19*³³.

The 14 studies, jointly prepared by the OECD and the EUIPO, have provided critical evidence to assist policy makers in more effectively addressing the issue of illicit trade. These studies also help raise awareness of the harmful effects of counterfeit goods, not only on the economy but also on consumer health and safety and on the environment.

5.3. Other Activities

5.3.1 EU action on improving IP protection and tackling IP infringement

The EU is steadfast in combating IPR-infringing trade. In 2023, the EU detained over 152 million counterfeit articles at borders and within the internal market, valued at approximately

³⁰ The MoU on online advertising and IPR is a voluntary agreement facilitated by the European Commission to limit advertising on websites and mobile applications that infringe copyright or disseminate counterfeit goods.

[Memorandum of understanding on online advertising and IPR - European Commission](#)

³¹ OECD Recommendation on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones (October 2019).

<http://www.oecd.org/gov/risk/recommendation-enhancing-transparency-free-trade-zones.htm>

³² OECD/EUIPO (July 2023), *Why Do Countries Import Fakes?: Linkages and Correlations with Main Socio-Economic Indicators*, OECD Publishing, Paris.

<https://www.euiipo.europa.eu/en/publications/2023-why-do-countries-import-fakes-report>

³³ OECD/EUIPO (2024), *Illicit Trade in Fakes under the COVID-19*, OECD Publishing, Paris.

[Illicit trade in fakes under COVID-19 - EUIPO](#)

EUR 3.4 billion. This reflects a 77% increase in the number of counterfeit items detained and a 68% rise in the estimated retail value compared to 2022³⁴.

These achievements highlight the growing efficacy of enforcement efforts, supported by concrete measures such as joint operations. For instance, the *Operation Fake Star* (June 2023)³⁵ conducted by the Policía Nacional, the European Multidisciplinary Platform Against Criminal Threats (EMPACT)³⁶ and supported by the EUIPO detected counterfeit goods infringing on the IPR of well-known brands across Europe. The operation revealed that the sale of counterfeit clothes, shoes and accessories in the EU is a very profitable market and highlighted that most counterfeit items originated outside Europe, namely China, Hong Kong, Türkiye and Viet Nam.

Similarly, in May 2023, Frontex coordinated a Joint Action Day (JAD)³⁷ against the smuggling of counterfeit goods at the external EU borders. This operation, which resulted in the seizure of over 1 million counterfeit products, highlighted the increasing sophistication of counterfeit goods and revealed persistent challenges in identifying counterfeit items entering the EU from third countries, particularly China and Türkiye.

Moreover, in March 2024, the Commission adopted a recommendation on measures to combat counterfeiting and enhance the enforcement of IPR³⁸, which aims to foster collaboration between rightsholders, service providers and law enforcement, while encouraging best practices and the use of modern tools and technologies. It consists of strategic initiatives to combat counterfeiting and strengthen the enforcement of IPR, setting out dedicated tools to increase companies' resilience and ability to better protect their intangible assets, including against cyber-theft.

Additionally, the Commission continues to promote and facilitate the MoU on the sale of counterfeit goods on the internet³⁹, an industry-led voluntary agreement which brings together major online platforms and IP rightholders to prevent offers of counterfeit goods from appearing in online marketplaces (e.g. fast-moving consumer goods, consumer electronics, fashion and luxury goods, sports goods, films, software, games and toys).

In the digital environment, the Commission published in February 2025 the E-commerce Communication⁴⁰, which outlines a comprehensive approach to addressing the challenges by e-commerce imports across their entire life cycle. One of those challenges is the sale and distribution of IP-infringing goods and services. Also in the digital environment, the EUIPO has been working with interested e-commerce platforms to compile information on their IP

³⁴ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

[EU enforcement of intellectual property rights results at the EU border and in the EU internal market 2023 report](#)

³⁵ Policía Nacional/EMPACT/EUIPO (June 2023), *Operation Fake Star Analysis Report*.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2023_Operation_Fake_Star_Report/2023_OP_Fake_Star_Analysis_Report_FullR_en.pdf

³⁶ EMPACT (European Multidisciplinary Platform Against Criminal Threats) <https://www.europol.europa.eu/crime-areas-and-statistics/empact>

³⁷ FRONTEX/EMPACT/EUIPO (April 2024), *Operation JAD PIRATES I, Tackling the smuggling of counterfeit goods at the external borders of the EU*.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Operation_JAD_Pirates/2024_JAD_Pirates_Analysis_Report_FullR_en.pdf

³⁸ [Commission Recommendation on measures to combat counterfeiting and enhance the enforcement of intellectual property rights - European Commission](#)

³⁹ [Memorandum of understanding on the sale of counterfeit goods on the internet - European Commission](#)

⁴⁰ [E-commerce communication: A comprehensive EU toolbox for safe and sustainable e-commerce | Shaping Europe's digital future](#)

protection programmes and to facilitate the communication with rightsholders by granting e-commerce platforms access to the IP Enforcement Portal.

The EUIPO has also conducted research on intermediaries such as transport and logistics, apps and social media and compiled a number of good practices that exist to prevent the misuse of those services to infringe IPRs.

Furthermore, the EUIPO has created a specialised network of national administrative authorities to facilitate regular information exchange on live event piracy to support the implementation of the Commission Recommendation (EU) 2023/1018 of 4 May 2023 on combating online piracy of sports and other live events⁴¹.

Despite ongoing efforts, enforcement difficulties remain. In particular, each mode of transport presents unique enforcement difficulties, whether due to the number of access points (e.g. roads or air), the burden of opening containers (e.g. sea and rail) or the sheer volume of packages arriving through e-commerce channels (e.g. express courier and postal services). Closer collaboration and timely sharing of information and intelligence among customs officers, police, market surveillance agents and rightsholders at both national and international level is crucial.

While some progress in IP protection worldwide was achieved, certain hotspots remain major sources of counterfeit and piracy. This report lists the challenges in ensuring effective IPR protection for EU rightsholders in third countries and reveals the need for stronger enforcement and collaboration to tackle these issues.

5.3.2. Counterfeit and Piracy Watch List

The European Commission regularly publishes the Counterfeit and Piracy Watch List⁴², which identifies and describes the reportedly most problematic online services and marketplaces in order to encourage their operators and owners as well as the responsible local enforcement authorities and governments to take the necessary actions and measures to reduce the availability of IPR infringing goods or services and to raise consumer awareness. The document is not an exhaustive list of the reported services and marketplaces and does not purport to make findings of legal violations, neither does it provide the Commission's analysis of the state of protection and enforcement of IPR in the country or countries concerned.

6. COUNTRY-SPECIFIC ANALYSIS

6.1. Priority 1

China

Progress

China has continued to strengthen its IPR framework over the last two years, in line with the stated policy goals of achieving quality development, with special attention to new cutting-edge

⁴¹ OJ L 136, 24.5.2023, p. 83, ELI:

<http://data.europa.eu/eli/reco/2023/1018/oj>

⁴² The latest Counterfeit and Piracy Watch List has been published at the same time as this edition of the Third Country Report.

technologies driven by innovation, referred to as the “new productive forces”⁴³ and “future industries”. China has further reviewed and updated its legislation, such as patent law, trade mark law, unfair competition law and increased efforts to strengthen IPR enforcement⁴⁴, including in the context of attracting foreign investment⁴⁵. This includes strengthened administrative enforcement and facilitating the coordination between administrative and criminal enforcement authorities⁴⁶. According to official data, China’s patent-intensive sectors contributed 13% of GDP in 2023, while new judicial interpretations have been issued as guidance for enforcement or IPR. For example, in January 2025, China’s Supreme People’s Court (SPC) issued guidelines to improve IPR protection for high-tech industries⁴⁷ and in January 2023, the SPC and China’s Supreme People’s Procuratorate released the draft Interpretation on Several Issues Concerning the Application of Law in Handling Criminal Cases of Intellectual Property Infringement⁴⁸, which clarifies thresholds for criminal cases for different IP rights. China’s Supreme People’s Court (SPC) recently reviewed cases involving foreign investors, showcasing efforts to provide equal legal protection to domestic and international litigants⁴⁹.

On the **customs** side, in 2023 the General Administration of Customs issued the Customs Discretionary Benchmarks for Administrative Punishment of the People's Republic of China (III)⁵⁰, which increase clarity on the applicable penalties for IP infringements. Rightholders also report increased customs’ seizures in China in 2023.

Importantly, on 8 March 2023, China acceded to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, which took into effect on 7 November 2023. This convention simplifies the **application formalities for foreign public documents** to be used in China. Following this, the Beijing IP Court has incorporated the provisions of the Convention in their *Reference for Notarization and Legalisation of Subject Qualification Certificates in Foreign-related Cases*, offering guidance for foreign parties on handling subject qualification certificate procedures⁵¹.

Regarding legislative changes in the field of **patents**, in December 2023 the revised Patent Law Implementing Regulations⁵² and Patent Examination Guidelines⁵³ were published and came

⁴³ Such as the *Plan for Promoting the Construction of a Powerful Intellectual Property Country in 2024*, released on 16 May 2024 by China’s Office of the Inter-Ministerial Joint Meeting for the Building of a Powerful Intellectual Property Nation.

⁴⁴ As reported in the *Annual Report on China's Combating of IPR Infringement and Counterfeiting*, from 26 April 2024.

⁴⁵ On 13 August 2023, China’s State Council released the *Opinions of the State Council on Further Optimizing the Foreign Investment Environment and Enhancing the Attraction of Foreign Investment*, which include measures to strengthen the administrative protection of intellectual property rights and law enforcement for IPR.

⁴⁶ The SAMR’s *Provisions on Administrative to Criminal IP Case Coordination* clarify the criteria for transferring of administrative IP cases to criminal authorities. SAMR has also issued the *Opinions on Strengthening Law Enforcement of Intellectual Property Rights in the New Era* and CNIPA issued the *National Work Program for the Administrative Protection of Intellectual Property Rights in 2023*, focusing on administrative IPR protection in key areas and markets.

⁴⁷ <https://www.court.gov.cn/zixun-zhuan-ti-aHR0cHM6Ly93d3cuY2hpbmFjb3VydC5vcmevYXJ0aWNsZS9zdWJqZWNoZGV0YWlsL2lkL016QXdoOQ2d4TTRBQkFBLnNodG1s.html>

⁴⁸ https://www.spp.gov.cn/spp/tzgg1/202301/t20230118_598824.shtml

⁴⁹ <https://www.court.gov.cn/zixun-zhuan-ti-aHR0cHM6Ly93d3cuY2hpbmFjb3VydC5vcmevYXJ0aWNsZS9zdWJqZWNoZGV0YWlsL2lkL016QXdoOQ2d4TTRBQkFBLnNodG1s.html>

⁵⁰ <http://www.customs.gov.cn/customs/302249/302266/302267/5603386/index.html>

⁵¹ *White Paper on the Judicial Work of Beijing Intellectual Property Court in the Past Ten Years*.

⁵² https://www.cnipa.gov.cn/art/2023/12/21/art_98_189197.html

⁵³ https://www.cnipa.gov.cn/art/2023/12/21/art_99_189202.html

into effect in January 2024. The revisions include among other things provisions on partial designs and patent term extension, which support innovative medicines.

The China National Intellectual Property Administration (CNIPA) and the Ministry of Justice (MOJ) issued the Opinions on Strengthening the Work of Administrative Adjudication of Patent Infringement Disputes in the New Era⁵⁴ in September 2023, which aims to improve the enforcement of patent infringement disputes.

In January 2023, the CNIPA released draft revision of the Trademark Law for public opinions. The draft includes new provisions to combat **bad faith trade mark** registrations. In 2023 the CNIPA also issued Administrative Measures for the Credit Evaluation of Trademark Agencies⁵⁵ to enhance credit management among trade mark agencies and practitioners. Also, in 2023 the Guidelines on the Proper Understanding of the Classification of Goods and Services for Trademark Registration⁵⁶ were released seeking to reinforce the supervision of the quality of IPR applications and registrations.

The revised Copyright Law entered into force in 2021 with several improvements for rightholders, such as the introduction of rights of producers for the use of phonograms for broadcasting or communication to the public, enforcement reforms with a ten-fold increase in maximum “punitive” damages, shifted burden of proof to the accused infringer and strengthened protections for technological protection measures. However, the Implementing Regulations of the Copyright Law needed for further clarifications and coherent application of the law are still pending.

Some positive AI and copyright-related developments are reported, notably the administrative measures issued in July 2023, which provide concrete directions on how AI services should respect intellectual property rights.

Regarding **geographical indications (GIs)**, CNIPA has adopted several measures to improve the GI protection system in China⁵⁷.

The third Amendment of the Anti-Unfair Competition Law⁵⁸ was published for comments in December 2024. The amendment widens the scope of **trade secret** protection.

Stakeholders report that China has made substantial progress on the protection of **plant varieties**. In March 2022, China updated its seed and plant breeder’s rights law. The protection was expanded to include essentially derived varieties and the duration of protection has been extended. These changes align China's plant variety protection regime with international standards, such as those of the International Convention for the Protection of New Varieties of Plants of 1991 (the UPOV 91 Convention). Additionally, the application process has been streamlined and enforcement mechanisms have been strengthened through improved cooperation between judicial authorities and local enforcement agencies.

As regards **e-commerce**, China’s State Administration for Market Regulation (SAMR) proposed amendments to the E-commerce Law in 2021, which proposed some positive changes, such as a prolonged time of reaction for rightholders to counter-notice of online platform operators and strengthened the sanctions against abusive counter-notice and e-

⁵⁴ <https://www.lawinfochina.com/display.aspx?id=41906&lib=law&EncodingName=big5>

⁵⁵ https://www.cnipa.gov.cn/art/2023/4/11/art_75_183544.html

⁵⁶ https://www.cnipa.gov.cn/art/2023/12/29/art_66_189403.html

⁵⁷ *Regulation for the Registration and Administration of Collective and Certification Trademarks and Provisions on Protection of GI Products* (1 February 2024).

⁵⁸ Call for Comments for the *New Revision of the Anti-unfair Competition Law*, State Council (27 November 2022).

commerce platforms that fail to take the necessary measures against IPR infringements. These changes have not however been finalised and adopted yet. On a positive note, SAMR has signed a cooperation agreement with 81 online platforms⁵⁹. The monitoring system for the agreement is still to be set up.

Regarding the **enforcement of IPR**, EU stakeholders report positive developments with the establishment and increasing number of specialised IP Courts and some recent decisions by the Chinese courts. They also refer to the increased expertise and efficiency of enforcement authorities, notably in major cities. More specifically, rightholders report positive developments regarding punitive damages introduced with the amendment of the Civil Code and stipulated in Patent Law and Copyright Law with further clarifications provided in the Judicial Interpretation on the Application of Punitive Damage Awards in the Adjudication of Civil IP Infringements issued by the Supreme People's Court. Rightholders report a clear increase in cases where courts awarded damages close to or equivalent to the maximum amount allowed by law.

Concerns and areas for improvement and action

Stakeholders continue to report a number of important concerns⁶⁰. Some of the concerns relate to the persisting inconsistencies in the implementation of laws by local enforcement authorities, divergencies in the court decisions among different provinces across China, lack of clarity of some legal provisions and the margin of discretion of authorities in the practical implementation of laws and regulations.

The stakeholders continue to express concerns about the **discrimination** of foreign rightholders in comparison to local rightholders, both in court proceedings and by enforcement authorities, above all at local levels. The EU stakeholders underline the need for non-discriminatory and consistent implementation of the rules in practice.

Efforts to showcase China's advancements in judicial IP protection for foreign investors are offset by incongruous policies that put **foreign IP owners at disadvantage**.

Forced technology transfer remains a problem in China and concerns a variety of practices carried out by the government or government-influenced private parties that require, pressure or induce foreign firms to transfer their technology in exchange for market access, public procurement, investment access, administrative approval, patent applications or certain support schemes⁶¹. Such technology transfers are induced or forced through policy guidance, legal instruments and practices, including through joint venture requirements or equity caps, authorisation or licensing procedures in different sectors requiring extensive documentation.

Since 2018⁶², a security assessment is needed for **transfers to foreign parties** of Intellectual Property Rights (IPR) tied to technologies marked as restricted in the catalogue. This includes

⁵⁹ https://www.samr.gov.cn/zfjcj/sjdt/gzdt/art/2024/art_bb250c0edaa64d29acb7d23b91b10974.html

⁶⁰ According to the European Chamber's Business Confidence Survey 2024, IPR protection was ranked as a top three regulatory challenge by 24% of respondents.

https://www.europeanchamber.com.cn/en/publications-archive/1177/Business_Confidence_Survey_2024

⁶¹ According to the European Business in China Position Paper 2024-2025 citing the Business Confidence Survey 2024, 17 per cent of respondents were compelled to transfer technology and/or trade secrets in exchange for market access. Technology transfer requirements remain one of the top 10 regulatory issues faced by many sectors, specifically, education, utilities, maritime manufacturing, medical devices and civil engineering and construction. Regarding the main means for technology transfer, the position paper refers to modern transfers being compelled by means of market access rather than unnecessary administrative requirements.

https://www.europeanchamber.com.cn/en/publications-archive/1269/European_Business_in_China_Position_Paper_2024_2025

⁶² Measures for overseas transfer of IPRs (2018)

patents, exclusive rights to integrated circuit layout designs, computer software copyrights or new plant varieties.

There is an increasing concern **about decreasing transparency in court decisions** as fewer court decisions are published. Stakeholders mention specifically the decrease in the publication of patents' related cases.

With regard to **patents**, industry has reported an increase in patent application rejections and invalidations by CNIPA based on the "obviousness" criteria. Delays in patent registrations filed by foreign applicants have also been observed.

On **standard essential patents** (SEPs), EU stakeholders reported concerns with Chinese courts fixing legally binding and enforceable decisions on global Fair, Reasonable and Non-Discriminatory (FRAND) rates at the unilateral request of an implementer, which affects negatively the EU SEPs holders' rights outside China. Additionally, concerns were raised with the automotive sector in China not obtaining licenses from SEP holders for connected cars.

Patent owners in the pharma sector remain seriously concerned about the lack of effective **regulatory data protection**. Even though regulatory data protection has been included in the 2002 Regulations for the Implementation of the Drug Administration Law and draft implementation measures were published in 2018 for public comments, these measures have not yet been adopted. EU stakeholders continue to report concerns with the definition of a "new drug" that needs to be new to the world and not China, thereby reducing the scope of protection.

The pharmaceutical industry continues to report persisting concerns with the **human genetic resource review requirement** for all clinical studies sponsored by foreign entities, which creates, in their view, unnecessary burdens on drug development and leads to forced IP sharing between foreign and Chinese parties.

With respect to **trade marks**, stakeholders continue reporting some concerns with bad faith filings despite the major efforts taken by the Chinese authorities. EU stakeholders also report a worrying new trend in increased numbers of refusals for trade mark applications by CNIPA on absolute grounds, linked to the interpretation of certain terms in Article 10 of China's Trademark Law, which are defined very widely. This is causing significant issues for legitimate trade mark applicants.

Another concern of stakeholders is the difficulty to register trade marks in categories of goods or services where they do not yet have direct activities, but where they need to avoid any third party registering trade marks and taking undue profit of their reputation. This issue is exacerbated by the very strict conditions for obtaining the well-known status for a trade mark, which reduces the possibilities for an alternative protection. Additionally, due to the first to file principle in China, when a trade mark application is refused by the examiner on account of a prior trade mark, the applicant is often obliged to file a request for review while challenging the validity of the cited trade marks. It is only after these procedures have been completed that the new trade mark application can proceed to registration. This creates a heavy burden on legitimate applicants.

With regard to **plant variety rights**, main concerns for industry relate to the complexity of the application process and lack of the transparency of the process, as well as high enforcement costs and inconsistent judicial practices. The need to disclose confidential information which does not serve the purpose of granting plant breeder's rights is still reported as a concern.

In the area of **copyright and related rights**, rightholders report the need for the adoption of the pending and delayed Copyright Law Implementing Regulations to clarify ambiguity of a number of provisions of the Copyright Law (entered into force in June 2021) and to ensure the proper implementation of Law.

As regards **trade secrets**, the latest draft amendments to the Anti-Unfair Competition Law enhance the trade secrets protection but industry reports on the need for further clarifications on some key concepts, where the lack of clarity makes enforcement difficult. They mention for example different interpretations of ‘prima facie evidence’ which the trade secrets owners need to provide to transfer the burden of proof to the defendant, as well as criteria to distinguish between technical features that qualify as trade secrets against what is to be considered public information.

Despite the continued efforts by the Chinese government to fight **counterfeiting and piracy**, including through a number of targeted actions reported by the Chinese authorities⁶³, the high levels of piracy and counterfeiting remain a major concern. According to the latest joint European Commission and EUIPO report on the *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023* (November 2024)⁶⁴, China, together with Hong Kong (China), is still the main country of provenance for suspected IPR infringing goods, with the total of 65.7 %. When looking at the estimated value of the products detained, China still tops the list with over 65% of the total, followed by Hong Kong, China with over 17%.

While stakeholders acknowledge the efforts made by the Chinese authorities to improve the situation and the growing sophistication and knowledge of IP-related matters of enforcement authorities, they also underline that counterfeiting and piracy remains very problematic and consider that the measures taken are not sufficient to deter IPR infringements. Stakeholders report on the counterfeiters becoming increasingly cautious and “innovative” in their operations, such as moving manufacturing and storage to remote areas, preparing small batches by order only and keeping minimal stock on premises. The sale of “lookalike” products, which are similar to legitimate products without copying these and quality counterfeits which are sold as genuine products remain of concern.

In the **online environment**, concerns relate to the overwhelming increase of e-commerce and social media used for piracy and counterfeiting, as well as new emerging business models of counterfeiters, such as commercial platforms operating as hubs for rogue online shops. Rightholders continue reporting difficulties with collecting evidence to launch judicial proceedings, including due to the lack of access to data held by platforms. Some rightholders report good cooperation with certain platforms and law enforcement authorities and welcome recent case law supporting notice and stay-down obligations. Overall enforcement remains still challenging, among other things due to the complex and differing policies applied by online services, with sometimes very strict requirements for notice and take-down. This includes the common practice from alleged infringers to record copyright to oppose notice and take-down actions, notably on trademark and design rights. The current legal framework requires that e-commerce platforms collaborate with rightholders, but rightholders refer to the lack of specific guidance on how to implement this collaboration effectively, which leads to the diverging practices by online services. Rightholders call for more coordination between the different

⁶³ https://www.gov.cn/lianbo/bumen/202404/content_6947930.htm

⁶⁴ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.
[EU enforcement of intellectual property rights results at the EU border and in the EU internal market 2023 report](#)

enforcement authorities and more information, such as annual reports detailing the measures undertaken by online platforms to avoid piracy and counterfeiting and their effectiveness.

Stakeholders from the creative industries continue to report widespread **copyright infringements**, including unauthorised translations of books, the illegal sale of log-in details to subscription platforms providing lawful access to copyright content and websites offering pirated e-books. Publishers report on some recent success in blocking a number of Sci-Hub domains under the Chinese website blocking law and call for creating a standard to have a formal and streamlined process for future actions.

Stakeholders also report that devices designed to circumvent the technological protection measures (TPMs) on video game consoles and authentic games are widespread. China reportedly remains the main source of illegal streaming devices and illegal Internet Protocol TV (IPTV) apps, receivers and set-top boxes destined for the EU markets. Stakeholders report lack of enforcement against international illegal streaming devices and exporters of boxes and services, which are not distributed in China but outside, including to the EU.

With regard to remedies for **IPR enforcement** and judicial practices, stakeholders continue to report as a concern inconsistent judicial rulings between cities as well as local protectionism, especially outside major cities. More specific concerns relate to courts discouraging rightholders from filing a series of lawsuits and directing them to pre-litigation mediation, significantly reducing the amount of compensation as well as inconsistent and opaque practices on valuation of seized counterfeits in criminal prosecution. Difficulties to obtain preliminary injunction orders and evidence or assets preservation orders remain an issue, as well as low penalties against false evidence, which are not dissuasive enough. Enforcement of judgements to recover damages remains cumbersome.

A specific issue has been reported with the service of court documents relating to European litigation to Chinese defendants. The service is performed by courts and can take months, which benefits the defendant, and more damage incurred on the plaintiff. Additionally, the transfer of case files from the first instance court to the appeal court can take several months or even years. This may exacerbate delays for cases involving foreign parties, due to the undefined trial period under the Civil Procedural Law.

While stakeholders welcome further progress made by Chinese authorities in facilitating the coordination between administrative and criminal enforcement authorities⁶⁵, additional clarifications are needed for them on the indication of case facts and collection of evidence required and the deadline to assess if the case can be qualified as criminal.

The high threshold of infringement required to trigger criminal enforcement for digital markets and the quantification of the financial gain made by the infringer, which is difficult to prove, remain concerns for rightholders.

Regarding international treaties, China has not yet acceded to the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

On 27 January 2023, the WTO Dispute Settlement Body established a panel at the request of the EU to assess the consistency with the TRIPS Agreement of the Chinese anti-suit injunctions and the failure to publish certain judicial decisions. On 20 January 2025 the European Commission has requested consultations with China at the WTO on Chinese measures empowering its courts to set binding worldwide royalty rates for EU standard essential patents.

⁶⁵ SAMR's *Provisions on Administrative to Criminal IP Case Coordination*

6.2. Priority 2

India

Progress

EU stakeholders have reported some improvements in the IP environment in India.

On **copyright**, stakeholders welcome the withdrawal of the Department for Promotion of Industry and Internal Trade's (DPIIT) Memorandum of September 2016 on Section 31D of the Indian Copyright Act, as it prevents statutory licensing from being extended to internet transmissions. The increased efficacy of site-blocking actions has also been reported. On 31 July 2023, the Cinematograph (Amendment) Bill targeting film piracy was adopted.

On **trade mark and patent backlog**, stakeholders report continuous efforts by the relevant authorities to reduce examination periods. It is also reported that streamlined and modernised processes to register trade marks and to grant patents were introduced and new examiners were recruited to address the backlog in processing applications and examinations.

Regarding **trade secrets**, in 2024 the 22nd Law Commission proposed a draft Protection of Trade Secrets Bill.

On **IPR enforcement**, stakeholders report ongoing improvements, including in the practical application of the law, although some long-standing problems persist. EU stakeholders also report that the cooperation with customs authorities has improved.

It has been reported that since April 2023 the Office of the Controller General of Patents, Designs and Trademarks is conducting regular Open House sessions, facilitating direct interaction with stakeholders, IP practitioners and applicants.

Concerns and areas for improvement and action

As regards **copyright and related rights**, stakeholders report the inadequate online liability framework and the inadequate protection against the circumvention of technological protection measures (TPMs), which are subject to broad or vague exceptions. This makes it unclear under what circumstances circumventing TPMs might be justified.

Although EU stakeholders report a positive ongoing work to address the backlog of **trade mark** registrations, processing new applications still takes a long time, in particular during the opposition procedure, which leaves stakeholders vulnerable to infringements. Bad faith registrations are also reported as an important problem for rightholders, including with regard to geographical indications.

Several constraints on **patent protection** continue to be detrimental to EU companies. Restrictive patentability criteria are a source of concern, while uncertainty and pre- and post-grant opposition proceedings are costly and time-consuming. Even if the Indian Patent Office took some positive steps to improve registration efficiency, there is still a worryingly large patent backlog. In March 2024, India issued Patents (Amendment) Rules, which included revisions to its "Statement of Working of Patents" (Form 27), changing the reporting requirement to be filed by patentees and licensees from once per financial year to once every three financial years. While some stakeholders welcomed the revision to Form 27, concerns remain as to whether the requirement and its associated penalties suppress innovation and

whether Indian authorities will treat as confidential the sensitive business information that parties are required to disclose on the form. Stakeholders also keep reporting difficulties in enforcing patents.

Regarding **undisclosed test and other data**, stakeholders report that India does not ensure that third parties do not unfairly use, for commercial purposes, clinical test data submitted when securing marketing approval for a medicine in India or a third country.

Despite the proposal of the Law Commission, India does not have specific legislation protecting **trade secrets** yet, which creates legal uncertainty for stakeholders. To protect their trade secrets, stakeholders can only rely on non-disclosure clauses and base their claims on India's common law to start court proceedings on the disclosure of trade secrets in breach of confidence or contractual obligations.

Concerning **plant variety rights**, the Indian Protection of Plant Varieties and Farmers' Rights Act of 2001 establishes a *sui generis* IP system for the protection of plant varieties, which does not align with the standards of the UPOV Convention. As a result, stakeholders continue to report weak protection and lack of effective enforcement of plant variety rights in India.

IPR enforcement remains a source of serious concern. Counterfeit goods and piracy are a significant problem in India. Although India has laws covering almost all types of IPR and enforcement procedures in place, the system is not effective enough to deal with the extent of counterfeiting and piracy in the country. Key issues remain unresolved for years and the legislative process is complicated, which creates uncertainty for rightholders. Overall, the procedures are too lengthy. The slow pace of the court system is a significant barrier to rightholders in enforcing their rights. Courts in India continue to be lax in providing sufficient deterrent penalties for counterfeiting. The abolition of the Intellectual Property Appellate Body Board (IPAB), which was established to hear appeals against the decisions of the Registrar on trade marks, patents, copyright and GIs has created further uncertainty. Additionally, the absence of coordination among India's many national and state-level IP enforcement agencies, continue to hamper enforcement efforts.

As regards **customs enforcement**, while EU stakeholders report that the cooperation with customs authorities has improved, IPR infringements are still widespread. It is reported that customs recordal of trade marks is slow, since only 15%-20% of trade marks filed in a given year are actually recorded. While the IPR (Imported Goods) Enforcement Rules provides for specific timelines for adjudicating customs seizures, in practice the system led to long delays in the destruction of seized goods, increasing the costs for brand owners. Meanwhile, a significant sum of rightholders money is blocked in the form of bank guarantees. According to the OECD-EUIPO study, *Global Trade in Fakes* (June 2021)⁶⁶, India appears on the list of the top 25 provenance economies for counterfeit between 2017 and 2019. India has also been identified by the Europol/EUIPO joint study, *Intellectual Property Crime Threat Assessment*⁶⁷ (March 2022), as one of the countries of origin of counterfeit pharmaceutical products most detected in 2019 and hosting servers containing websites illegally distributing audio-visual content. Also, according to the European Commission-EUIPO report on *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023* (November 2024)⁶⁸, India was the main country of provenance of counterfeit and pirated

⁶⁶ OECD/EUIPO (June 2021), *Global Trade in Fakes: A Worrying Threat*, OECD Publishing, Paris.
[2021 EUIPO OECD Trade Fakes Study FullR en.pdf](#)

⁶⁷ EUROPOL/EUIPO (March 2022), *Intellectual Property Crime Threat Assessment 2022*.
[Intellectual Property Crime Threat Assessment 2022 | Europol](#)

⁶⁸ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

medicines and other products detained at the EU border, accounting for nearly 69% of this category of goods.

India has not yet ratified the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

Türkiye

Progress

During the reporting period, stakeholders report some progress in IPR protection and enforcement in Türkiye.

While a draft Copyright Law has not yet been adopted, an amendment to the secondary legislation, namely the Regulation on **Collective Management Organisations** (CMOs) introduced changes regarding the establishment, membership and operating principles of CMOs. In addition, the Ministry of Culture and Tourism has introduced a compulsory music licensing system for hotels and resorts.

The Turkish Patent and Trademark Institute (Türk Patent) has expanded **online services** and improved call centre support with a new portal for trade mark cancellations.

The higher number of applications made by rightholders to the **customs authorities** has led to a moderate increase in the number of seizures. During the reporting period, the customs officers received more training, but the impact of that training remains to be assessed.

The **Intellectual Property Academy**⁶⁹ continues to organise various meetings and trainings on IPR, to conduct research, internal coordination and cooperation activities, as well as to provide consultancy services for public and private sector employees in the field of IPR.

To support innovation through value-added production and effective enforcement of IPR, with a particular focus on green and digital transformation, the 12th Development Plan of Türkiye (2024-2028)⁷⁰ and the 2025 Annual Plan of the Presidency (October 2024)⁷¹ outline several actions, including capacity building for institutions, raising awareness across society, conducting economic assessments of IP assets, reviewing support systems for IP-based technology and production and strengthening efforts to combat counterfeiting and piracy.

Concerns and areas for improvement and action

Since Türkiye introduced an international **exhaustion regime** in 2017, EU stakeholders continue reporting that, since Türkiye is in a customs union with the EU, the application of a

[EU enforcement of intellectual property rights results at the EU border and in the EU internal market 2023 report](#)

⁶⁹ Presidential Decree No 4 of 15 July 2018 and the Regulation on the Intellectual Property Academy, Official Gazette of 14 November 2019.

<https://www.wipo.int/wipolex/en/legislation/details/22525>

⁷⁰ The Twelfth Development Plan (2024-2028), 31 October 2023.

https://www.sbb.gov.tr/wp-content/uploads/2024/06/Twelfth-Development-Plan_2024-2028.pdf

⁷¹ 2025 Annual Plan of the Presidency, 30 October 2024.

<https://www.sbb.gov.tr/wp-content/uploads/2024/11/2025-Yili-Cumhurbaskanligi-Yillik-Programi-05112024.pdf>

different exhaustion regime makes it difficult for rightholders to control the exploitation of goods put on the market.

Regarding **trade marks**, as of 10 January 2024, Türk Patent has the sole authority to examine and decide on trade mark cancellation procedures. However, clearer provisions or a new regulation outlining the details of the process are needed. According to stakeholders, administrative examinations are currently not being carried out and therefore uncertainties regarding the administrative trade mark cancellation procedure persist. Stakeholders continue to report that the cancellation procedure as well as opposition or invalidation of a trade mark, are disproportionately expensive and excessively long. Stakeholders also report that the trade mark registration system is unpredictable and unclear. Notably, opposition cases are highly unpredictable and often forcing rightholders into costly appeals.

As regards **copyright** and related rights, Türkiye does not provide adequate legal protection against the circumvention of technological protection measures (TPMs) for authors, performers and phonogram producers, nor does it protect rights management information (RMI) as required by the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). The necessary reform and modernisation of the copyright regime to fully implement the obligations of these treaties has been pending for more than a decade. Stakeholders remain very concerned about the weak or non-existent compensation for exceptions, notably lending rights and exceptions in education, as well as the non distribution of levies to rightholders for private copying. Despite the recent amendment of the Regulation on Collective Management Organisations, foreign entities not based in Türkiye are not allowed to be full participants with full voting rights, management and decision-making powers. As a result, according to stakeholders, the distribution rules and practices are discriminatory towards foreign rightholders and there is no transparency for non-management rightholders.

Another area of continued concern reported by stakeholders is the lack of an effective system for protection of **undisclosed test and other data** generated to obtain marketing authorisation for pharmaceutical and plant protection products. Although Türkiye has in place a regulatory data protection regime since 2005, stakeholders are concerned about its limited scope, as biologics and combination products are excluded. Stakeholders also report concerns regarding the duration of protection, as the minimum six-year protection period starts from the date of the first marketing authorisation in any country of the EU-Türkiye Customs Union, potentially reducing the effective protection period in Türkiye. In addition, Turkish law links the duration of regulatory data protection with the duration of patent protection. Hence, once a product is considered off-patent, it automatically loses its regulatory data protection. Stakeholders continue to highlight other shortcomings, such as ineffective implementation and unreasonably slow procedures for processing marketing authorisation applications.

Online piracy continues to be of very high concern in Türkiye, undermining economic opportunities for domestic and foreign rightholders. Stakeholders report that enforcement against online copyright piracy remains ineffective in Türkiye. Stakeholders report that despite new rules introduced in 2022 concerning removal of illegal content by intermediary service providers, there are persistent shortcomings, especially as regards the management of complaints and objections of the users. **Providers of online intermediary services** are only required to act if, after a criminal court injunction, the infringing website fails to remove infringing content.

According to the European Commission-EUIPO report on *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023* (November

2024)⁷², Türkiye ranks third in the top provenance economies of counterfeit and pirated goods in terms of customs seizures in 2023. Its share of global seizures at the EU borders is 8,42%. In 2023, Türkiye was also the third country of provenance (12%) by value as regards infringing goods detained in the EU Member States customs⁷³.

Regarding **border enforcement**, according to the Ministry of Trade of Türkiye, the number of the applications for actions from rightholders has constantly increased⁷⁴. Additionally, the number of detentions by Turkish customs authorities involving goods suspected of infringing IPR has also risen. This upward trend is primarily attributed to a significant surge in the detection of IPR-infringing items within small consignments and passenger's baggage. .

According to the study of OECD/EUIPO on *Dangerous Fakes* (March 2022)⁷⁵, Türkiye is one of the main provenance economies of dangerous fakes and one of the main provenance economies of dangerous counterfeit goods imported into the EU and seized destined for the EU. As regards the dangerous fakes, according to an alert of the World Health Organization⁷⁶, Türkiye is one of the countries located in the region where counterfeit weight loss drugs are marketed the most.

Türkiye is frequently mentioned as a transit hub for **counterfeits** from China to Europe. Recently, due to disruptions in supply chains from China during the pandemic, its role as a regional manufacturer of counterfeit goods for Europe and other neighbouring countries has become evident, leading to an increase in counterfeit production for both domestic and export markets.

Stakeholders report that Türkiye is a key **transit point** for labels, tags and packaging materials. They are reportedly exported to the EU separately from the goods used for the subsequent infringement (e.g. by affixing the counterfeit labels and tags to the goods or by packaging them with the counterfeit packaging materials). The Turkish IP Code does not give explicit powers to customs authorities to detain goods in transit, referring only to import and export. This framework creates legal uncertainty for rightholders. While in 2020 the Supreme Court ruled that the transit trade of counterfeit goods constitutes an offence under the Turkish IP Code, it remains unclear whether it is sufficient to clarify the situation and whether lower courts will follow it.

With regard to **criminal enforcement** procedures, Turkish law provides for *ex officio* seizure of pirated and counterfeit goods by law enforcement authorities in specific cases, in particular for reasons of public health and consumer safety or in the fight against organised crime. In practice, however, according to stakeholders, the authorities rarely take *ex officio* actions.

⁷² European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_EU_Detentions/2024_EU_Enforcement_of_IPRs_FullR_en.pdf.

⁷³ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

[EU enforcement of intellectual property rights results at the EU border and in the EU internal market 2023 report](#)

⁷⁴ The number of applications increased from 1915 received in 2017 to 2869 applications in 2023. The number of detentions of goods suspected of infringing IP rights by Turkish customs authorities in 2023 is 1958, representing an increase of 111% compared to the previous year.

⁷⁵ OECD/EUIPO (March 2022), *Dangerous Fakes: Trade in Counterfeit Goods that Pose Health, Safety and Environmental Risks*, Illicit Trade, OECD Publishing, Paris.

<https://www.ekonomim.com/saglik/sahte-ilacta-turkiye-dunya-besincisi-dsoden-uyari-yapildi-haberi-778545>

According to the Ministry of Justice of Türkiye, 82% of **search and seizure warrant** requests were approved in 2023 and the total number of applications increased by around 6-7% from 2022 to 2023. However, inconsistencies in granting of these warrants by the courts remain a significant challenge, particularly in cities where major counterfeiting activities are concentrated. Overall, few search warrants are issued, especially in large cities such as Istanbul and in tourist areas such as Bodrum. EU stakeholders report that search and seizure warrants are submitted to a stringent implementation of the “reasonable doubt” concept by the judges. In addition, judges require additional evidence to substantiate the claims of the rightholder which may be burdensome. Obtaining preliminary injunctions also remains difficult and the level of deterrence of the penalties ordered by judicial authorities is reportedly low.

Stakeholders continue reporting that Turkish **customs** authorities only allow three days to verify the counterfeit nature of detained goods, which is unreasonably short compared to the 10-day deadline under EU law. Despite increased efforts by customs authorities to tackle the infringements of new plant varieties, stakeholders report that the customs authorities lack sufficient resources and training to take efficient action against these IPR infringements at the border. A major concern with customs is that rightholders must obtain a court order within 10 days to seize counterfeit goods, which requires evidence that the goods are counterfeit. Customs often fail to send photographs of detained goods due to workload and staff shortages, forcing rightholders to send photographers and representatives to customs offices, which is an expensive, burdensome and time-consuming practice.

EU stakeholders also continue reporting that **enforcement authorities**, in particular the police and judges, lack sufficient resources to take efficient action against IPR infringements.

The specialised IP courts that were closed a few years ago, have been reopened. However, the number of specialised courts does not seem sufficient to cope with the high volume of cases. As a result, the heavy workload of the courts significantly prolongs the duration of proceedings, thus jeopardising the principle of the right to a fair trial. The lack of expertise in specific technical fields in courts has also been widely reported.

6.3. Priority 3

Argentina

Progress

In Argentina, limited progress has been noted over the reporting period in the area of IPR.

On **copyright**, some stakeholders welcome the adoption of Decree 765/2024⁷⁷, which updates the concept of public performance to cover online uses.

On **enforcement**, stakeholders commend the collaboration of Argentinian authorities with Brazilian law enforcement authorities on *Operação 404*⁷⁸. They also report enforcement actions against illegal streaming sites, including court decisions to block access to IPR-infringing websites.

Concerns and areas for improvement and action

⁷⁷ <https://www.boletinoficial.gob.ar/detalleAviso/primera/312933/20240828>

⁷⁸ <https://agenciabrasil.ebc.com.br/tags/operacao-404>

The level of IPR protection and enforcement continues to be weak, which discourages investment in innovation and creativity.

On **patent** protection, some stakeholders report restrictive patentability criteria, including in the field of biotechnology⁷⁹.

As regards **copyright** and related rights, Argentina reportedly does not provide adequate legal protection of technological protection measures and rights management information as required by the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. More generally, some stakeholders consider that the copyright law does not take sufficiently into account technological developments.

Stakeholders continue to report concerns about the system for protecting **undisclosed test and other data** submitted to obtain marketing approvals for pharmaceutical and agrochemical products. They claim that the Confidentiality Law⁸⁰ allows Argentinian authorities to rely on that data to approve requests by competitors to market similar products.

On **plant varieties**, stakeholders report difficulties in registering some hybrid varieties, as the *Instituto Nacional de Semillas* (INASE) does not have an appropriate reference database to check for their distinctiveness.

IPR enforcement remains a source of serious concern. It has been reported that Argentina is the largest importer of counterfeit pharmaceuticals in the world in terms of value⁸¹. Stakeholders report that IPR infringements are widespread and growing in Argentina, in particular in street markets, due to the lack of dissuasive sanctions, including low compensation awarded for damages and the low number of seizures by customs authorities, both when acting on their own initiative and when using the Trademark Alert System. Stakeholders request more resources for and action by law enforcement authorities, including the police and the customs authorities, in particular at the northern border. Excessively bureaucratic procedures were also reported by some stakeholders as discouraging rightholders from applying for border measures.

In terms of judicial action, stakeholders report that proceedings are complex and often subject to long delays, sometimes caused by procedural requirements to award damages. Foreign plaintiffs are sometimes required to post a bond to guarantee the payment of legal costs if their lawsuit is dismissed. However, stakeholders claim that there is no uniform case law on the validity of this requirement. In addition, some patent holders report difficulties to obtain precautionary measures in court proceedings. Finally, courts do not apply criminal sanctions against IPR infringements in a consistent manner. For instance, stakeholders report that some courts do not apply them unless there is consumer deception, a prerequisite that is not laid down in the law. The lack of courts and public prosecutors' units specialised in IP and scarce human resources are reported by some stakeholders as the reason behind some of these issues.

Stakeholders continue to report a high level of **copyright piracy** during the reporting period, both online and as regards physical goods. Some request that the Argentinian government set a strategic policy for enforcement and interagency cooperation and suggest that the

⁷⁹ Resolución Conjunta 118/2012, 546/2012 y 107/2012.

Resolución 283/2015.

<https://www.argentina.gob.ar/normativa/nacional/resolución-283-2015-252851/texto>

⁸⁰ Ley de Confidencialidad sobre información y productos que estén legítimamente bajo control de una persona y se divulgue indebidamente de manera contraria a los usos comerciales honestos (Ley N° 24.766).

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/40000-44999/41094/norma.htm>

⁸¹ OECD/EUIPO (July 2023), *Why Do Countries Import Fakes?: Linkages and Correlations with Main Socio-Economic Indicators*, OECD Publishing, Paris.

https://www.oecd.org/en/publications/why-do-countries-fimport-fakes_8a4a4508-en.html

Coordination Center to Combat Cybercrime (*Centro de Coordinación de Combate al Cibercrimo*, known as “C4”) play a role in the fight against online piracy. Moreover, they expect the government to incentivise public-private cooperation and voluntary initiatives taken by private operators to act against direct download sites and illegal hyperlinking. Some stakeholders refer to the lack of effective measures at administrative, civil or criminal level to block infringing sites, such as dynamic blocking injunctions and report that injunctions against intermediaries are not easily available.

Argentina has not yet ratified the Madrid Agreement Concerning the International Registration of Marks, the Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, the Patent Cooperation Treaty and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

Brazil

Progress

Brazil has kept up its efforts to improve the protection and enforcement of IPR over the reporting period. The Brazilian IPR Office (INPI) continues reducing the **patent and trade mark** backlogs. INPI has reported a substantial reduction of the backlog in patent examination, passing from 15,134 pending applications in October 2022 to only 1,052 in March 2025⁸². However, INPI continues to report more difficulties to reduce the backlog for trade marks, as the number of applications remains higher than the number of decisions⁸³. The recruitment of new examiners has not solved the issue, as the number of applications continues to increase⁸⁴. Finally, INPI has set ambitious targets to achieve shorter decision times for patent and trade mark examinations by 2026⁸⁵. Stakeholders continue to report improvements on **enforcement**, with increasing numbers of raids and seizures of counterfeits every year. São Paulo continues to be mentioned as an example of best practices to improve enforcement measures to prevent the sale of counterfeits in the city. It has reportedly seized large quantities of counterfeit goods and continues working to shut down and maintain closed shopping malls that distribute counterfeits. The role of the State Specialised Police Department (*Departamento Estadual de Investigações Criminais* or DEIC) in anti-counterfeiting measures also continues to be praised. Seizures of several thousands of counterfeit products by the Federal Road Police have also been comended by rightholders. Some stakeholders also report an increase in the number of specialised courts. Rightholders can supply information to help customs intercept counterfeit imports, including now products infringing geographical indications, through a database called *Sistema de Combate à Pirataria*.

On **copyright enforcement**, stakeholders informed about positive actions during the reporting period, including in the context of *Operação 404*⁸⁶. Such actions tackled web- and app-based piracy, including through site-blocking injunctions, as well as seizure raids against major pirate

⁸² <https://www.gov.br/inpi/pt-br/servicos/patentes/plano-de-combate-ao-backlog/historico-do-plano-de-combate-ao-backlog-de-patentes>

⁸³ See Boletim Mensal de Propriedade Industrial (January 2025).

<https://www.gov.br/inpi/pt-br/central-de-conteudo/estatisticas/arquivos/publicacoes/boletim-mensal-de-pi-resultados-de-janeiro-2025.pdf>

⁸⁴ INPI 2024 Action Plan.

<https://www.gov.br/inpi/pt-br/governanca/planejamento-estrategico/plano-de-acao/2024/pa2024.pdf>

⁸⁵ INPI Strategic Plan 2023-2026.

<https://www.gov.br/inpi/pt-br/central-de-conteudo/noticias/inpi-divulga-versao-em-ingles-do-plano-estrategico-2023-2026/inpi-2023-2026-strategic-plan.pdf>

⁸⁶ <https://agenciabrasil.ebc.com.br/tags/operacao-404>

targets⁸⁷. São Paulo's Public Prosecutor cybercrime unit CyberGaeco also played a key role in the adoption of blocking injunctions against online piracy. The Regulatory Agency for Telecommunications (ANATEL) has continued its efforts to block infringing websites and seize illicit streaming devices, including as a result of searches in marketplaces' storage facilities. Finally, Law 14.815 has granted the Audio-Visual Agency (ANCINE) competence to take enforcement measures against the unauthorised use of works⁸⁸. The practical implementation of this law is still to be developed.

Concerns and areas for improvement and action

As regards **patents**, despite the reduction of the backlog achieved by INPI, it takes, on average, 6.9 years⁸⁹ for a patent application to be examined. These concerns increase in the absence of rules on patent term extension in case of delay in the granting procedure, following the repeal of the sole paragraph of Article 40 of Law 9.279/1996 in 2021.

As regards **trade marks**, some stakeholders keep reporting long delays and inconsistent practices in trade mark examination, possibly due to insufficient budget and human resources and despite efforts to reduce the backlog. Average decision times for examinations of trade mark applications are between 10 and 16 months in procedures without or with opposition, respectively.

Another area of continued concern reported by rightholders is the system for protecting **undisclosed test and other data** generated to obtain marketing approvals for pharmaceutical products. Stakeholders report that pharmaceutical products for human use do not benefit from the data exclusivity protection that Law 10.603/2002⁹⁰ grants to pharmaceutical products for veterinary use.

IPR enforcement remains a source of serious concern. IPR infringements, e.g. local manufacture and imports of counterfeits and online piracy, often linked to criminal organisations, are still rampant in Brazil. This is due to the lack of sufficient resources, consumer awareness and dissuasive sanctions, in particular in criminal law. Shopping malls raided by the authorities tend to reopen later and their owners claim not to be responsible for counterfeit goods sold by tenant retailers. IPR enforcement procedures are generally reported as long and often unpredictable due to lack of technical expertise of some judges.

At the **border**, stakeholders report increasing and yet insufficient controls of imports by customs authorities. As a result, Brazil is among the top 10 importers of counterfeit toys and games when considering the share of fake imports among genuine ones⁹¹. Customs procedures are reported as inconsistent, in particular regarding seizures *ex officio*, which sometimes require prior court action by the rightholder, in contrast with the applicable legal provisions. Customs procedures for small consignments are also reported as unnecessarily burdensome. Some

⁸⁷ <https://www.gov.br/mj/pt-br/assuntos/noticias/operacao-404-chega-a-4a-edicao-com-buscas-no-metaverso-suspensao-de-4-canal-e-90-videos-retirados-do-ar>

⁸⁸ Lei nº 14.815, 15 January 2024.

https://www.planalto.gov.br/ccivil_03/_ato2023-2026/2024/lei/114815.htm

⁸⁹ Baseline scenario indicated on INPI Strategic Plan 2023-2026, p.22.

⁹⁰ <https://www.gov.br/agricultura/pt-br/assuntos/insumos-agropecuarios/insumos-agricolas/agrotoxicos/legislacao/arquivos-de-legislacao/lei-10603-2002-dispoe-sobre-a-protecao-de-informacao-nao-divulgada-submetida-para-aprovacao-para-comercializacao-de-produtos/view>

⁹¹ OECD/EUIPO (July 2023), *Why Do Countries Import Fakes?: Linkages and Correlations with Main Socio-Economic Indicators*, OECD Publishing, Paris.

https://www.oecd.org/en/publications/why-do-countries-import-fakes_8a4a4508-en.html

stakeholders report that delays in the destruction of suspected goods lead to high storage costs for rightholders.

Brazil has not yet ratified or aligned its legislation with the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

Ecuador

Progress

Since the last report, the EU and Ecuador have had several exchanges on the areas of concern, in particular the effective protection and enforcement of **plant varieties rights**. As a result, Ecuador initiated comprehensive discussions among its relevant authorities with the objective to improve the protection and enforcement of plant variety rights, including at the border. Furthermore, in a proceeding initiated by the National Service of Intellectual Rights (SENADI), the Constitutional Court of Ecuador issued a sentence⁹² confirming that the competence of the national authorities in the area of protection and enforcement of plant variety rights extends also to territories inhabited by indigenous communities. In addition, Ecuador reduced the licence agreement registration fee from 579.40 USD to 72 USD and is also considering the reduction of plant variety rights registration and maintenance fees.

Concerns and areas for improvement and action

Regarding the protection of **plant varieties**, the IP Code contains a number of provisions that raise concerns regarding the scope, including exceptions and duration of plant variety rights, which appear inconsistent with Ecuador's international obligations as well as Article 25 of the Andean Decision⁹³ regulating the matter. In particular, the IP Code provides an exception that allows exchange of propagating material between farmers and seems to violate Article 5(1) of 1978 Act of the International Convention for the Protection of New Varieties of Plants, to which Ecuador is a Party.

IPR enforcement remains a source of serious concern. EU stakeholders report widespread availability of counterfeit and pirated goods across the country, including both online and in physical marketplaces. Despite the IP Office's broader responsibility and increased efforts against IPR infringements, the enforcement regime remains unsatisfactory. Furthermore, EU stakeholders continue reporting serious problems with effective enforcement of plant variety rights as the competent authorities do not impose or effectively collect financial penalties from farmers which are cultivating, selling and exporting protected plant varieties, in particular roses, without paying due royalties to the rightholders. Some issues of usurpation of EU GIs protected under the EU-Colombia, Peru and Ecuador Trade Agreement have also been reported, mainly concerning protected EU cheeses from various Member States.

Ecuador has not yet ratified the Madrid Agreement Concerning the International Registration of Marks, the Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

⁹²http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/eyJYXJwZXRhIjoidHJhbWl0ZSIInV1aWQIOiIIMDBmMmQ5MS1jNDY1LTQyNDgtODM1NC0wMTc4NDM1NWZiMGQucGRmIn0=

⁹³ Decisión 345/1993 de Régimen Común de Protección a los derechos de los Obtentores de Variedades Vegetales. <http://www.comunidadandina.org/StaticFiles/DocOf/DEC345.pdf>

Indonesia

Progress

Improvements can be noted in Indonesia over the reporting period as the government, especially through the Directorate General of Intellectual Property (DGIP), has made some progress on several IP related issues.

The Indonesian Minister of Industry (MOI) issued a new regulation (MOI Regulation No. 5 of 2024) that mandates importers of textiles, textile products, bags and footwear to provide trade mark certificates when applying for import permits. The objective is to **reduce counterfeiting** and therefore to improve IP enforcement.

In January 2023, Indonesia ratified the Nice Agreement on the International Classification of Goods and Services for Trade mark Registration (President Regulation No. 10 of 2023).

Indonesia has also improved the process of the **trade mark** renewal protection by the issuance of “POP Merek” by DGIP, which is a notice that confirms the trade mark’s continued protection during the renewal process. Through this system, the process of post-trade mark services can be completed within 10 minutes.

Indonesia continues to conduct regular **training sessions and seminars** to enhance the understanding of IP. These events are designed for DGIP staff and are also open to the public. Indonesia also carries out actions to increase awareness through incentives for local SMEs in protecting their IPR and encouraging universities to boost innovation and to file more patent applications. The Indonesian House of Representatives put forward the draft Industrial Design law to the National Legislation Program (“Prolegnas”), which consists of various draft laws that are being prioritised by the House of Parliament. This shows Indonesia’s efforts as regards the accession to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs.

It has also been reported that Indonesia continues to lead the Asia-Pacific region in **blocking pirate sites**, with over 650 sites referred to the telecommunications regulator, Kominfo, for blocking in 2024.

Indonesia maintains its observer status in the International Union for the Protection of New Varieties of Plants and is exploring legislation aligned with the 1991 Act of the International Convention for the Protection of New Varieties of Plants (UPOV 91).

Concerns and areas for improvement and action

As reported previously, restrictive patentability criteria make effective **patent protection** in Indonesia difficult, notably for pharmaceuticals. Indonesia’s Patent Law does not provide protection for new uses and applies an additional patentability criterion that requires “increased meaningful benefit” for certain forms of innovation (e.g. salts and new dosage forms) as a precondition of patent protection. The “increased meaningful benefit” criterion seems to exclude from patentability inventions resulting in a compound having desirable and useful properties, for instance those that are cheaper to produce, easier to store, to transport or to administer, have a longer shelf life or cause fewer or less severe side effects.

Regarding **copyright**, stakeholders claim that applicable rules on reversion of rights (i.e., the process following which the rights previously transferred or licensed are returned to the original

holder) to authors and performers following the 25-years term from the original transfer of rights make it difficult to exploit such rights during the entire term of protection.

As regards **trade marks**, EU stakeholders keep reporting that the competent office in Indonesia continues to have a very narrow interpretation of trade mark rights in opposition procedures, which is critical to keep bad faith actors from obtaining similar trade mark registrations. In addition, stakeholders report lengthy and costly procedures in place to register a trade mark or to obtain the invalidation, cancellation or opposition appeal process.

Another area of continued concern is the effectiveness of the system for protecting **undisclosed test and other data** generated to obtain marketing approval for pharmaceutical products.

As regards **plant varieties**, although stakeholders welcome the Indonesian efforts on establishing a UPOV 91 oriented system, they keep referring to the lack of an effective plant breeders' rights system in place. One critical point in the Indonesian legislation remains the novelty criteria. Under Indonesian law, the prior commercialisation of the variety (harvested or propagating material) seems to include acts done without the consent of the breeder. Other issues of concern relate to the exceptions and restrictions provided for in Indonesian legislation. EU stakeholders report that the high number of infringements of the plant breeders' rights is a barrier for highly innovative breeders to export their best technologies to Indonesia.

Despite the improvements made in Indonesia, IPR **enforcement** remains a source of serious concern. The high volume of counterfeiting and piracy in local marketplaces and in the online environment continues. Stakeholders report the lack of enforcement actions and a reluctance to raid retailers. In the area of e-commerce, the lack of legal framework to tackle the impact of the increasing offer of counterfeit products online and piracy remains of great concern. EU stakeholders from various sectors keep reporting the continued inaction of online intermediaries and e-commerce platforms, which offer a high volume of counterfeit goods, as regards the deterrence of infringers. Improvements of the law on civil proceedings continue to be necessary. Stakeholders report that judges are often reluctant to calculate compensation due to the absence of clear references in the law and the lack of precedent, which leads to numerous uncertainties. In addition, the criminal penalties for IP violations, though prescribed by law, are not applied rigorously, making infringement relatively low-risk for infringers. Effective remedies and closing existing gaps in protection are needed to combat online infringements. This in particular concerns site-blocking injunctions and measures to prevent domain-hopping. Illegal camcording and streaming piracy, including live streaming, remains unsolved. Besides the above, the cumbersome bureaucracy to engage with government institutions, create challenging environment with room for improved trust and effectiveness.

As far as **customs enforcement** is concerned, stakeholders report that the system lacks processes that allow for a systematic detaining of suspicious products and seizing of counterfeits. Despite the existence of a customs recordal system established since 2018, the number of registrations of IP owners is very low, which is linked to the extensive requirements for recordal registration. Amongst others, reportedly a foreign company needs to have a legal entity established locally to be eligible for trade mark recordation with customs and to detain a shipment suspected of infringing its IPR it needs to submit a bank guarantee to cover the customs' operational costs. As a result, only some rightholders manage to register their trade marks. In addition, the customs recordation system remains unavailable for copyright holders. The police continues to require copyright recordation with the IPR Office as a precondition to conduct raids, which makes enforcement more complicated and less efficient.

Indonesia has not yet ratified the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

Nigeria

Progress

There has been some progress on IPR protection and enforcement in Nigeria over the reporting period.

The new Nigeria Customs Service Act, effective from 20 April 2023, provides for the reform of the administration and management of **customs** and excise as well as empowers customs authorities to seize counterfeit goods. With the introduction of the Nigeria Customs Service Act as well as a number of other IP laws which came into force in 2022, notably the Copyright Act, the Business Facilitation Act and the Plant Variety Protection Act, the country is on track to develop a more robust IP system.

Nigeria continues to implement its National Intellectual Property Policy And Strategy adopted in 2022, which seeks to promote a comprehensive IP ecosystem as a catalyst for harnessing the full potential of IPR for socio-cultural development and sustainable economic growth⁹⁴.

Concerns and areas for improvement and action

The Industrial Property Commission Bill (IPCOM Bill) presented to the National Assembly in 2016, with the aim to harmonise all current Intellectual Property laws and governing bodies and establish an industrial property Commission of Nigeria, was never adopted.

Under the Nigerian Constitution, national legislation for implementing international agreements, treaties and protocols is necessary to give effect to Nigeria's international obligations on IPR. The TRIPS Agreement has not yet been properly and fully incorporated into Nigerian law. Only some provisions related to copyright are incorporated into relevant law. This gives rise to uncertainty, for example, in relation to well-known trade marks, which are covered by the TRIPS Agreement but are not explicitly covered by the Nigerian Trademark Act, which raises doubts on their protection in Nigeria⁹⁵.

The Trademark Act of Nigeria was amended by the Business Facilitation (Miscellaneous Provision) Act 2023 to expressly permit the registration of a **trade mark** in respect of services, rather than goods only. In addition, the new definition of trade marks expressly recognises the registrability of shape marks, packaging and colour combination marks. Unfortunately, a complete overhaul of the Trademark Act to reflect modern technological developments or the digital economy remains to be adopted.

The administrative process for registering trade marks in Nigeria is often delayed due to the manual and bureaucratic nature of the processes at the Nigerian Patents and Designs Registry. Lengthy trade mark registration procedures also affect certification marks, which are currently the only legal means of protecting **geographical indications** (GIs) in the absence of a separate

⁹⁴ https://www.wipo.int/about-wipo/en/offices/nigeria/news/2022/news_0002.html.

⁹⁵ See also, Fan Milk International A/S v Mandarin Oriental Services B.V (Suit No FHC/ABJ/CS/791/2020) & Fan Milk International A/S v Mandarin Oriental Services B.V (Suit No FHC/ABJ/CS/792/2020), both before the Federal High Court of Nigeria (Abuja Judicial Division).

GI registration system⁹⁶. While WIPO's Industrial Property Administration System (IPAS) has been deployed at the Nigerian Industrial Property Office (NIPO) in line with its digitalisation efforts, the transition between the different systems is causing delays and lack of functionality. In this regard, NIPO is in the process of upgrading its WIPO IPAS system to version 4.0 (the latest available), which will, among other things, enhance security, modernise the architecture, improve the user interface and allow for cloud compatibility⁹⁷.

In the area of **copyright** and related rights, stakeholders indicate that **online piracy** remains at a high level. Stakeholders also point to the collection and distribution of adequate royalties to rightholders, which constitutes as a major area of concern. Stakeholders additionally underline a lack of transparency regarding collective management organisations and their accreditation. It remains to be seen whether the legislative changes introduced by the Copyright Act will address these concerns, in particular, the creation of the Online Copyright Inspectors (OCI) Unit, which is responsible for the fight against online piracy. Based on the work of this unit, the Commission is mandated to proactively conduct anti-piracy operations and vigorously prosecutes copyright infringers in court.

The lack of effective **IPR enforcement** on the ground results in widespread sales of counterfeits. Nigeria's major seaports serve as maritime gateways for the import of counterfeit products, including counterfeit medical products, mainly into West Africa. Nigeria is a transit point for fake electronics and electrical equipment manufactured in China for re-export to other West African countries⁹⁸. According to stakeholders, the enforcement of IPR laws by regulatory agencies is severely hampered by several factors: insufficient government funding, lack of skills and training and underpaid enforcement officers, lack of awareness, lack of government funding to destroy counterfeit goods, which are often returned to physical markets for sale. It has been regularly reported that many Nigerian courts lack the necessary technological infrastructure to efficiently handle IP cases, which require specialised resources such as technical experts and modern tools. Stakeholders point out that these shortcomings have resulted in many judgments being inconsistent and erroneous, undermining the legal framework for IP protection.

According to the OECD-EUIPO study on *Global Trade in Fakes* (June 2021)⁹⁹, Nigeria is exporting counterfeit goods including leather articles, handbags, clothing, footwear, perfumery and cosmetics. In addition, according to the joint Report of the European Commission-EUIPO on *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023* (November 2024)¹⁰⁰, Nigeria is one of the top sources of counterfeit goods seized in 2023 at the EU border in terms of value and number of cases in the passenger traffic.

Nigeria has not yet ratified the Madrid Agreement Concerning the International Registration of Marks, the Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks and the Geneva Act of the Hague Agreement Concerning the

⁹⁶ Following the approval by the Federal Government in 2021 to develop a GI protection regime in Nigeria, AfriPI supported the development of a draft GI Bill and draft GI Regulations.

⁹⁷ In 2024 AfriPI also completed a pilot project to digitise 2000 trade mark files and store them in the NIPO's document management system, with the aim of improving the efficiency of NIPO's trade mark management.

⁹⁸ OECD/EUIPO (2018), *Misuse of Small Parcels for Trade in Counterfeit Goods: Facts and Trends*, OECD Publishing, Paris.

<https://doi.org/10.1787/9789264307858-en>

⁹⁹ OECD/EUIPO (June 2021), *Global Trade in Fakes: A Worrying Threat*, OECD Publishing, Paris.

<https://euiipo.europa.eu/tunnel->

web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EUIPO_OECD_Report_Fakes/2021_EUIPO_OECD_Trade_Fakes_Study_FullR_en.pdf.

¹⁰⁰ European Commission/EUIPO (November 2024), *EU enforcement of intellectual property rights: results at the EU border and in the EU internal market 2023*.

<https://www.euiipo.europa.eu/en/publications/eu-enforcement-of-intellectual-property-rights-2024>

International Registration of Industrial Designs.

Thailand

Progress

Some positive developments have been noted in the area of IPR in Thailand in the course of the reporting period. The Thai government, in particular the Department of Intellectual Property (DIP), is committed to improve IPR protection and enforcement. However, the pace of progress, in particular the legislative process in the area of IPR, is slow.

Revisions of acts on **copyright and related rights**, patents and industrial designs have been launched for a number of years, but have not yet been concluded. In the reporting period, Thailand published for comments the draft amendments to the Copyright Act, which aim to align Thai law to the WIPO Performances and Phonograms Treaty (WPPT) in view of potential future accession.

In January 2025 the DIP held a stakeholder meeting in view of a potential future law on Collective Management Organizations (CMOs), which would increase their transparency, accountability and good governance. This effort builds on the Code of Conduct for CMOs introduced in 2020 with the same aim.

In 2024, the Department for Intellectual Property launched a public consultation for the amendment to the Patent Act, which aims to enhance the effectiveness of the **patent** application procedure and prepare for accession to the Hague Agreement. There is no further indication of the timeline for adoption. The revised **customs** regulations, including the Thai Customs IPR Recordation (TCIR) system, provides for new means for more effective enforcement of IPR at the border.

With regard to **geographical indications** (GIs), Thailand is in the process of amending the Geographical Indication Protection Act with the aim of streamlining the registration process, including developing the GI control system. The draft Act also foresees a prohibition on the use of translation for protected GI names. The draft Act has been proposed to the Cabinet for approval in March 2024.

The DIP in particular is very active in taking forward the IPR policy in Thailand with a number of actions. Stakeholders note a number of successful enforcement cases brought against online piracy. In addition, the DIP continues to facilitate IPR applications by making available an electronic filing (e-filing) system as an alternative channel for submitting applications and introducing guidelines for issuing electronic certificates (e-certificates) for certain IPRs. Fast-track procedures for certain trade mark and patent applications are now possible. The DIP has introduced an AI system to assist patent examiners in searching the patent databases since 2024. The Thai authorities have been active in steering discussions between e-commerce and brand owners with the aim to reduce the availability of online counterfeit offers.

Concerns and areas for improvement and action

EU stakeholders report that there are still significant challenges with the IPR protection and enforcement in Thailand.

As regards **copyright** and related rights, EU stakeholders report that the situation with regard to the collective management of rights remains unsatisfactory. In addition, stakeholders underline the lack of adequate legal framework on the liability of the internet service providers

and protection against the circumvention of technical protection measures and against the unauthorised alteration or removal of rights management information. This issue is at least in part addressed with Thailand's reform of the Copyright Act, including the newly introduced notice-and-takedown system. However, stakeholders report difficulty in the implementation of takedown measures. EU stakeholders report that **IPR enforcement** remains a serious concern due to the widespread availability of counterfeit and pirated goods. Stakeholders note the lengthy, costly and complex enforcement procedures, which deter action.

As regards **online counterfeiting**, EU stakeholders report that the volume of online sales of counterfeit goods is significant. The Thai language e-commerce and social media platforms allegedly offer a wide variety of counterfeit goods and the cooperation between the platforms and the rightholders is not efficient. While the MoU on IPR protection on the Internet is in place as a tool to curb online counterfeiting, stakeholders report that infringement persists, noting widespread access to **pirate content online**. EU stakeholders report that the procedure for disabling access to pirate content is not efficient, lengthy, complicated and costly.

As far as **border enforcement** is concerned, EU stakeholders report a lack of adequate and effective IPR border measures. Despite the recently revised customs regulations, action at the border remains inefficient as a result of limited manpower, resources and, in some instances, corruption.

As regards **civil and administrative enforcement**, EU stakeholders face difficulties in enforcing their rights because judicial and administrative proceedings are slow and inefficient. Even in cases where the law enforcement agencies are engaged and take action against counterfeit and piracy networks, the judicial proceedings are particularly complex. Damages granted by the court, penalties, including fines, in particular for repeat infringers, are low and do not have any deterrent effect.

Regarding **trade marks**, stakeholders note persistent delays in obtaining registration as well as overly restrictive criteria in granting of a trade mark and stringent interpretation of distinctiveness to this effect.

As regards **patents**, the long-standing issue of the patent backlog remains unresolved. The duration of the patent examination lasts on average 10-12 years, in particular in certain areas, such as biotechnology. Often the patent examinations cover a large part of the patent term provided in Thailand with no compensation provided. It remains very important to continue the efforts to reduce the backlog. The process of amending the Patent Act has not been completed, despite being in preparation for a number of years.

According to the OECD-EUIPO study on *Illicit trade in fakes under the COVID-19* (2024)¹⁰¹, as well as a report analysing the smuggling of counterfeit goods at the external borders of the EU¹⁰², Thailand consistently remained in the top ten of provenance economies of counterfeit and pirated goods in terms of customs seizures.

¹⁰¹ OECD/EUIPO (2024), *Illicit Trade in Fakes under the COVID-19*, OECD Publishing, Paris.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit_Trade_in_Fakes_COVID_19/2024_OECD-EUIPO_Illicit_trade_in_fakes_under_the_Covid_FullR_en.pdf

¹⁰² FRONTX/EMPACT/EUIPO (April 2024), *Operation JAD PIRATES I, Tackling the smuggling of counterfeit goods at the external borders of the EU*.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Operation_JAD_Pirates/2024_JAD_Pirates_Analysis_Report_FullR_en.pdf

Although in preparation for many years now, Thailand has not yet ratified the the WIPO Performances and Phonograms Treaty, the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs and the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

7. MONITORING THE IMPLEMENTATION OF BILATERAL TRADE AGREEMENTS

Canada

In the area of **copyright**, Canada launched a consultation in 2023 seeking views on the adaptation of the copyright framework in light of impacts of generative AI on creative industries. No legislative action has yet been announced as follow-up. In addition, EU stakeholders keep reporting concerns on the scope of exceptions for teaching purposes.

Rightholders indicate that the Canadian Intellectual Property Office (CIPO) can take more than 3 years to process a **trade mark**. Canada has taken measures to address the delays via fast-tracking applications and sending pre-assessment letters, aiming to restore turnaround times to “internationally comparable standards” by 2026¹⁰³.

On **geographical indications** (GIs), rightholders are concerned by the lack of appropriate administrative procedure to enforce their rights. EU stakeholders claim that the remit the Canadian Food Inspection Agency’s (CFIA) concerning GI protection is very limited and does not appear to cover most GI infringements. This means that *de facto* litigation is the only effective route at rightholders’ disposal, with all the costs that this entails. Some stakeholders have reported positive development regarding the enforcement of GI rights via use of “cease-and-desist” letters. Positive developments have also been registered regarding reference to “methode champenoise”, now eliminated from respective Quebec regulations. The issue has progressed towards resolution also at federal level. Other problems include the absence of a list of grandfathered prior users of certain names protected under CETA.

Stakeholders report that **border enforcement** is not adequate, pointing to a decrease in seizures as well as to costly and burdensome detentions. According to the OECD-EUIPO study, *Illicit Trade in Fakes under the COVID-19* (2024)¹⁰⁴, Canada appears on the list of the top 25 provenance economies for counterfeit and pirated goods (2020-2021).

Mexico

Since its adoption in 2020, secondary legislation implementing the Federal Law of Protection of Industrial Property¹⁰⁵ is still pending. This leads to lack of clarity or consistency in the application of outdated regulations that do not align with the law. The awaited regulations should clarify, e.g. the procedures before the *Instituto Mexicano de Propiedad Industrial* (IMPI) concerning the removal of online content, the claiming of damages or the collection of fines for IPR infringements, as well as various aspects of the trademark registration procedures.

On enforcement, the Supreme Court of Mexico has handed down a judgment on an unconstitutionality action against the notice-and-take-down procedure laid down in to the

¹⁰³ CIPO 2023-2026 Business Strategy.

https://ised-isde.canada.ca/site/canadian-intellectual-property-office/sites/default/files/attachments/2023/CIPOCS-1884_Business_Strategy-eng.pdf

¹⁰⁴ OECD/EUIPO (2024), *Illicit Trade in Fakes under the COVID-19*, OECD Publishing, Paris.

https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit_Trade_in_Fakes_COVID_19/2024_OECD-EUIPO_Illicit_trade_in_fakes_under_the_Covid_FullR_en.pdf

¹⁰⁵ Ley Federal de Protección a la Propiedad Industrial.

www.diputados.gob.mx/LeyesBiblio/pdf/LFPPI.pdf

Copyright Law and the Criminal Code¹⁰⁶. By ruling that the procedure is constitutional, the Court has put an end to the uncertainty that hindered its practical application. However, the regulations implementing the Copyright Law are yet to be updated to ensure a streamlined procedure, such as on the form and content of the notifications to online service providers.

IPR enforcement remains the main source of concern for stakeholders, who report that counterfeiting is a problem at all levels: manufacture of counterfeit products, e.g. apparel, textiles and footwear; widespread availability of counterfeits in street and local markets; and high number of counterfeits in shipments subject to customs control, including in small consignments, in contrast with a very low number of seizures.

Stakeholders note that the fight against counterfeiting and piracy has not been a priority for the competent authorities in Mexico until the new administration took function in October 2024, with numerous visible enforcement actions against counterfeiting and piracy, including through the use of legal instruments to fight organised crime. However, the lack of dissuasive sanctions and too few resources allocated to IPR enforcement authorities remain a concern to achieve more effective enforcement. Some stakeholders report that the Attorney General's Office (AGO) and the police authorities do not exercise proactively their competence to enforce IPR. Stakeholders continue to call for better coordination of the federal, state and municipal enforcement actions, as well as of the work of administrative, judicial and customs authorities, which often lack sufficient expertise or specialisation on IPR. At the same time, the new federal government has recently coordinated various institutions, including IMPI, the Ministry of Economy and the National Guard, to take action against counterfeiting and piracy through raids and seizures of illicit merchandise in physical marketplaces in Mexico City and the states of Sonora, Coahuila and Baja California¹⁰⁷.

Stakeholders report that **judicial and administrative proceedings** are costly, lengthy and unnecessarily complex, which is particularly challenging for SMEs.

Some stakeholders encourage the government to work closely with online platforms and rightholders to implement best practices to fight against counterfeiting online. On **online piracy**, some stakeholders note the lack of clear rules on third-party liability for those inducing to or promoting copyright infringements. They also report the lack of dynamic blocking injunctions to effectively and promptly disable access to illegal platforms, including websites streaming live sporting events. The fight against the use of devices, components or services to circumvent technological protection measures is reportedly hindered by the lack of effective legal remedies.

As regards **customs enforcement**, EU stakeholders find the procedures cumbersome and costly, in particular regarding storage of suspected goods in private warehouses and destruction costs, which are very high. Stakeholders report that short deadlines and high costs deter rightholders from enforcing their rights on quantitatively small cases, including small consignments. The OECD-EUIPO study *Illicit Trade in Fakes under the COVID-19* (2024)¹⁰⁸, shows that Mexico continues to appear on the list of the top 25 provenance economies for counterfeit goods (2020-2021). Moreover, its role as supplier of counterfeit goods has increased with respect to the period 2017-2019.

¹⁰⁶ <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=7859>

¹⁰⁷ <https://www.gob.mx/se/prensa/realizan-gobierno-de-mexico-y-de-baja-california-operacion-limpieza>

¹⁰⁸ OECD/EUIPO (2024), *Illicit Trade in Fakes under the COVID-19*, OECD Publishing, Paris.

[https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit Trade in Fakes COVID 19/2024_OECD-EUIPO_Illicit trade in fakes under the Covid FullIR en.pdf](https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit%20Trade%20in%20Fakes_COVID%2019/2024_OECD-EUIPO_Illicit%20trade%20in%20fakes%20under%20the%20Covid_FullIR_en.pdf)

Stakeholders report a significant decrease in the number of seizures by customs authorities. While the recordal database used by the customs authorities enables effective action against suspected goods, stakeholders continue to request that customs authorities be given broader competences to act on their own initiative to seize or destroy suspected goods, instead of only executing orders by the AGO or the Instituto Mexicano de Propiedad Intelectual (IMPI), which makes enforcement procedures slow and ineffective.

Regarding **plant varieties**, Mexico has not yet ratified or aligned its legislation with the 1991 Act of the International Convention for the Protection of New Varieties of Plants.

Viet Nam

Following the adoption of amendments to the Intellectual Property Law in 2022, Viet Nam has issued several Governmental Decrees and Ministerial Circulars in 2023 and 2024 guiding the implementation of the amended Intellectual Property Law. This provides a basis for Viet Nam's compliance with a number of standards, international treaties or agreements, including the IP Chapter of the EU-Viet Nam FTA (EVFTA).

Based on these developments, stakeholders have reported improvements, in particular concerning **online enforcement** and the **site blocking process** as well as developing border measures aimed at protecting IPR. However, there are still important concerns that need to be addressed.

On **copyright**, although Viet Nam is a signatory to the Berne Convention for the Protection of Literary and Artistic Works and the Viet Nameese IPR Law does not mandate the registration of copyright and related rights for the rights to be protected, rightholders keep reporting that in practice there is still a need to obtain a certificate of registration to enforce their rights. Concerning copyright enforcement, despite the Copyright Decree addressing the liability of Intermediary Services Providers (ISPs), challenges persist, since ISPs can only remove websites temporarily or may be exempted from liability if they can demonstrate that it have implemented technical measures for receiving requests to remove infringing digital content.

As far as **trade marks** are concerned, EU stakeholders report the lengthy proceedings for the registration of trade marks. Reportedly counterfeiters continue registering trade marks in bad faith. This also affects GIs' holders as there is no legal ground for opposition action based on bad faith.

Concerning **geographical indications (GIs)**, rightholders report the excessive duration of the opposition proceedings, which prevents rightholders from an effective protection of their rights. In addition, it has been reported that marks consisting of or containing a protected GI are not rejected *ex-officio*. Furthermore, there are still gaps concerning the coherence between GI provisions in the Vietnamese IPR Law and the EVFTA provisions and it has proved extremely difficult to engage Vietnamese authorities in the review of the GI lists in the EVFTA.

Although stakeholders have reported improvements in online enforcement and border measures, with an increase in border seizures, **enforcement**, both as regards online and physical marketplaces, remains inadequate and of the highest concern. The country has been identified as an important manufacturer of fakes and although numerous enforcement agencies have the authority and are involved in combating counterfeiting, there is no clear demarcation of responsibilities. Stakeholders underline a significant lack of synergy and coordination between the different Ministries, the National Office of Intellectual Property and competent authorities in the country, which makes it very challenging for stakeholders to know which authority to approach, often resulting in lengthy and cumbersome procedures. Problems have been reported

also in judicial proceedings as courts often refuse to grant preliminary injunctions. The OECD/EUIPO study, *Illicit Trade in Fakes under the COVID-19* (2024)¹⁰⁹ also shows the growing role of certain economies, such as Viet Nam, as supplier of counterfeit goods between 2017-2019 and 2020-2021.

¹⁰⁹ OECD/EUIPO (2024), *Illicit Trade in Fakes under the COVID-19*, OECD Publishing, Paris.
[https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit Trade in Fakes COVID 19/2024_OECD-EUIPO_Illicit trade in fakes under the Covid FullR en.pdf](https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_Illicit%20Trade%20in%20Fakes_COVID%2019/2024_OECD-EUIPO_Illicit_trade_in_fakes_under_the_Covid_FullR_en.pdf)