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Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

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English - Or. English

**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY
COMMITTEE ON INDUSTRY AND BUSINESS ENVIRONMENT**

COUNTERFEITING AND PIRACY: INDUSTRY SURVEY

The attached questionnaire is designed to develop information on counterfeiting and piracy developments in different industry sectors.

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Summary

Information related to the counterfeiting and piracy project is being developed, in part, through questionnaires that are being sent to governments and industry.

The attached questionnaire is destined for use by the industry sector and responses are requested by **15 September 2005**.

The secretariat is working with BIAC to ensure wide distribution of the questionnaire.

COUNTERFEITING AND PIRACY PROJECT

Industry Survey

1. In response to rising concerns in government and the business community, the OECD has launched a project that will assess the effects of counterfeiting and piracy on economies. The objective of the project is to improve factual understanding and awareness of the effects that infringements of intellectual property rights, as described and defined in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) have on governments, business and consumers in OECD member countries and non-member economies.
2. The project will be conducted in co-operation with organisations that are active in counterfeiting/piracy, including the World Trade Organization, the World Customs Organization, the World Intellectual Property Organization, Interpol and relevant non-governmental organisations (NGOs). Liaison with the business community and labour will be co-ordinated through the OECD Business and Industry Advisory Committee (<http://www.biac.org>) and the OECD Trade Union Advisory Committee (<http://www.tuac.org>).
3. As indicated in the project description contained in the Annex, the project is being conducted in three phases. The first phase will cover infringements of trademarks, copyrights, patents and design rights, when the infringements involve tangible products. Intangible, digital products which are not embodied in a tangible medium (such as a CD or a DVD) will be covered in the second phase of the project.
4. In support of the project, industries are being invited to provide information on their respective situations. The attached questionnaire, which is voluntary, has been developed to help facilitate the process. Please fill it out as completely as possible (i.e., do not be concerned if you are not in position to respond fully to each question). In responding, please indicate (i) which industry is covered by the questionnaire and (ii) the name (including e-mail address and phone number) of a contact if we have follow-up enquiries. Submission of industry studies and reports related to the study would also be welcome.
5. The information collected in the questionnaires will be used to assist the research team in developing insights into counterfeiting and piracy in different sectors. If you do not wish your firm or association to be named in the report as the source for the information contained in the questionnaire, you can indicate so by placing a checkmark in the first box of the questionnaire in the area provided. All such requests not to be mentioned will be honoured.
6. Please note that a related questionnaire is being sent to governments.

7. If you have any questions regarding the survey or the project please contact: ¹

<p>Mrs. Linda Haie-Fayle e-mail : Linda.Haie-Fayle@oecd.org Tel: 331 45 24 91 33</p> <p>OR</p> <p>Mr. Peter Avery e-mail: Peter.Avery@oecd.org Tel: 331 45 24 93 63</p>	<p>OECD Structural Policy Division Directorate for Science, Technology and Industry 2 rue André-Pascal 75775 Paris Cedex 16</p> <p>Fax: 331 44 30 62 57</p>
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Replies to the questionnaire are requested by no later than **15 September 2005** and should be sent preferably by e-mail to: counterfeit@oecd.org or by mail to the address above.

¹ During the month of August please direct any enquiries to Wolfgang Hübner (phone: 331 45 24 91 32; email Wolfgang.Hubner@oecd.org.)

OECD COUNTERFEITING AND PIRACY PROJECT

Industry Questionnaire

NAME OF COMPANY/ASSOCIATION:

COUNTRY:

CONTACT PERSON:

Telephone/Fax:

E-mail:

If you do not wish your company/association to be named in the report as the source for the information contained in this questionnaire, please check here: ☐

Note: The term *counterfeiting and piracy* in this questionnaire covers infringements of trademarks, copyrights (and related rights), patents and design rights. It relates to tangible products only [i.e., intangible digital products which are not embodied in a tangible medium (such as a CD or a DVD) are not covered; these products will be examined in a subsequent phase of the project]. In responding to questions, please address trademark, copyright, patent and design issues separately (to the extent possible).

Q 1

What products made by your industry are most affected by infringements of trademarks, copyrights, patents and design rights (*i.e.*, counterfeiting and piracy)? How have the magnitude and scope of the infringements involving these products changed in recent years (*e.g.*, focussing on the last 5 years)?

A description of the techniques and sources of information you have used to estimate the magnitude and scope would be appreciated.

Points that could be covered:

- Extent to which counterfeiting and piracy of your industry's products is taking place:
 - principal types of products being counterfeited and pirated;
 - indication of how the magnitude and scope of the counterfeiting and piracy of your industry's products have changed in recent years;
 - identification of the principal areas where your industry's products are being counterfeited and pirated (*i.e.*, the economies or regions of the world where the practices are most problematic);
 - how operations for counterfeiting and pirating products are organised (*i.e.*, from the acquisition of protected inputs to the manufacture of products) and financed;
 - description of how counterfeit and pirated products are being moved from production centres or other locations into domestic and foreign markets and who benefits from the illicit commerce;
 - role of organised crime in production and distribution of products;

	<ul style="list-style-type: none"> • International trade in counterfeit and pirated products in your industry sector : <ul style="list-style-type: none"> – identification of the economies that are the major exporters and importers of the counterfeit and pirated products; – principal counterfeit and pirated products traded; • Principal factors that explain the changes in the scope and magnitude of counterfeiting and piracy in your industry sector.
Q 2	<p>What have been the principal effects of the counterfeiting and piracy in your industry sector?</p> <p>This would include the health, safety and economic effects on your industry (including workers), consumers/purchasers and governments.</p> <p>A description of the techniques you have used to measure the effects would be appreciated.</p> <p>The effects on industry could cover how counterfeiting and piracy have affected:</p> <ul style="list-style-type: none"> – overall business strategies; – investment in domestic and foreign production facilities; – industry innovation and creation/development of products; – product development; – marketing strategies; – product costs and pricing; – workers; and – international trade
Q 3	<p>What measures has your industry taken to combat the counterfeiting and piracy of its products? How effective have these measures been? What are the principal remaining challenges?</p> <p>Points that could be covered:</p> <ul style="list-style-type: none"> – discussion of technologies that have been most effective in helping to defend trademarks and copyrights and, to the extent applicable, patent and design rights; – industry and firm-level initiatives that have been taken to protect trademarks, copyrights, patents and design rights; – costs associated with these measures
Q 4	<p>How effective have government policies and programmes (including public/private partnerships) been in combating counterfeiting and piracy in your domestic economy and foreign economies? This would include enforcement activities, legal frameworks, public awareness initiatives and international co-operation and co-ordination.</p> <p>Points that could be covered:</p> <ul style="list-style-type: none"> – identification of the policies and programmes that have, in your view, been the most effective in reducing counterfeiting and piracy in your industry; – industry experience in combating infringements worldwide (success rates, challenges faced by your industry in using existing policies, programmes and laws, etc.) ;

	<ul style="list-style-type: none">- legal and related costs associated with defending rights;- obstacles in defending rights;- ways in which policies and programmes need to be strengthened worldwide
Q5	What additional points would you like to make concerning counterfeiting and piracy in your industry?

ANNEX

The Economic Impacts of Counterfeiting and Piracy: Project summary

Overview

In response to rising concerns in government and the business community, the OECD has launched a project that will assess the effects of counterfeiting and piracy on economies. The objective of the project is to improve factual understanding and awareness of the effects that infringements of intellectual property rights, as described and defined in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) have on governments, business and consumers in member countries and non-member economies.

The project will be conducted in co-operation with organisations that are active in the counterfeiting/piracy area, including the World Trade Organization, the World Customs Organization, the World Intellectual Property Organization, Interpol and relevant NGOs. Liaison with the business community and labour will be co-ordinated through the OECD Business and Industry Advisory Committee (<http://www.biac.org>) and the OECD Trade Union Advisory Committee (<http://www.tuac.org>).

Scope of the project

The project will cover infringements of all types of intellectual property rights, as described and defined in the TRIPS Agreement. It will expand on a related project that was carried out in 1998.²

In addition to assessing economic effects, the current project will analyse rising concerns over the health, safety and security threats that counterfeit and pirated products pose to consumers. It will review trends and developments and assess what is being done to combat the illicit practices.

Structure of the project

The project will be carried out in three separate phases. The first phase will focus on counterfeit and pirated products (*i.e.*, tangible products that infringe trademarks or copyrights), as well as infringements of patents and design rights. The second phase will focus on piracy of digital content, while the third will address all remaining TRIPS infringements.

Work on the first phase will be carried out during 2005 and 2006, leading, if possible, to a final report by December 2006. This phase will include regional workshops aimed at strengthening policy dialogue with major players and economies, and a Global Forum, at which findings and implications will be discussed.

² The 1998 report can be downloaded from the Internet, at the following URL:
<http://www.oecd.org/dataoecd/11/11/2090589.pdf>.

The first phase will include:

- *An analysis of trends and developments.* The changing volume and scope of counterfeiting and piracy will be examined, as will its role in international trade. Changes in the types of products being counterfeited, and the regions where counterfeiting and piracy are taking place will be highlighted.
- The factors driving counterfeiting and piracy will be identified and discussed, as will the role of new technologies in facilitating counterfeiting and piracy activities.
- *An assessment of the effects on firms, consumers and governments.* A methodological framework for assessing the effects of counterfeiting and piracy on stakeholders will be elaborated. In addition to economic factors, health, safety and security factors will be highlighted. The assessment will include special attention to the adverse effects that the practices can have on those countries where counterfeiting and piracy are most pronounced.
- *A series of sectoral assessments.* A number of sectoral case studies will be conducted, illustrating the various forms of counterfeiting and piracy, and the different types of effects on producers, consumers and governments. The products to be studied will include those with significant safety, health and/or social implications, as well as economic ones. Selection of the sectors to be profiled will take into account the availability of information.
- *A description and assessment of policies and measures used to combat counterfeiting and piracy.* National and multilateral policies and measures taken by governments, business and other stakeholders to combat counterfeiting and piracy will be described and assessed, with particular attention to those policies and measures which have been found to be particularly effective. To the extent possible, the policies and measures taken in key non-OECD economies will be included.

Work on the second and third phases will be initiated during 2005 and 2006.

Finance

The project will only be carried out through voluntary contributions by governments, industry and other interested parties. Parties wishing to contribute to one or more of the phases should contact the OECD for further details.

Further information

For further information on the project please contact Mrs. Linda Haie-Fayle of the OECD, by phone at 331-4524-9133, or by email at Linda.Haie-Fayle@oecd.org.