

Counterfeiting: Supply Source of Informal Economy a Look at the Algerian Market

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Abstract

Counterfeiting is becoming more momentum across the world and particularly in Algeria. Its proportions are alarming and dangerous as it begins to affect key sectors. In fact, Algeria is an ideal market for counterfeiting. After decades of a central planning economy, the transition to unregulated option of liberalism and the anarchic import by occasional wholesalers have flooded the market with cheap goods and low quality. The purpose of this work is to draw attention to the level reached by such phenomenon in Algeria. This is done by pointing out to the causes that promote the increase of counterfeit and the various mechanisms to remedy it.

Keywords: Informal economy, counterfeiting, causes, remedy, Algerian market.

1 Introduction

The history of counterfeiting is very old. This ancient offense was always repressed. In fact, fraud goes back further in time. Archaeologists among others discovered counterfeit caps amphorae dating from antiquity. A writing of Charles Quint in 1544 punished him severely by the removal of the wrist. It was only after the triumph of the industrial revolution that we realized how harmful is counterfeiting. Currently, counterfeiting affects all areas of industrial production. According to the World Customs Organization, counterfeiting rose from 5.5 billion US dollars in 1982 to over 500 billion in 2005. In Algeria, it is not until 1988 that we became aware of this economic phenomenon.

Counterfeiting, qualified today as fraud is associated with informal economy. Talking about it leads us to a brief comparison between the two concepts namely; formal and informal economy. The two concepts are in perfect opposition. While the former is regulated and governed by public policy legislation, the second however, appears to determine all part of the economy that is not regulated by legal standards. Joggi, A(1998) asserts that the informal economy is often at the margin of legality. Thus, it is an economy at the margin of social and tax legislation, it escapes to national accounts and therefore to any state regulation. A set of definitions of the informal economy may be provided. Two of them seem more relevant, these are:

- The informal sector can be defined as the set of economic activities that take place on the sidelines of criminal law, social and tax. In other words that escapes to national accounts.
- It is the set of activities which escape to economic and social policy and therefore to any state regulation. Three relevant points of the informal economy may be distinguished:
- Neighborhood services (which enhance daily activities)
- Flexible exchange (between neighbors, for example)
- The ability to undertake.

From the above three mentioned points emerge the relational character (often invisible) of the informal activities: between Citizens, entrepreneurs and generally speaking between demand and supply. Although the informal sector emergence conditions are different in the North and South, the fact remains that, in both hemispheres, such sector presents as an effective solution to a shortage of jobs or a lack of sufficient qualifications Arellano Rolando et al (1992). The definitions of the informal economy in all instances intersect since they emphasize the idea of fraud. In addition, it should be noted that the informal sector is located in relation to a formal standard. The informal term, which will very quickly becomes popular to refer to all productive activities of small sizes, very diverse in nature (production, marketing, financing ...), refers to the idea of the lack of precise form. The English term "informal" means irregularity or without ceremony, it therefore refers to the absence of official and not necessarily the lack of form. This is why some approaches prefer to speak of "unstructured economy", Charmes (1980), Nihan (1980), Sethuraman (1976). Nevertheless, the interest in this topic appeared in the late 1970s and initially debated by economists and sociologists of the development of third world countries and eastern countries, Schiray & Gaudin, (1984). The expansion of the informal sector involved in a context of increasing labor supply, compression of public employment and reforms aimed at promoting the private sector, ADAIR and Youghourta BELLACHE (2012).

Currently, the informal economy concept is used to identify undeclared lawful activities in the South, black labor and sweatshops in the North, Adair (1985).

The table below shows the informal semantics trends

negatively	By the margin	Compared to the legal standard
Unofficial	underground	unlawful
unstructured	parallel	illegal
unrecorded	black	fraudulent
Undeclared	clandestine	tortious
	occult	
	hidden	
	dissimulated	

Source: Journal of Economics and Management No. 1 March 2002

But how can we define counterfeiting?

According to Larousse dictionary definition, counterfeiting is the idea of counterfeiting. It is the usurpation of the literary property rights, artistic, commercial or industrial of another. It is also the action of imitating fraudulently an object having a character (currency, banknote). Counterfeiting is the work, the object that is the imitation or fraudulent reproduction of another.

The counterfeiting term is defined and used in different ways depending on the country, the context, the organizations and the analysis we aim to do. It is frequent to make the difference with piracy term. The World Intellectual Property Organization (WIPO) also uses this shade; it associates counterfeiting to a reached of trademark and piracy to a violations copyright or related rights. The purpose of the counterfeiting is to produce more or less exactly and / or awkwardly a work or a product, and, imitating or copying, in part or in full, the product, its look, its name or its belonging recognition signs.

Counterfeiting is defined by the United Nations Interregional Crime and Justice Research Institute (UNICRI) as «illegal reproduction or imitation of products provided that this illegality results from the violation of any type of intellectual property right» (UNICRI, 2007)¹. It states that the counterfeiting phenomenon is basically a process where an illegal product is ultimately offered to a consumer, no matter conscious or not, which includes a production stage which represents only the spark that starts the engines of a complex and ramified distribution chain. Thus, Counterfeiting exists throughout the world and affects different sectors. The use of such term is very contemporary. However, the practice of copying is not new as we have pointed out.

¹ Tremblay M . « Quelles politiques pour freiner la contrefaçon dans le monde ouvert ? juillet 2012, (UNICRI) United Nations Interregional Crime and Justice Research Institut a mis en place un programme sur la contrefaçon. Il vise à étudier le phénomène et le défi qu'il pose afin de tenter des solutions potentielles les plus appropriées a niveau national qu'international

Given this introduction, the rest of this paper is structured as follows. Section 2 gives the main causes of counterfeiting. Section 3 discusses counterfeiting in Algeria, we will show in this section the extent reached by this phenomenon in Algeria. Section 4 presents the various mechanisms and means put forward by the Algerian authorities to fight against counterfeiting. Section 5 gives some concluding remarks

2. The causes of counterfeiting

Several reasons may favor counterfeiting. These can be summarized as follows:

- manpower in many countries is significantly cheaper than in industrialized countries,
- production conditions in many countries are significantly less costly than in Western countries,
- Technological development has led to relatively inexpensive reproducing apparatus for example CD burners.
- Objects are carried easily, thing that affects counterfeiting. Indeed, the carriage by containers has intensified world trade, but also helped conceal objects more easily.
- Language barrier is another factor playing in favor of counterfeiting.
- The desire of obtaining products at the best possible price represents another incentive. Let's think about drugs to treat AIDS. In some African countries, the price of these drugs represents several months' salary.

To show the extent of the above mentioned phenomenon, the most common estimate reported is that of the organization for Economic Cooperation and Development (OECD) published in 2008 and updated in 2009 in a report on the economic impact of counterfeiting and Piracy. Such estimate represents an order of 250 billion US \$ in 2007 for the international trade in counterfeit and pirated goods. This amount does not account for the counterfeiting of goods produced and consumed in the same country, as well as the intangible pirated digital products.

According to a study by Frontier Economics, in February 2011, at the request of Action to Stop Counterfeiting Business and Piracy (BASCAP), estimated by updating the OECD analysis, the extent of counterfeiting and piracy in the world for the year 2008 to more than 650 billion US \$ in the G20 countries alone (Economic Frontier, 2011).

It is clear that some areas will be more affected than others, due to their reputation or economic attractiveness for counterfeiters. Geographically, there are sixty countries counterfeiters. The products come from 70% of Asia. In South Asia, several countries counterfeit in various fields:

- Thailand: textiles, leather goods, watches, medicines.
- China: CD, software, shoes, perfumes, alcohol ...
- Korea: all types of products.
- Taiwan: all kinds of products.
- In the Mediterranean area:
- Italy: textiles, leather, watches, spare parts, shoes, publishing, electronics, audio video.
- Spain: toys, perfumes, leather goods, textiles, jewelry.
- Turkey: leather, spare parts.
- Morocco: leather and textile.
- We can note countries where counterfeiting has declined: Japan and Taiwan. The leaders are: Korea, Thailand, Singapore and Italy. Finally, newcomers are the following countries:
- Greece, Portugal: the counterfeiting of leather.
- Turkey: specialist of leather and textile oriented towards Western Europe.
- Great Britain: focuses on the perfumery field.

3. but what about the Algerian market?

Algeria remains an ideal market for counterfeiting. After decades of planned system, unregulated option of liberalism and uncontrolled importation by casual wholesalers flooded the Algerian market of goods at low prices and low quality. None class of product has escaped. According to official figures, counterfeiting covers 30% of the national market causing an annual loss of 30 billion dinars to the Treasury. We should stress that according to the international standard, the alarm must be pulled when counterfeiting reached the 15% threshold. Faced to this critical situation, public authorities are called upon to react.

The counterfeiting phenomenon has taken an alarming threshold. It is not limited to only those areas of clothing, beauty, appliance or leather goods but affects all sectors, including those highly sensitive such as health and food. According to Algerian customs statistics, revealed at the second annual day on the brand and counterfeiting, organized in June 2014, 586 750 counterfeit items were retained and which are allocated as follows: cosmetics (60%), sporting goods (16%), food (11%), spare parts (6%), household appliances (5%) and electricity generation (2%). It should be understood then that with a bit of decline in the supervisory bodies vigilance, and you can end up with an expired pediatric vaccine kits, counterfeit medicines or false food brands (as it was often the case for other countries in Africa), with all that implies as risks for the consumer health. Indicatively, our analysis will be restricted and will affect the following areas:

- In the cosmetics category for example, shampoos totally ineffective and have caused the hair loss. Another example of beauty creams which caused burns and skin lesions. Also in this niche, perfumes such as Christian Dior, Yves Rocher or Bourgeois, were sold at derisory prices in the informal markets.
- Sunglasses in summer, which lets pass ultraviolet and do not protect the eyes, sun creams, there are also T-shirts and poor quality towels.
- More seriously, when the phenomenon affects the security and public health. Starting with false car spare parts which represent 50% of the Algerian market. These parts do not meet the required standards and are procured at low prices. They are the cause of serious accidents, often fatal. less conspicuous but more dangerous in the long term, asbestos which often enters the composition of these parts, proved to be carcinogenic. As regard public health, it is seriously threatened with false drug which represents 50% of the African market and up to 7% in Algeria.
- The field of housewares witnesses an extensive presence of counterfeiting, false Philips TVs under counterfeit brands: Philips with 2p or Philips with 1b. The manufacturer plays on the absence of the letter "p" in the Arabic alphabet. At the request of the parent company, thousands of false TVs have been removed awaiting for destruction. But how many others are still in our homes, in front of viewers unaware of the scams. The proportion is even greater for housewares, According to results of physicochemical analyzes carried out by the Algerian center of quality control and packaging (CACQE) on 50 samples of home appliances during the six first months of the year 2013, 44 items or let's say 88% did not comply with standards.
- The outcome of the (CACQE) in December 2013 pointed out that maintenance products were also affected the nonconformity; with a number of 92 cases (39.3%) out of 234 samples analyzed. The defective workmanship of automobile maintenance products amounts 80%. Such figures reflect the high level of fraud that focuses on everyday consumer products that have a direct impact on health.
- Counterfeit heaters have caused several deaths (8 only in the region of Setif- east of Algeria) this winter and are still in homes like ticking bombs.
- In 2013, over 40,000 heaters which did not meet standards, were blocked in several harbors of the country by the Ministry of Commerce.
- The Algerian brand BCR for taps is now rivaled by a counterfeit that has crossed several borders.
- Some cigarettes in SNTA label, appreciated by the Algerian public, are made in some countries of Central Europe and even in China and introduced irregularly to
- Algeria. Similarly, there are other networks of counterfeiting insofar as false Marlboro is sold on the Algerian territory.
- CD-ROM with software sold for paltry sums are edifying example of the market situation. The number of captured supports at the national Office of Copyright and Related Rights (ONDA) has increased from 828,416 in 2013 to 1,086,596 in 2014. Algeria was also ranked 9th in the world in this field.
- We can also mention the example of Asian vehicles exported to Europe and those exported to Algeria which are not of the same quality. It was not until January 2013, that an instruction was given to dealers to import vehicles that meet the following three conditions (power steering braking system, air bag) but if Algeria was a member of the WTO, we would have the right to require the standardization standards. The Algerian market has become a spillway of Chinese products, according to customs; Algeria is the first country (93%) from which crosses counterfeit products. El Watan July 11th 2015.

There would even be, according to Bouhnik, general director of the National Institute of Industrial Property (INAPI) specialized streams in manufacturing labels and even instruction manuals of counterfeit medicines, unscrupulously to the health of citizens.

The head of the INAPI noted that globalization, which encourages exchanges without borders has greatly promoted the phenomenon of counterfeiting in Algeria, so much so that it became eight times more profitable than indulging in drug trade.

4 Mechanisms and means to fight against counterfeiting

Counterfeiting is gaining momentum in the world, boosted by new technologies that abolish borders. The phenomenon is really booming, and does not spare any country. Given the negative impact on the economy, the commitments vis-à-vis state of the European Union on economic partnership and the acceptance of the World Trade organization standards (WTO), it should be noted that the fight against counterfeiting should be considered as a national obligation.

This fight that goes back further in time was followed by application of the penal provisions of the French law of June 23, 1857, the order of March 19, 1966, the decree of 15 July 2002 and, finally, the order of July 19, 2003 which today constitutes the basic text. As for the penalties incurred, the current law provides that "any person who commits an offense of forgery is punishable by imprisonment from 6 months to 2 years and a fine of 2,500,000 to 10,000,000 DA or one of the two penalties".

According to the sub director of the fight against smuggling and counterfeiting, the two articles, namely, 22 and 321 of the Customs Code that will be revised. When a counterfeit is proven, the importer shall be required to pay a fine equal to twice the value of the goods, in addition to the seizure of counterfeit goods. It also faces a prison sentence of up to two years. The changes made to the customs code would comply with foreign legislation on the one hand, and broaden the scope of intervention of customs services. It should be pointed that article 22 of the customs code on the importation of counterfeit goods remains an obstacle to the mobility of customs since they are allowed to intervene only at borders. Thus, some amendment of this section are necessary in order to offer them an opportunity to intervene beyond the borders on a field going from 40 to 400 Kilometers depending on the particularities of each state.

The banking operation which is in fact no more than a tax amnesty to persuade informal traders to deposit their money in banks and that was not possible in 1996 due to pressure from bosses who wanted this amnesty is achieved after 16 long years. It was no more than a way to integrate informal spheres money, characterized by business operations that have always escaped the state. The Minister of Industry and Mines announced that an amount of 1500 billion dinars and can be up to 3500 billion dinars should be required.

Elaborating a national file

The development of a national database of counterfeiters is a kind of indicators for future contraventions. Currently, there is some delay in processing infringement cases. Some cases have dragged for 3 to 4 years without having been resolved with the consequences of seeing the goods remained on deposit at the harbor resulting in storage costs. To reduce delays in handling cases of this kind, creating specialized courts has become necessary.

Customs action towards companies

In 2007, the Algerian Customs have decided to take the step towards property rights holders companies. Accordingly, a national committee for the fight against counterfeiting was created in collaboration with brand owners in Algeria (currently composed of seven industries with Nestlé, Nike and BCR), customs and INAPI whose goal is to develop a better control strategy. Such policy was driven by the reduction of customs intervention relative to the number of registered trademarks at (INAPI) nearby 3,000 domestic and foreign brands. According to, The General Director of Customs, Mohamed Abdou Bouderbala, and The fight against counterfeiting requires the cooperation of all sectors and all jurisdictions, that's why an inter-ministerial committee was set up to better fight against this scourge. The GD of Customs states that it is time for his department to implement all the means to facilitate business development through the free movement of goods unhampered while keeping a duty to control. The same source provides for collaboration with US Customs to establish a risk management plant in Algeria. A plant that will be linked to all harbors and airports and will be in charge of analyzing the flow of goods according to their origin and their importers. "Provided that the equipment of this plant is not counterfeit.

Training

In this regard, it is worth noting that agreement protocols were ratified in 2008 between the General Directorate of Customs and British American Tobacco and Philip Morris International Management (tobacco) which holds the brand of cigarettes (Marlboro), as well as Unilever (cosmetics), Nestlé and BCR (Algeria) for (bolts, cutlery and valves).

Beside the cooperation component, assistance and information exchange, these companies undertake to train customs. Training seminars for customs inspectors are planned in Algeria by brand owners. These companies producing luxury goods such as Chanel, Lancôme and L'Oréal. Training by the Algerian company taps BCR are provided as well.

Penalties

In order to deter counterfeiters, customs codes of amendments provide large increases in fines accompanied by prison sentences. Certainly, the state must undertake training programs for customs officers and quality control, but the protection of domestic products is not a state responsibility only, there must have the active participation of all parties involved. Companies affected by this phenomenon must provide prospectuses to enable users differentiating between the true and the counterfeit product. Consumer Protection Association also shall in turn act through sensitization of the population. Magistrates should also put the party to involve the fight against counterfeiting.

Conclusion

Counterfeiting remains a key factor in the informal economy functioning. This concept, as used, is a platform, a leverage to mask the difficulties inherent in the formal economy and plays an indirect but incentive role to create uncontrolled added value. The last World Congress of the fight against counterfeiting and piracy in 2011, confirmed that counterfeiting and piracy are a global scourge that spares no country. It should be pointed out that counterfeiting is becoming more difficult to detect and affects all spheres of life, nothing escapes; basic needs for luxury goods, and others that improve the quality of life. Although laws protecting intellectual property rights do exist, however, several studies on counterfeiting stressed the absence of criminal prosecution and particularly on the low impact of sentences and penalties. Generally speaking, sanctions are not dissuasive to counterfeiting. The counterfeiting phenomenon is becoming more and more momentum around the world and particularly in Algeria. Its proportions are alarming and dangerous as it has affected public safety and health. Indeed, at first glance counterfeiting seems more beneficial to the consumer of underdeveloped countries who procure for the right price a range of everyday products, but ultimately, the buyer who thinks he got a good deal will eventually be deceived because the real value of product is still much lower than its purchase price. Thus, to protect the real interests of the consumer or the user, it seems essential to act on public opinion to get him understand the dangers of counterfeiting. A great effort must be made to raise awareness through the mass media, print media and other audiovisual media. The fight against counterfeiting is now becoming a national obligation, given the negative impact it has on the economy. State's commitments vis-à-vis the European Union's economic partnership and acceptance of standards of the World Trade Organization and the World Customs Organization. According to the report of experts of the Delegation of the European Commission in Algeria. This fight should not also be done in the repression but adopts a real strategy based on a national action plan.

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