



SCREENING CHAPTER 29 CUSTOMS UNION

AGENDA ITEM 9: COUNTERFEIT

**Country Session: The Republic of TURKEY
13-14 March 2006**



The Function of Turkish Customs on the Fight Against Counterfeiting (1/2)

Enforcement

- to evaluate the applications
- to check the goods under the customs surveillance
- to inform the right holders about the suspicious goods
- to suspend the release of the goods
- to act according to the court decision - release or destroy the goods



The Function of Turkish Customs on the Fight Against Counterfeiting (2/2)

Harmonisation of Legislation

- to follow the international and EU legislation
- to provide harmonization on necessary areas

Training

- to organize seminars for the customs officers about the IPR legislations
- to organize the participations of the customs officers on the seminars supported by rightholders
- to make presentations to the customs operators to inform them about IPR legislation in customs

Legal Background For Fight Against Counterfeiting

- International
 - WTO Agreement signed (03.02.1995)
 - Customs Union between Turkey and EC (since 01.01.1996)
- National
 - Customs Law No. 4458 (CL): OG No. 23866, dated 04.11.1999
 - Implementing Regulation of Customs Law (IRCL): OG No. 23939, dated 20.01.2000
 - Decree Law No. 564 amending Customs Law No.1615 (OG No. 22355, dated 26.07.1995)



Customs Law No. 4458

(entry into force: 05.02.2000)

Article 57 of CL and the articles between 105 and 111 of IRCL cover IPR border measures and;

- comply with Council Regulation No. 3295/94
- include further provisions than TRIPs Agreement because of the compatibility with EU legislation, such as;
 - ex-officio action
 - measures on transit procedure
 - measures on exportation procedure



Implementing Regulation of Customs Law (IRCL)

- IRCL articles 105-111 were amended on May 2002
- The aims of the amendments were;
 - to detail the phrase of customs procedures
 - to detail the procedures about the ex-officio action
 - to harmonize with EC acquis on IPR

CL - Article 57 clarifies the following;

- scope of the measures
- security to protect the rights of the public and the importer
- responsibility of the customs administration
- 10 days notification to initiate a court case
- disposal of the goods regarding the decision of the court
- list of the exceptional cases

IRCL - Article 105

Definitions in the Section

- counterfeit goods
- complementary of counterfeit goods
- pirated goods
- rightholder
- mould and matrix for counterfeit or pirated goods



IRCL - Article 105

Suspension of the Formalities

Goods;

- entering into the customs territory of Turkey
- released for free circulation
- exported
- re-exported
- placed under a procedure
- stored in a free zone

IRCL - Article 106

Scope of the Measures (1/3)

Rights covered in this section are;

- trademarks
- geographical indications
- industrial designs
- patents
- useful model rights
- rights protected by the law on intellectual and artistic works



IRCL - Article 106

Scope of the Measures (2/3)

The suspected goods can be detained by ex-officio action or upon the request of the rightholder when;

- released for free circulation, exported or re-exported in accordance with article 59 of CL
- inspected under customs supervision under article 36 of CL, placed under a procedure under article 79 (1) (a) of CL, re-exported, or stored in a free zone in accordance with article 152 of CL

IRCL - Article 106

Scope of the Measures (3/3)

Border measures in this section do not cover;

- goods which have been subject to a right with the authorisation of the rightholder and manufactured by the permission but subject to a customs procedure without the consent of the right holder
- goods manufactured or bearing a trademark within different conditions from those allowed by the rightholder
- personal goods and gifts brought by passengers and postal consignments of non-commercial nature



IRCL - Article 107

Application to Customs (1/2)

“Application Form For Suspension of the Customs Formalities of Goods Infringing IPRs” in Annex 19 of the IRCL have to be accompanied by;

- detailed description of the goods
- documents proving that the applicant is the holder of the right or his representative
- other pertinent information (not compulsory)



IRCL - Article 107

Application to Customs (2/2)

- accepted application is valid up to 30 days
- a payment shall be required for the administrative costs and fees
- a security up to the CIF value of the detained goods may be required in order to secure the rights of the importer/public



IRCL - Article 108

Liability of Customs

Customs administrations do not have responsibility in claims regarding to;

- counterfeit/pirated goods that were not detected during the customs controls
- negatively affected relevant parties



IRCL - Article 109

Formalities Conducted by Customs Offices (1/2)

On the ex-officio action, if confronted with the suspicious goods during the regular checks,

- Customs offices;
 - might suspend the release for 3 days
 - and inform the rightholder to enable them to submit a valid written application

IRCL - Article 109

Formalities Conducted by Customs Offices (2/2)

Upon application,

- Customs offices;
 - evaluate the application
 - accept/reject the application
 - detain the goods for 10 days
 - wait to be informed about the opening of a court case



IRCL - Article 110

Formalities Following the Decision of Suspension

Goods are released in case of;

- no court case filed within 10 days
- court case decision of no reserve on goods

IRCL - Article 111

Formalities Concerning Goods That Are Found to Infringe IPRs

According to the court decision;

- goods can be destroyed
- goods can be delivered to the owner following the alteration of the characteristics
- goods can be abandoned to the exchequer following the alteration of the characteristics



Training

Two types of training;

- training of customs officers with respect to;
 - implementation of the legislation
 - increasing trademarks familiarity
- training of rightholders and economic operators



Training of Customs Officers (1/4)

Regular in-service training about the implementation of the legislation;

- customs regulation
- copyright (Ministry of Culture)
- trademarks & patents (Turkish Patent Institute)
- court cases & penalties (Ministry of Justice)
- geographical indications (Chambers of Commerce)



Training of Customs Officers (2/4)

TAIEX workshop about the legislation (January 2004)

Participants;

- EU customs officers
- Turkish customs officers
- police officers (General Dir. of Security)
- judges (Ministry of Justice)
- copyright experts (Ministry of Culture)
- trademark, patent experts (Turkish Patent Institute)

Training of Customs Officers (3/4)

Seminars for increasing the trademarks familiarity;

- WCO IPR Strategy Group seminars
 - on July 1996, Ankara
 - on June 2002, İstanbul
 - ✓ 100 customs officers
 - ✓ 10 judges
 - ✓ 18 international rightholder firm
- a non profit organization's seminar
 - on September 2004, İstanbul
 - ✓ 100 customs officers
 - ✓ 4 international rightholder firms



Training of Customs Officers (4/4)

Several seminars are conducted by the representatives of rightholder firms with the regional directorates to improve the ability of customs officers to distinguish the original and the fake goods



Training of Economic Operators

The aim is to inform the right holders and the operators about

- the importance of IPRs
- their rights in customs
- the procedures on the customs regulations about protection of IPRs

Seminars on “IPR protection in customs” presented by customs experts in,

- Customs Brokers Associations
 - Ankara
 - İstanbul
- Ankara Chamber of Industry



Protocol Between Major Tobacco Product Companies and Public Administrations

On 7th of December, 2005 a cooperation protocol concerning the fight against illicit trade of counterfeit and contraband tobacco products was signed by;

- Undersecretariat for Customs
- Undersecretariat of Foreign Trade
- Ministry of Finance
- Tobacco, Tobacco Products and Alcoholic Beverages Market Regulatory Authority
- Five major tobacco products companies



Future Policy / Training

- to continue the ‘customs officers oriented’ training seminars;
 - in-service training programmes
 - training programmes with EU experts
 - training programmes with the rightholders
- to continue the ‘economic operators oriented’ seminars



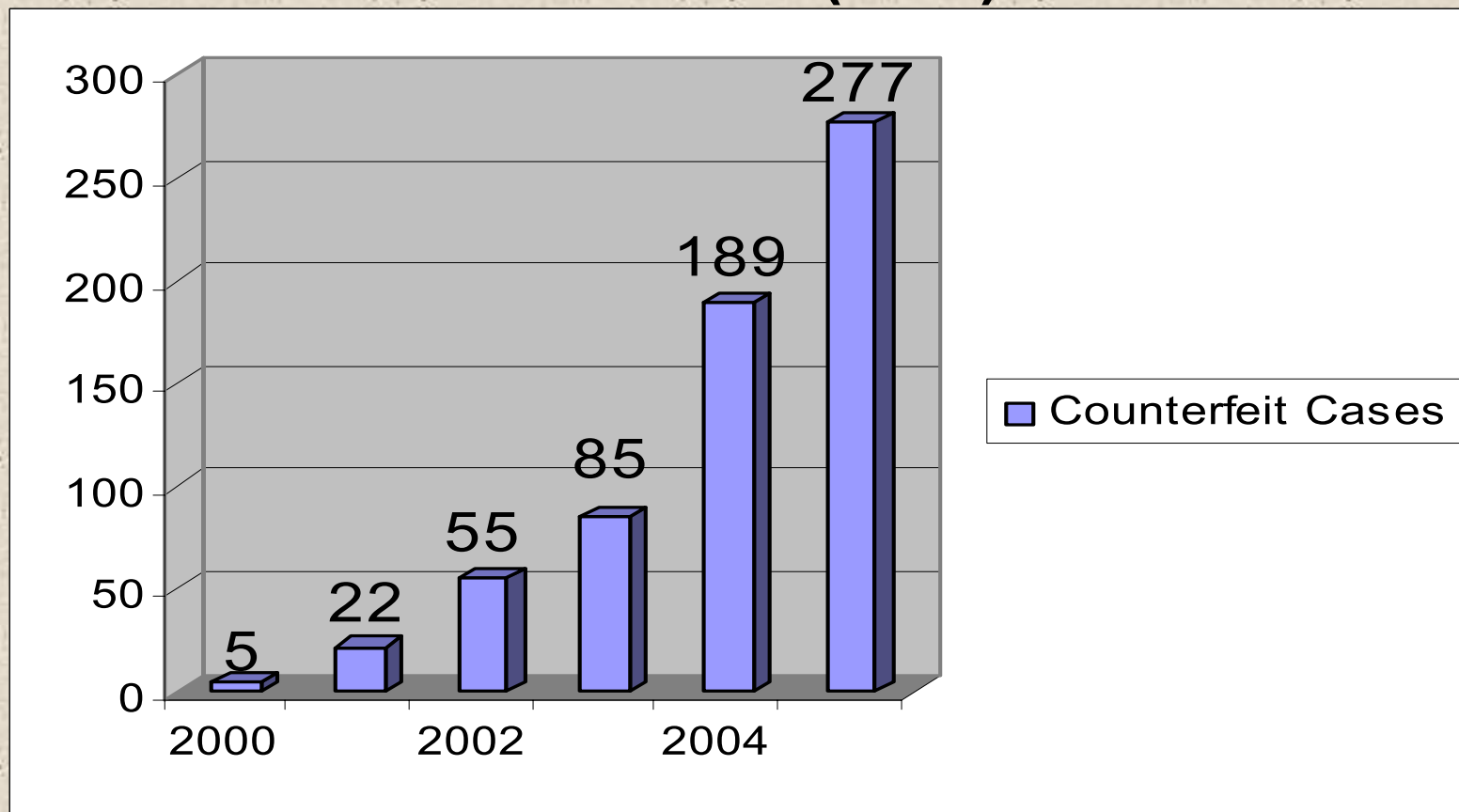
Future Policy / IT Structure

To construct a database, in order to;

- accept, store and distribute the applications
- provide easy access for the customs officers to the applications
- collect statistical data accurately
- use data as a risk criteria for targeting



Statistics (1/10)



Total 633 counterfeit cases since 2000



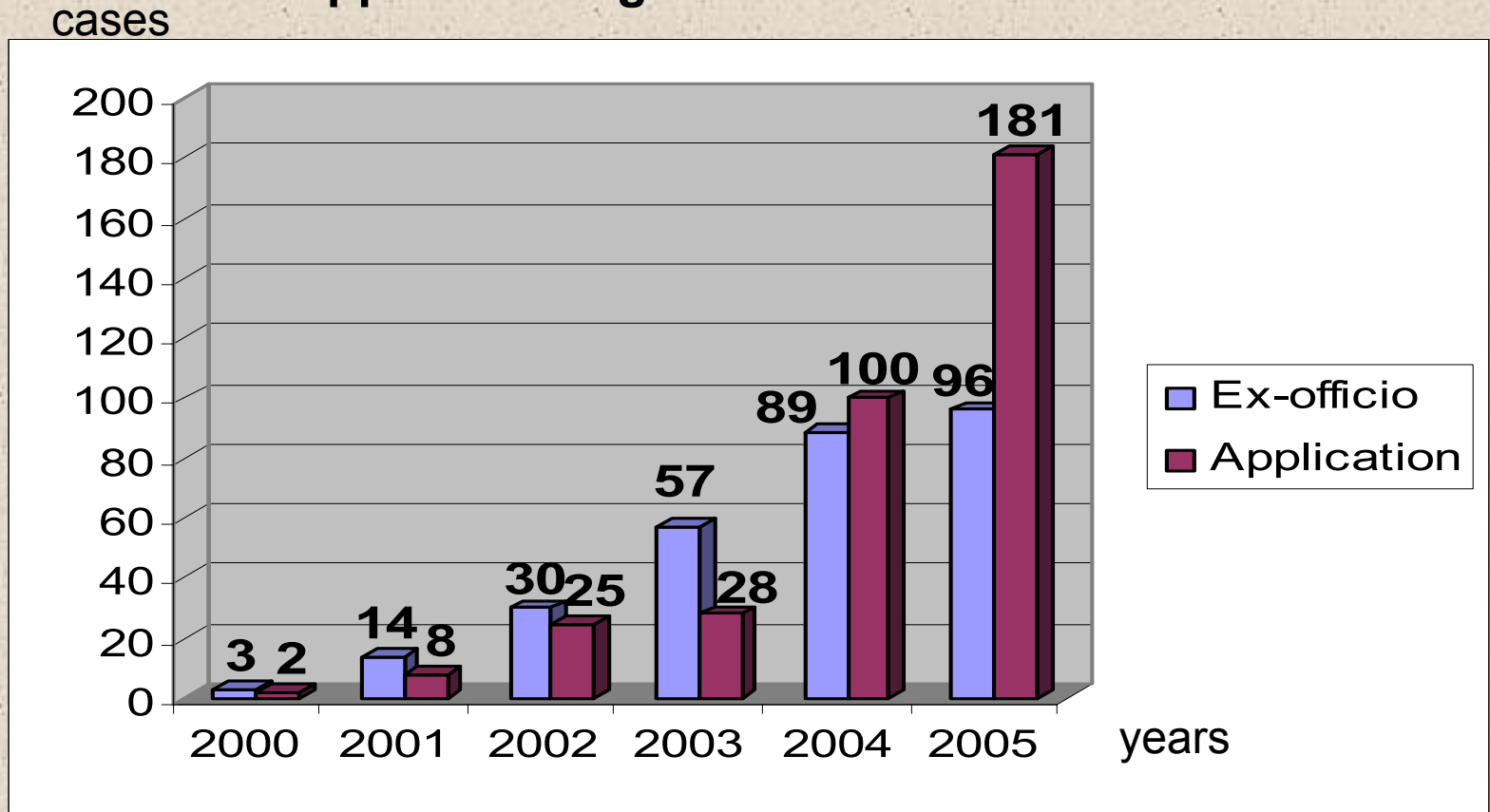
Statistics (2/10)

	Year 2000	Year 2002	Year 2005	% Change 2002-2005
Number of Cases	5	55	277	+ 504
Number of Applications	2	25	181	+ 724



Statistics (3/10)

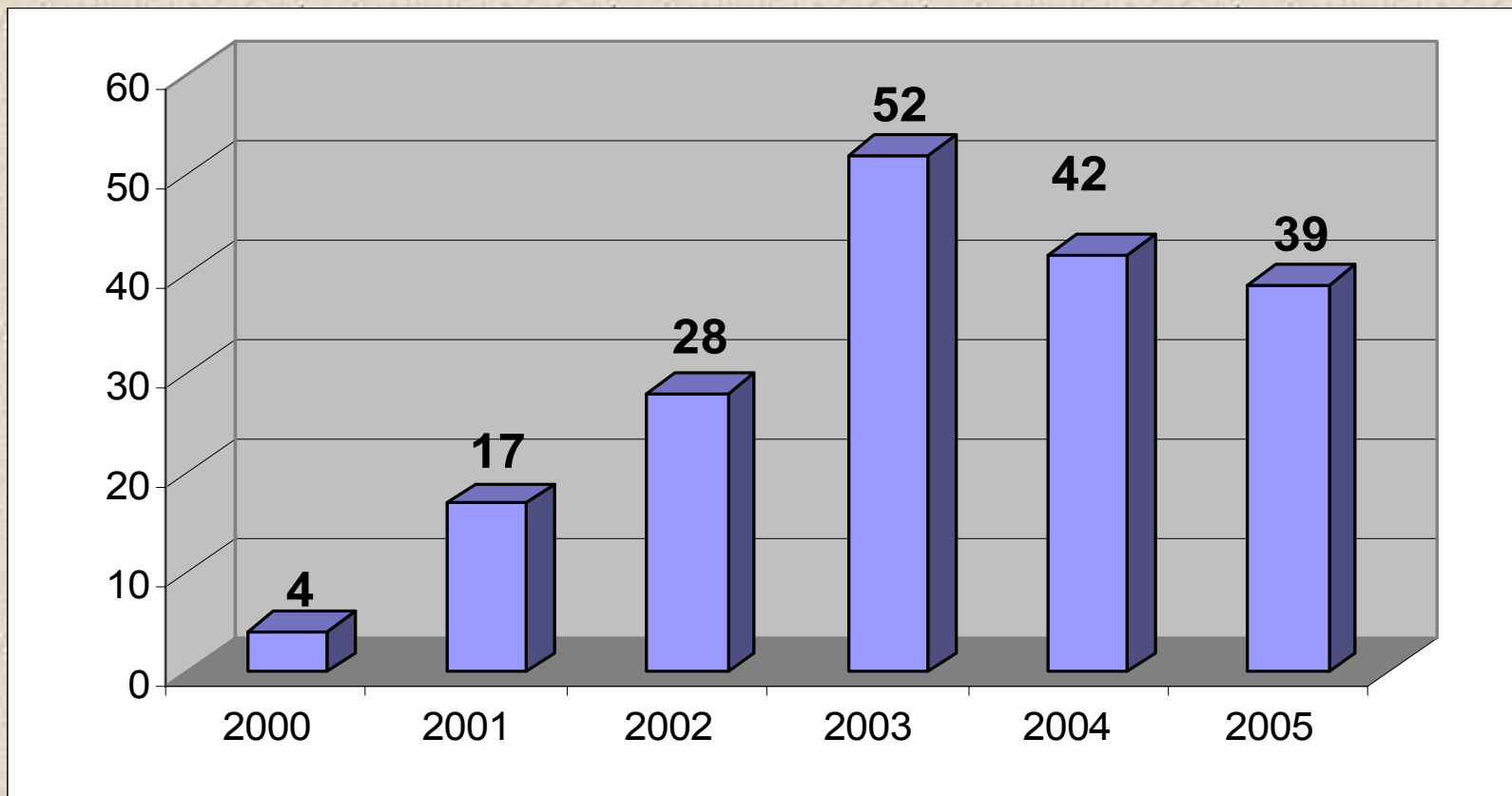
Application Against Ex-officio Action





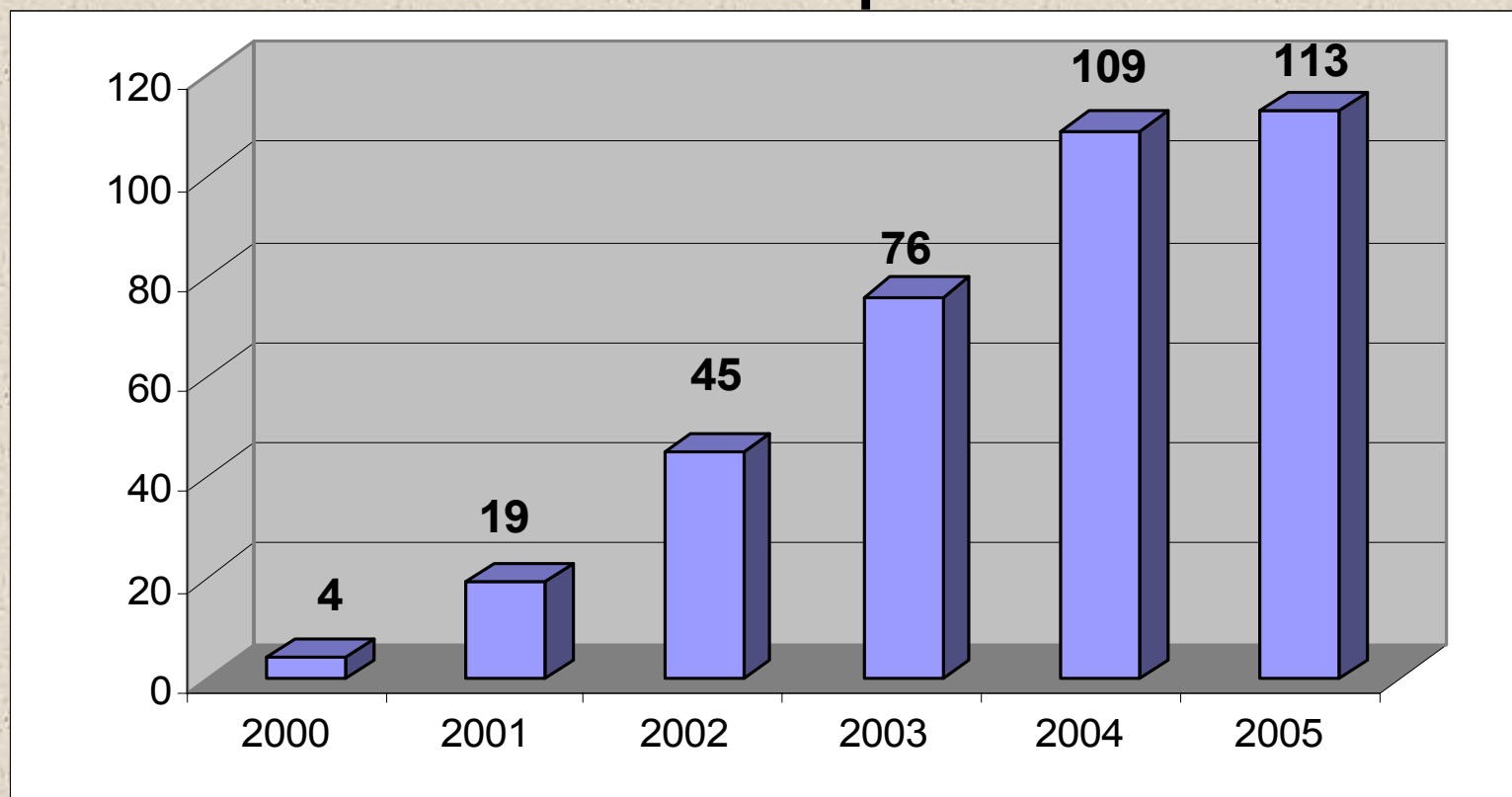
Statistics (4/10)

Number of Court Cases





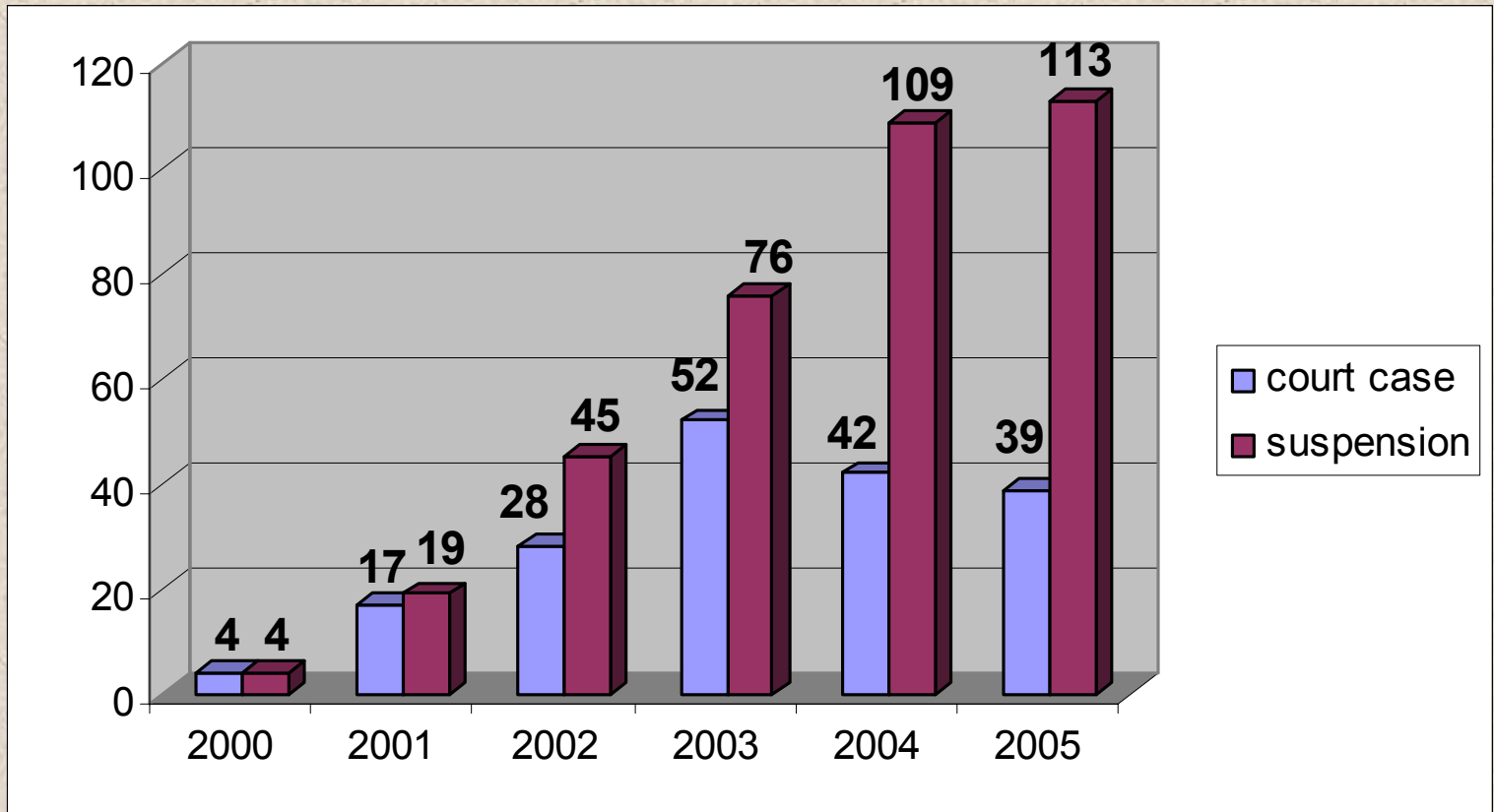
Statistics (5/10) Number of Suspensions





Statistics (6/10)

Suspension and Court Cases



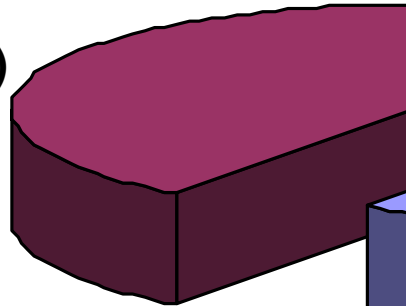
Statistics (7/10)

Total 366 suspension cases

No court case

122

(40%)



(60%)

Court Cases

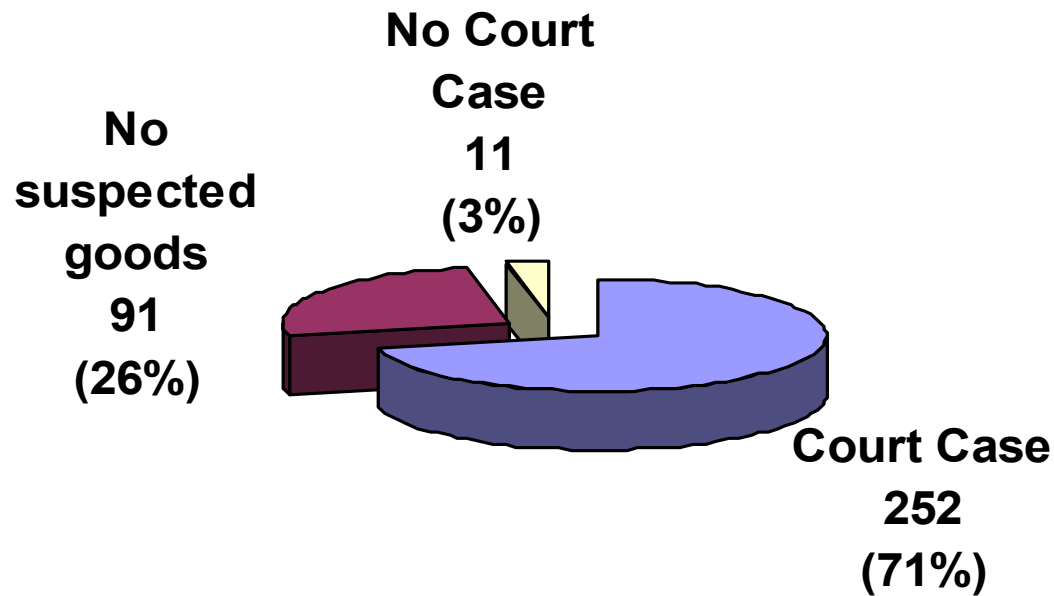
182

Years between 2000-2005



Statistics (8/10)

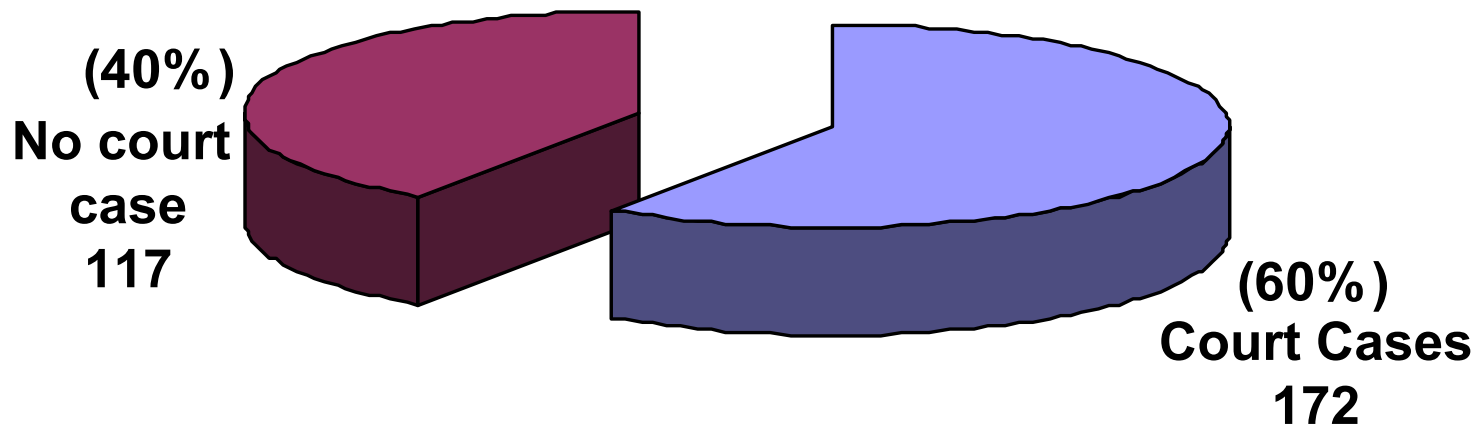
Total 354 Application



Years between 2000-2005

Statistics (9/10)

Total 289 Ex-officio Action



Years between 2000-2005

Statistics (10/10)

- The most popular counterfeit goods seized in Customs are;
 - cigarettes
 - mobile phones and their accessories
 - textile products
- The most popular departure/source regions of seized counterfeit goods are;
 - Far East
 - Middle East
 - Europe
- The most popular customs procedures used by counterfeiters are;
 - importation
 - exportation
 - transit



**SCREENING CHAPTER 29
CUSTOMS UNION
AGENDA ITEM 9: COUNTERFEIT**



**Mersin
Customs
Office**

**ex-officio
action**

Shipper's Name and Address Shipping Account Number		Air Waybill TURKISH AIRLINES TÜRK HAVA YOLLARI	
Consignee's Name and Address Consignee's Account Number		Issued by TÜRK HAVA YOLLARI A.Ş. GENEL YÖNETİM BAKANLIĞI ATATÜRK HAVAYOLU MENŞURU İSTANBUL-İSTANBUL-İSTANBUL	
Booking Carrier's Agent Name and City CTI LOGISTICS (HK) CO., LTD.		Accounting Information	
Agency IATA Code 13-3 0000		Reference Number	
Airport of Departure (IATA Code, of First Loaded and Preparing House)		Place of Origin (IATA Code)	
HONG KONG		HONG KONG	
To ADA	By Post Carrier TK	To ADA	By TK
All port of destination ADANA		Amount of Insurance TK071	Amount of Insurance 25 NDV-04
Country HKD		Currency P	Estimated Value for Customs NVD
Estimated Value for Customs AS PER INV		Remarks (Indicate in this column any special conditions, and such conditions as are required in connection with the carriage of goods, and which are not to be included in figures in this column. Amount of Insurance)	
Marking Information TOTAL (B) CTNS ONLY INVOICE ATT'D			
For USA only. These commodities account by U.S. for customs declaration.			
No. of Pallets 0	Gross Weight 145.00 K	Net Weight 145.00 K	Total 0,889.95
Loading Info TEL (9) PMS LOADED ON ULL PHC29999 145K			Telephone (For Home Use) LOTWCT-3446
Freight Charges HKD8,889.95		Other Charges ADC 13.00 MYC 464.00 SC 174.00 TC 174.00	
Total User Charges (See Carrier) HKD825.80		Signature of Shipper or the Agent TRADEWINDS ALL-FREIGHT (H.K.) LTD	
Total Freight HKD9,715.75		Date 24/11/04 HONG KONG CTI EDWARD RA01739	
Secondary Commodity Rates		Signature of Booking Carrier or its Agent AEJ-105849	
For Carrier's Use Only at Destination		Telephone 235-1433 4714	

**320 Cell Phones
Destroyed**



A Sample Seizure Case of Turkish Customs



The Olympic Rings are illegally printed on the shoe box



The trademark "adidas" is illegally affixed on the label



Counterfeit shoes are hidden in timbers



Counterfeit Nike and Adidas shoes, boxes and plastic bags were detained





THANK YOU