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September 2020

# INTELLECTUAL PROPERTY

## CBP Has Taken Steps to Combat Counterfeit Goods in Small Packages but Could Streamline Enforcement

Accessible Version

# GAO Highlights

Highlights of [GAO-20-692](#), a report to the Chairman, Committee on Finance, U.S. Senate

## Why GAO Did This Study

Counterfeit goods infringe on IPR, and can harm the U.S. economy and threaten consumer safety. CBP, the U.S. agency tasked with enforcement against counterfeits at the border, has reported that the annual number of small packages sent to the U.S. since fiscal year 2013 more than doubled, and small packages seized often contain counterfeit goods. The European Union Intellectual Property Office noted similar economic and consumer safety impacts in Europe, as well as increases in counterfeit goods in small packages.

GAO was asked to review IPR enforcement practices in other advanced economies, and the extent to which CBP could apply those practices. This report examines: (1) how elements of the EU and U.S. approaches to combating counterfeit goods in small packages compare, (2) any enforcement challenges posed by these goods, and (3) the extent to which CBP has taken steps to address these challenges. GAO reviewed agency documents; interviewed CBP and customs officials in the EU; and met with private sector stakeholders, such as express carriers.

## What GAO Recommends

GAO recommends that CBP take steps to develop a streamlined enforcement approach against counterfeit goods in small packages. CBP concurred with the recommendation.

View [GAO-20-692](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov).

September 2020

## INTELLECTUAL PROPERTY

### CBP Has Taken Steps to Combat Counterfeit Goods in Small Packages but Could Streamline Enforcement

## What GAO Found

The European Union (EU) and U.S. approaches to enforcing intellectual property rights (IPR) differ with respect to counterfeit goods in small packages, which are often sent through express carrier services or international mail. The EU uses a streamlined, application-based procedure to destroy suspected counterfeits in small packages. Through this procedure, rights holders request that member state customs authorities take action against such packages. The procedure allows customs authorities to bill rights holders for certain associated costs, and gives customs authorities discretion in sharing data with rights holders. In the U.S., U.S. Customs and Border Protection (CBP)—a component of the Department of Homeland Security (DHS)—is required to seize any goods it determines to be counterfeit, and typically destroys such goods, regardless of shipment size. CBP does not bill rights holders for the cost of enforcement, and is required to provide specific information to rights holders after seizure of goods.

EU and U.S. customs officials reported common challenges in combating the flow of counterfeit goods in small packages. For example, EU and U.S. officials said the large volume of small packages makes it difficult for customs agencies to prioritize resources among competing needs such as drug enforcement and security. EU and U.S. officials also reported that a lack of adequate data on these packages is a challenge in taking enforcement action against them.

#### Bags of Small Packages at Mail Facilities in Germany and France



Source: GAO. | GAO-20-692

While CBP has taken steps to address these challenges, its primary enforcement processes are not tailored to combat counterfeit goods in small packages. According to CBP officials, from 2014 to 2018, CBP piloted a program to help address the volume of such packages by facilitating the abandonment of goods that it suspected—but had not determined—to be counterfeit. In 2019, CBP initiated a program to obtain additional data, and as of July 2020 had begun using these data to assess the risk that such packages contained counterfeit goods. However, CBP officials said that the seizure and forfeiture processes they are required to use for goods determined to be counterfeit are time and resource intensive. In April 2019, the White House required DHS to identify changes, including enhanced enforcement actions, to mitigate the trafficking of counterfeit goods. In January 2020, DHS proposed several actions that CBP could take, but CBP has not decided which to pursue to streamline its enforcement. Without taking steps to develop a streamlined enforcement approach, CBP will continue to face difficulty in addressing the influx of counterfeit goods in small packages.

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**Abbreviations**

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
EU	European Union
EUIPO	European Union Intellectual Property Office
IPR	intellectual property rights
DG TAXUD	Directorate-General for Taxation and Customs Union
OECD	Organisation for Economic Co-operation and Development

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September 24, 2020

The Honorable Charles E. Grassley  
Chairman  
Committee on Finance  
United States Senate

Dear Mr. Chairman:

Intellectual property is an important component of the U.S. economy, and the United States is an acknowledged global leader in its creation and has prioritized its protection.<sup>1</sup> Intellectual property rights (IPR) violations, in the form of counterfeit goods, harm the U.S. economy by weakening the competitiveness of U.S. employers and threatening American jobs.<sup>2</sup> Counterfeit goods can also endanger public health by exposing consumers to potentially unsafe materials. Growth in e-commerce has contributed to an increase in the flow of counterfeit goods into the United States, as consumers increasingly purchase goods online and counterfeiters produce a wider variety of goods sometimes sold on websites alongside authentic products. In particular, counterfeit goods in small packages<sup>3</sup> represent an increasing problem that has been identified by the U.S. Intellectual Property Enforcement Coordinator, and other U.S. agencies have cited an increasing use of the internet to sell counterfeit goods imported from overseas in recent years. In addition to the United

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<sup>1</sup>The United States provides protections for intellectual property through means such as copyrights, trademarks, and patents. A copyright is a set of exclusive rights subsisting in original works of authorship fixed in any tangible medium of expression now known or later developed, for a fixed period of time. For example, works may be literary, musical, or artistic. A trademark includes any word, name, symbol, or device, or any combination thereof, used to distinguish goods from those sold by or manufactured by others. Such words, names, symbols, devices, or any combination thereof are eligible for registration as trademarks. Patents grant “the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States and, if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process.” 35 U.S.C. § 154(a)(1). Patents are not enforced in the same way as copyrighted and trademarked works.

<sup>2</sup>In this report, “counterfeit goods” refers to any physical goods that are found to be in violation of trademark or copyright law.

<sup>3</sup>As discussed later in this report, specific definitions of “small package” vary; however, in the United States and the European Union, this term encompasses packages sent via express carrier or international mail.

States, other countries with advanced economies have noted the increase in counterfeit goods sent to consumers in small packages. In particular, the Organisation for Economic Co-Operation and Development (OECD), European Union Intellectual Property Office (EUIPO), and World Customs Organization have noted the threats such goods pose to economic growth and consumer safety in the European Union (EU).<sup>4</sup>

The Department of Homeland Security's U.S. Customs and Border Protection (CBP) leads IPR enforcement activity at U.S. borders by detecting and seizing counterfeit goods at the more than 300 U.S. ports of entry and by assessing penalties against IPR offenders.<sup>5</sup> In fiscal year 2019, CBP reported processing \$2.7 trillion in imports, including approximately 1.8 million small packages per day sent via international mail and express carriers.<sup>6</sup> CBP also reported seizing counterfeit goods with a total manufacturer's suggested retail price of up to \$1.5 billion if the goods had been authentic. In 2018, we reported that of 47 items we purchased from third-party sellers through e-commerce platforms, 20 were counterfeit, including consumer items such as makeup and electronics.<sup>7</sup>

You asked us to review the IPR enforcement strategies and practices of other advanced economies, and the extent to which CBP could apply those practices. This report examines (1) how selected elements of the EU and U.S. approaches to combating counterfeit goods in small packages compare, (2) any common challenges reported by EU and U.S. customs officials in conducting enforcement against such goods, and (3) the extent to which CBP has taken steps to address these challenges.

To determine how selected elements of the EU and U.S. enforcement approaches to counterfeit goods in small packages compare, we

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<sup>4</sup>Organisation for Economic Co-Operation and Development and European Union Intellectual Property Office, *Illicit Trade: Misuse of Small Parcels for Trade in Counterfeit Goods, Facts and Trends*, OECD Publishing (Paris: 2018) and World Customs Organization, *WCO Study Report on Cross-Border E-Commerce* (March 2017).

<sup>5</sup>In addition to CBP, nearly 20 U.S. agencies play a role in IPR enforcement, including U.S. Immigration and Customs Enforcement, the Federal Bureau of Investigation, the Food and Drug Administration, and the Consumer Product Safety Commission, among others.

<sup>6</sup>Express carriers include entities such as FedEx, DHL, and UPS.

<sup>7</sup>GAO, *Intellectual Property: Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeits Market*, [GAO-18-216](#) (Washington, D.C.: Jan. 30, 2018).

reviewed relevant documents and interviewed cognizant officials in Europe and the United States. This included review of EU Regulation 608/2013, which outlines procedures for EU member state customs authorities' enforcement of IPR and includes a procedure for the destruction of counterfeit goods in small packages.<sup>8</sup> We also reviewed relevant sections of the United States Code, the Code of Federal Regulations, and CBP guidance on procedures for enforcement against IPR violations. Stakeholders we interviewed in the European Union—in Belgium, France, Germany, and the Netherlands<sup>9</sup>—and in the United States included 56 customs agency officials and representatives of postal services. In addition, we interviewed private sector stakeholders<sup>10</sup> including four representatives of e-commerce platforms, seven representatives of express carriers, and eight representatives from associations of owners of intellectual property rights.<sup>11</sup>

To determine any common challenges that EU and U.S. officials reported in conducting enforcement against counterfeit goods in small packages, we interviewed cognizant officials from EU and U.S. customs authorities as discussed above. We conducted an analysis of the results of these interviews, and grouped this content into categories in order to report the challenges that officials in both locations cited. Information from the analysis is not generalizable to all such officials. To determine the extent to which CBP has taken steps to address any reported challenges, we reviewed relevant agency documentation as well as *Standards for Internal Control in the Federal Government*—specifically, Principle 7—Identify, Analyze, and Respond to Risks—and interviewed cognizant

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<sup>8</sup>Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15 (hereinafter “EU Regulation 608/2013”).

<sup>9</sup>We selected countries for site visits in consultation with cognizant U.S. officials, and private sector stakeholders with experience in both the EU and U.S. customs environments, and through a review of available English-language information on relevant laws and processes for enforcement against counterfeit goods.

<sup>10</sup>We selected private sector representatives and EU officials to interview in consultation with cognizant U.S. officials and through a review of information available online.

<sup>11</sup>In this report, we refer to entities that own intellectual property rights as rights holders.

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officials.<sup>12</sup> See appendix I for more information on our objectives, scope, and methodology.

We conducted this performance audit from April 2019 to September 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### Counterfeit Goods in E-Commerce

EU and U.S. agencies have reported increases in recent years in the volume of small packages sent to consumers through e-commerce, and have connected this volume to an increased trade in counterfeit goods. In 2018, the OECD and EUIPO noted that the trafficking of counterfeit goods in small packages through postal or express carrier services was a growing trend, becoming a significant problem in terms of enforcement. In 2019, the EUIPO reported that up to 6.8 percent of EU imports per year, or 121 billion euros' worth (approximately \$131 billion),<sup>13</sup> consisted of counterfeit goods, and that both the percentage and the value of counterfeits had grown significantly since 2016. According to CBP, criminal organizations are shipping illicit goods, including counterfeits, into the United States via small packages due to a perceived lower risk of detection and less severe consequences if a package is stopped.<sup>14</sup> CBP also reported in fiscal year 2019 that e-commerce sales had contributed to an increased volume of small packages imported into the United States, including approximately 600 million international mail and express

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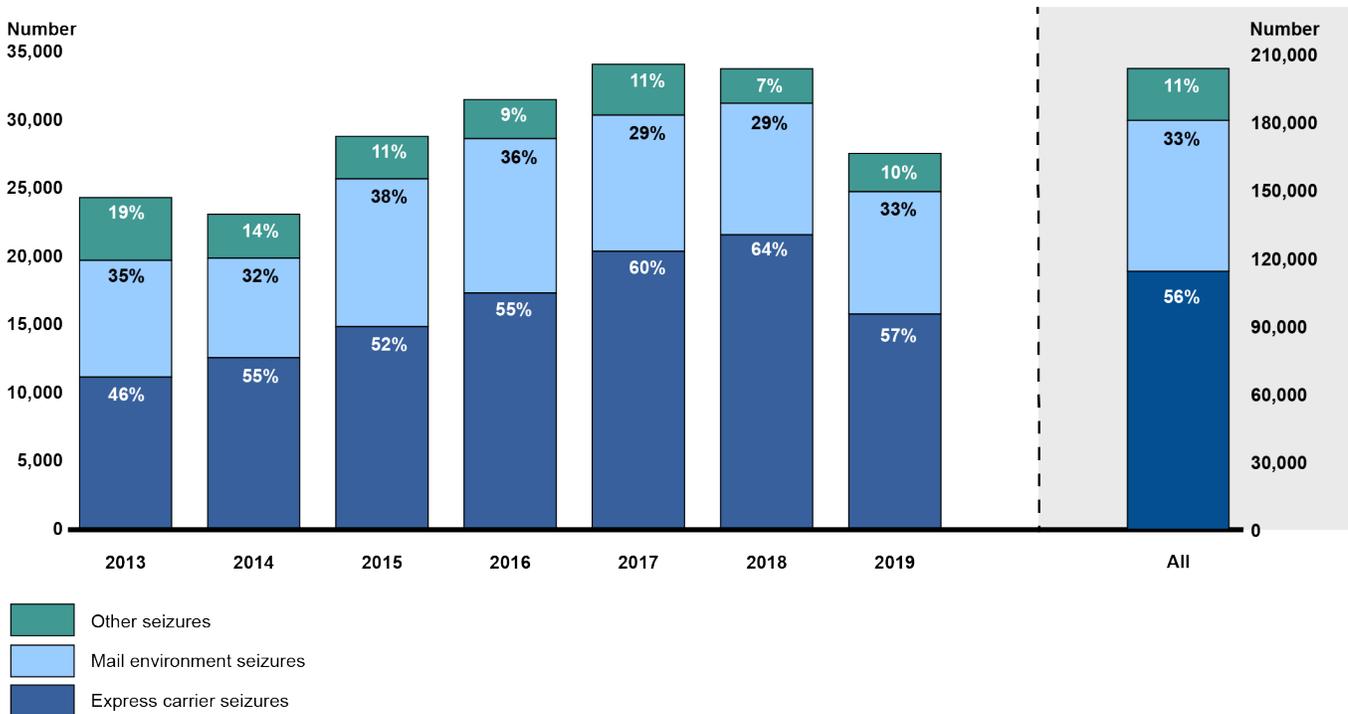
<sup>12</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

<sup>13</sup>All euro amounts in this report were converted to U.S. dollars and rounded to the nearest dollar as of May 15, 2020.

<sup>14</sup>Brenda Smith, Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection, *Protecting E-Commerce Consumers from Counterfeits*, testimony before the Senate Committee on Finance, 115th Cong., 2nd sess., March 6, 2018.

carrier shipments.<sup>15</sup> Further, CBP reported that from fiscal year 2013 through fiscal year 2019, it completed a total of about 203,000 IPR seizures, almost 90 percent of which occurred in the international mail and express carrier environments (see fig. 1). CBP also reported that in fiscal year 2019, 83 percent of the total number of seizures of counterfeits contained goods or merchandise originating from China or Hong Kong.

**Figure 1: CBP Seizures of Counterfeit Goods, Fiscal Years 2013–2019**



Source: GAO analysis of U.S. Customs and Border Protection (CBP) data. | GAO-20-692

**Data table for Figure 1: CBP Seizures of Counterfeit Goods, Fiscal Years 2013–2019**

Year	Other Seizures		Mail Environment Seizures		Express Carrier Seizures	
	Percent	Number	Percent	Number	Percent	Number
2013	19%	4,607.00	35%	8,558.00	46%	11,196.00
2014	14%	3,217.00	32%	7,300.00	55%	12,623.00
2015	11%	3,134.00	38%	10,834.00	52%	14,897.00
2016	9%	2,871.00	36%	11,326.00	55%	17,363.00

<sup>15</sup>Department of Homeland Security, *Intellectual Property Rights Seizure Statistics, Fiscal Year 2019* (Washington, D.C.); Publication #1085 0420.

Year	Other Seizures		Mail Environment Seizures		Express Carrier Seizures	
	Percent	Number	Percent	Number	Percent	Number
2017	11%	3,734.00	29%	9,992.00	60%	20,417.00
2018	7%	2,535.00	29%	9,643.00	64%	21,632.00
2019	10%	2,806	33%	8,982	57%	15,811
ALL	11%	22,904	33%	66,635	56%	113,939

Note: "Other seizures" includes seizures of goods transported by sea cargo, air, rail, road, or pedestrians. CBP's seizure statistics include seizures conducted by both CBP and Immigration and Customs Enforcement's Homeland Security Investigations. According to CBP, the number of intellectual property rights-related seizures decreased in fiscal year 2019 as a result of (1) the one-month government shutdown, and (2) challenges at the U.S. southern border.

As we have previously reported, the rise of e-commerce has contributed to a fundamental change in the market for counterfeit goods.<sup>16</sup> U.S. agencies and international organizations have observed a shift in the sale of counterfeit goods from "underground" or secondary markets, such as flea markets or sidewalk vendors, to primary markets, including e-commerce websites, where consumers typically believe they are purchasing authentic goods. CBP has reported that e-commerce is altering global trade by allowing for more cross-border transactions and by giving counterfeiters direct access to consumers.<sup>17</sup> When selling online, counterfeiters may post pictures of authentic goods on the websites where they are selling counterfeits and may post fake reviews of their products or businesses in order to appear legitimate. They may also set the price of a counterfeit at, or close to, the retail price of a genuine good to deceive consumers.

<sup>16</sup>GAO-18-216.

<sup>17</sup>U.S. Customs and Border Protection, Office of Trade, E-Commerce and Small Business Branch, *E-Commerce Trends*, CBP Publication # 0589-1116 (Washington, D.C.: November 2016).

## IPR Enforcement in the European Union

Small Packages Sent via International Mail



Mail bags to be sorted at the Deutsche Post DHL Frankfurt Airport mail facility.

Source: GAO. | GAO-20-692

In the European Union, the Directorate-General for Taxation and Customs Union (DG TAXUD) is the entity responsible for developing and carrying out EU customs policies, and protecting the union's external borders. DG TAXUD coordinates with member states' customs authorities in implementing EU Regulation 608/2013, which outlines a general procedure for detaining suspected counterfeit goods and includes a specific provision for the destruction of small consignments containing such goods.<sup>18</sup> The regulation defines "small consignment" as "a postal or express courier consignment, which; (a) contains three units or less; or (b) has a gross weight of less than two kilograms."<sup>19</sup> For additional information on selected EU member states' practices in implementing this regulation, see appendix II.

EU member state customs officials we spoke with described the use of various IPR enforcement activities, such as computer-based targeting,<sup>20</sup> reviewing documents, and opening packages to identify suspected counterfeits. When customs officials identify suspected counterfeits, they can detain the goods in accordance with EU Regulation 608/2013. In general, EU member state customs authorities detain goods suspected to be counterfeit, and are not required to make an official determination as to the goods' authenticity in order to use the small packages procedure.<sup>21</sup> Customs authorities may either release such goods back into the stream of commerce or destroy the goods, depending on information received from rights holders and others. One factor that affects customs authorities' treatment of small packages is the *de minimis* threshold, which, according to the International Chamber of Commerce, is the

<sup>18</sup>EU Regulation 608/2013, art. 26, 2013 O.J. (L 181) 29. The provision on the destruction of small consignments speaks in terms of detention, so we refer to detention throughout this report when discussing EU enforcement. We refer to seizure in discussing U.S. enforcement because CBP officials told us seizure is a key element of U.S. enforcement.

<sup>19</sup>EU Regulation 608/2013, art. 2(19), 2013 O.J. (L 181) 21. For the purposes of this report, the term "small packages" refers to "small consignments" as defined by the EU regulation as well as to small packages sent via express carrier and international mail to the United States. Two kilograms is approximately 4.4 pounds.

<sup>20</sup>Computer-based targeting is the process by which customs officials gather and analyze data about shipments in order to determine the risk that a shipment contains IPR-infringing goods. Customs authorities create rules and weight sets to analyze information from manifests, importer security filings, and entry data to prioritize shipments for review.

<sup>21</sup>EU Regulation 608/2013, art. 26(1), 2013 O.J. (L 181) 29.

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declared value under which no duties or taxes are collected.<sup>22</sup> Because of the declared value of these goods, they can arrive at ports of entry with less information about their contents; this, in turn, can make it more difficult to determine whether the contents might be counterfeit. EU member state officials we spoke with reported that packages entering the EU customs area with a declared value below the *de minimis* threshold of 22 euros (approximately \$24) are small packages, and come with less detailed information about the nature of their contents.<sup>23</sup>

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## IPR Enforcement in the United States

Similar to the European Union's member state customs authorities, CBP is responsible for conducting enforcement activities such as computer-based targeting, reviewing documents, and opening packages to identify counterfeits. CBP is also responsible for detaining goods for examination when it suspects they are counterfeit, and for determining whether a good is counterfeit, either of its own accord or in conjunction with rights holders. Upon determining that a good is counterfeit, CBP is legally required to seize that item.<sup>24</sup> Once parties with an interest in the property—such as the importer and the rights holder—have been informed that the item has been seized, CBP conducts the forfeiture process.<sup>25</sup> Through this process, ownership of the good is transferred to the U.S. government. According to CBP officials, while CBP executes the seizure and forfeiture processes, the good is transported and stored. The forfeiture process concludes with final disposition of the forfeited good, which involves destroying it or, where appropriate, donating it (see fig. 2).

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<sup>22</sup>According to the International Chamber of Commerce, the *de minimis* amount acts as a valuation ceiling; for goods valued below this ceiling, clearance procedures, including data requirements, are minimal. These reduced data requirements can facilitate the movement of goods.

<sup>23</sup>According to the OECD and EUIPO, 22 euros is the European Union's value-added tax collection *de minimis* amount, and a separate *de minimis* of 150 euros (approximately \$162) applies for customs duties.

<sup>24</sup>19 U.S.C. §§ 1526(e), 1595a(c)(1).

<sup>25</sup>The forfeiture process described in this report refers to CBP's administrative forfeiture processes pursuant to 19 U.S.C. § 1607.

**Figure 2: CBP Reported Processes for Detention, Seizure, and Forfeiture of Counterfeit Goods**



Source: GAO analysis of the Code of Federal Regulations and interviews with U.S. Customs and Border Protection (CBP) officials. | GAO-20-692

<sup>a</sup>Known parties-in-interest to the detention of suspected counterfeit goods include importers and rights holders.

<sup>b</sup>The disposition of forfeited goods involves destroying them or, where appropriate, donating them.

CBP does not have a definition of small packages; however, according to CBP officials, the agency’s reporting on small packages includes items entering the United States through international mail and express carrier. Similar to the European Union, the United States also has a *de minimis* threshold for the imposition of duties and taxes on imports. In 2016, the Trade Facilitation and Trade Enforcement Act increased the *de minimis* threshold from \$200 to \$800.<sup>26</sup> According to CBP officials, this change allowed a greater proportion of packages entering the United States to arrive with less detailed information about the packages’ contents.

Table 1 summarizes some features of EU and U.S. IPR enforcement approaches against counterfeit goods in small packages.

<sup>26</sup>Pub. L. No. 114-125, § 901(c), 130 Stat. 122, 223 (as codified at 19 U.S.C. § 1321(a)(2)(C)).

**Table 1: Features of EU and U.S. Enforcement against Counterfeit Goods in Small Packages**

Characteristic	European Union (EU)	United States
Key entities	Directorate-General for Taxation and Customs Union (DG TAXUD)  Member state customs authorities	U.S. Customs and Border Protection (CBP)
Scope of small packages <sup>a</sup>	Less than 2 kilograms <sup>b</sup> in weight or containing up to 3 units	No definition <sup>c</sup>
Primary enforcement steps	Detention if a good is suspected to be counterfeit  Destruction or, under certain circumstances, release if a good is suspected to be counterfeit	Detention if a good is suspected to be counterfeit  Seizure and forfeiture upon determination that a good is counterfeit  Destruction or donation of good after forfeiture
<i>De minimis</i> value <sup>d</sup>	22 euros (approximately \$24) <sup>e</sup>	\$800

Source: GAO analysis of EU and CBP data. | GAO-20-692

<sup>a</sup>EU Regulation 608/2013 uses the term “small consignments.” Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15.

<sup>b</sup>Two kilograms is approximately 4.4 pounds.

<sup>c</sup>Although there is no definition, according to CBP officials, CBP reporting on small packages includes all packages sent via international mail and express carrier.

<sup>d</sup>According to the International Chamber of Commerce, the *de minimis* amount is the declared value threshold under which no duties or taxes are collected.

<sup>e</sup>This applies to certain imports of negligible value, excluding alcoholic products, perfumes and toilet waters, and tobacco and tobacco products. According to the European Commission, between 2019 and 2021, the European Union will gradually eliminate its *de minimis* value of 22 euros and replace it with a different system. According to the Organisation for Economic Co-Operation and Development and the European Union Intellectual Property Office, a separate *de minimis* of 150 euros (approximately \$162) applies for customs duties.

## Other Stakeholders in EU and U.S. IPR Enforcement

In both the European Union and the United States, other stakeholders such as intellectual property rights holders, express carriers, and national postal entities also play roles in IPR enforcement. Rights holders can provide information to customs authorities that allows customs officials to determine the authenticity of goods; customs officials also provide information to rights holders about counterfeit goods detained or seized. In addition, express carrier and postal entities may coordinate with customs officials to provide data about the movement of packages. This coordination can include providing customs authorities with information

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about packages in transit to determine which packages are to be inspected, as well as identifying and presenting suspect packages to customs authorities for inspection.

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## Differences in EU and U.S. Approaches to Combating Counterfeit Goods in Small Packages Include Procedures, Time Frames, Cost Sharing, and Data Sharing

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### The European Union Uses a Streamlined Procedure to Destroy Suspected Counterfeits in Small Packages; CBP Is Required to Conduct Seizure and Forfeiture for All Counterfeits

EU Regulation 608/2013 contains Article 26, which specifies that small packages of suspected counterfeit goods can be subject to a separate, streamlined destruction procedure.<sup>27</sup> The small packages procedure has fewer required steps than the procedure for packages that fall outside the scope of Article 26. According to the regulation's preamble, one purpose for adopting the regulation is to have a specific procedure for small packages of counterfeit and pirated goods, allowing for such goods to be destroyed without the explicit agreement of the rights holder in each case in order to minimize administrative burden and costs.<sup>28</sup> To initiate the

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<sup>27</sup>EU Regulation 608/2013, art. 26, 2013 O.J. (L 181) 29-30. Outside of Article 26, the regulation describes a general procedure for IPR enforcement. In this report, we refer to what is outlined in Article 26 as the small packages procedure, and this procedure is the focus of our description of EU enforcement processes.

<sup>28</sup>EU Regulation 608/2013, 2013 O.J. (L 181) 17. When EU Regulation 608/2013 is applied outside the context of the small packages procedure, additional information about the suspected counterfeit may be provided to rights holders and other interested parties in the case of each detention. This includes the "actual or estimated quantity and the actual or presumed nature of the goods, including available images thereof, as appropriate [and] ... the names and addresses of the consignee, the consignor and the declarant or the holder of the goods, [and] ... the origin, provenance and destination of the goods." EU Regulation 608/2013, art. 17-18, 2013 O.J. (L 181) 26. Outside the small packages procedure, member state customs authorities may also provide samples of the suspected counterfeit goods to rights holders. EU Regulation 608/2013, art. 19, 2013 O.J. (L 181) 27.

small packages procedure, rights holders<sup>29</sup> complete an application for action. Through this application, rights holders can request that specific member states' customs authorities destroy goods shipped in small packages that are suspected of bearing counterfeit versions of their trademark, pursuant to the small packages procedure. The application process also allows rights holders to agree—through consenting to the use of this procedure—that they will not be contacted each time a suspected counterfeit good is identified. Applications for action can be submitted in more than one country. According to DG TAXUD, if a rights holder has not completed and been granted an application for action in which the small packages procedure was requested, EU member state customs authorities will not execute this procedure on the right holder's behalf.<sup>30</sup>

Under the U.S. approach, CBP must complete the seizure process for any item it has determined to be counterfeit, and seizure is then followed by forfeiture to transfer ownership of the item to the U.S. government. The legal requirements of seizure and forfeiture apply both to large shipments and small packages of counterfeit goods,<sup>31</sup> in contrast to the European Union, the United States has no separate process to address small packages specifically. CBP is legally required to seize and complete forfeiture of all counterfeit goods, regardless of whether the rights holder has requested such action. In the United States, rights holders may provide CBP with information about how to identify counterfeit versions of

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<sup>29</sup>EU Regulation 608/2013, article 3, specifies that rights holders, in addition to others, may submit an application. EU Regulation 608/2013, art. 3, 2013 O.J. (L 181) 21. The regulation uses the term “holder of the decision” to refer to the person or entity that possesses the decision granting the application for action. EU Regulation 608/2013, art. 2(13), 2013 O.J. (L 181) 21. In this report, we use the term “rights holder” instead of “holder of the decision” for consistency in discussing the EU and U.S. approaches.

<sup>30</sup>As noted, if a rights holder has not completed and been granted an application in which the Article 26 small packages procedure is requested, member state customs authorities will not take this enforcement action on behalf of the rights holder within the context of this regulation. In this report, our discussion of the EU process assumes a situation in which a rights holder has completed such an application, and the application has been granted by a member state or states. In addition to the EU regulation discussed in this report, member state customs officials may also have authorities through domestic laws that enable them to conduct enforcement against such packages. For example, French customs officials told us they typically seize small packages of counterfeit goods under domestic French law that gives them this authority; see appendix II for more information.

<sup>31</sup>See 19 U.S.C. §§ 1526(e), 1595a(c)(1), 1607 and 19 C.F.R. part 133.

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their goods, and provide training to CBP officers who work at U.S. ports of entry.<sup>32</sup>

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### The EU Small Packages Procedure Uses a Condensed Time Frame; the U.S. Process Includes More Time for Parties to Respond

Under the EU small packages procedure, a suspected counterfeit good can be detained for up to 11 business days before customs may destroy it, or up to 21 business days before customs may release it.<sup>33</sup> Within one business day of detention of a suspected counterfeit good, customs officials must notify the declarant or holder of the goods (interested parties) that the customs authority intends to destroy the goods.<sup>34</sup> Upon notification of customs' intent to destroy suspected counterfeit goods, the cognizant interested party has 10 business days to respond. If the interested party consents to the destruction of the goods, customs may destroy the package.<sup>35</sup> Alternatively, if the interested party does not respond within the 10-day period, member state customs authorities can

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<sup>32</sup>Recordation is the process through which rights holders provide information about their registered trademarks to CBP, including any relevant images. CBP charges a \$190 fee per trademark to apply for recordation.

<sup>33</sup>The regulation uses the term "working days." In this report, we use the term "business days" to refer to "working days."

<sup>34</sup>EU Regulation 608/2013, art. 26(3), 2013 O.J. (L 181) 30. The regulation defines the declarant as "the person making the customs declaration in his own name or the person in whose name a customs declaration is made," per Article 4 of EU Regulation 2913/92. EU Regulation 608/2013, art. 2(15), 2013 O.J. (L 181) 21. The regulation defines the holder of the goods as "the person who is the owner of the goods suspected of infringing an intellectual property right or who has a similar right of disposal, or physical control, over such goods." EU Regulation 608/2013, art. 2(14), 2013 O.J. (L 181) 21. We refer to the declarant and the holder of the goods as interested parties in the detention and destruction of a suspected counterfeit good.

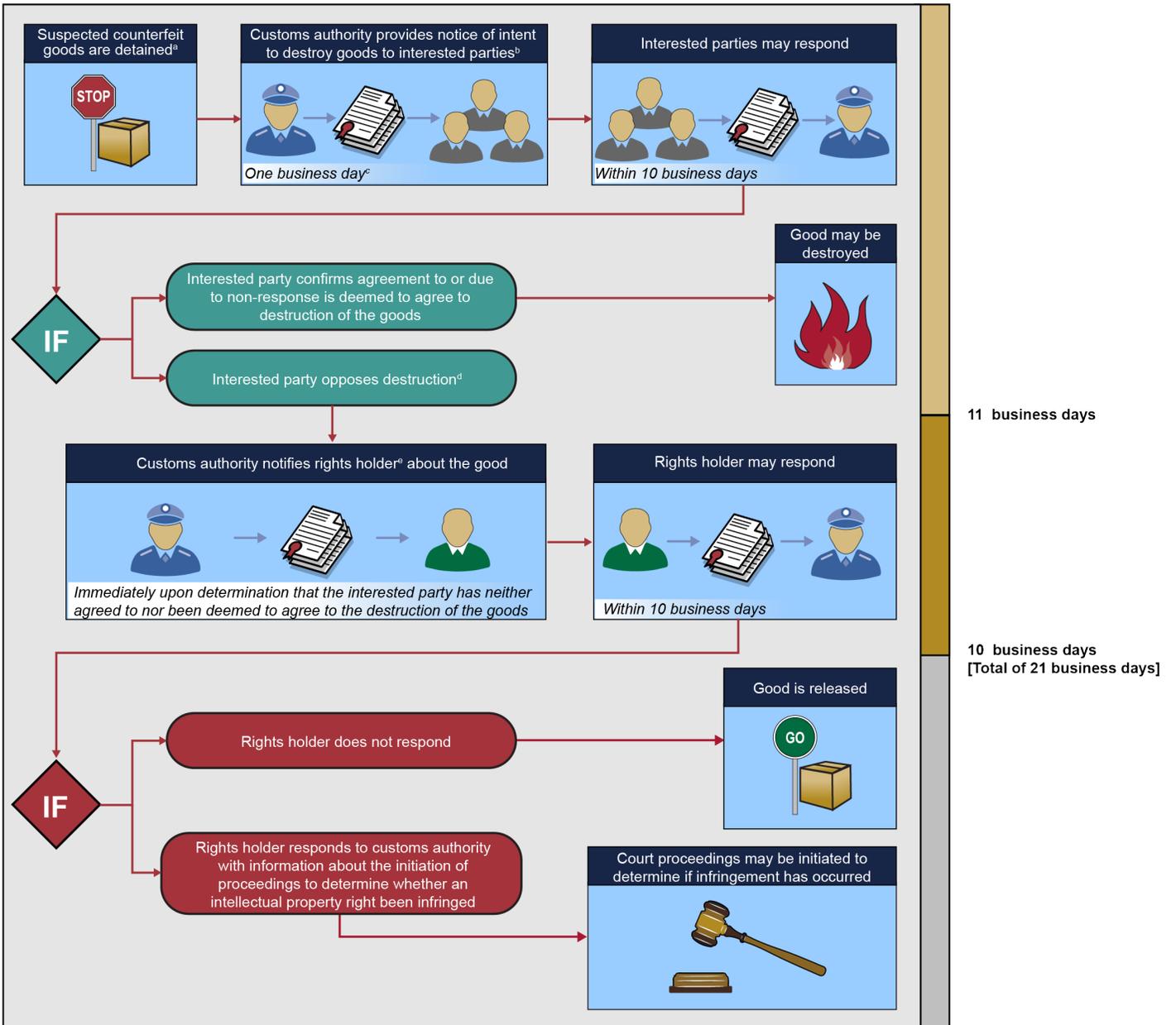
<sup>35</sup>If the interested party has not consented to the destruction of the goods within the 10-day period and the member state customs authority has not deemed such consent, the authority must "immediately" notify the rights holder "of the quantity of goods and their nature, including images thereof, where appropriate." EU Regulation 608/2013, art. 26(8), 2013 O.J. (L 181) 30. The customs authorities shall also, upon request and where available to them, inform the [rights holder] of the names and addresses of the consignee, the consignor, and the declarant or the holder of the goods ... and of the origin, provenance and destination of the goods." EU Regulation 608/2013, art. 26(8), 2013 O.J. (L 181) 30. If the rights holder does not respond to this notification within 10 days and upon completion of all customs formalities, the suspect good is released. EU Regulation 608/2013, art. 26(9), 2013 O.J. (L 181) 30.

deem the interested party to have consented to the destruction of the package, and then destroy it. However, according to DG TAXUD, if the interested party opposes destruction, the member state customs agency must immediately provide the rights holder information about the quantity and nature of the goods, including images where appropriate. If the rights holder does not respond to this notification within 10 business days, the good is released after customs formalities are completed. According to DG TAXUD, if the rights holder does respond, the rights holder may then initiate court proceedings to determine whether an IPR infringement has occurred (see fig. 3). In June 2017, the EUIPO reported that more than 90 percent of the goods detained at the European Union's external borders in 2015 were destroyed.<sup>36</sup>

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<sup>36</sup>Europol and the European Union Intellectual Property Office, *2017 Situation Report on Counterfeiting and Piracy in the European Union* (June 2017). According to this report, in some cases the destruction of goods occurred after court proceedings were initiated to determine whether an intellectual property right had been infringed.

**Figure 3: European Union Procedure and Time Frame for Detention and Destruction of Suspected Counterfeit Goods in Small Packages**



Source: GAO analysis of Regulation (EU) 608/2013, Art. 26, 2013 O.J. (L181) 15, 29 and interviews with European customs authorities. | GAO-20-692

<sup>a</sup>This procedure applies only if conditions are met as laid out in EU Regulation 608/2013, art. 26. This figure presents the broad outlines of the procedure. For full details, see Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs

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enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15 (hereinafter “EU Regulation 608/2013”).

<sup>b</sup>EU Regulation 608/2013 refers to the “declarant” and the “holder of the goods.” The regulation defines the declarant as “the person making the customs declaration in his own name or the person in whose name a customs declaration is made,” per Article 4 of Regulation (EU) 2913/92. EU Regulation 608/2013, art. 2(15), 2013 O.J. (L 181) 21. The regulation defines the holder of the goods as “the person who is the owner of the goods suspected of infringing an intellectual property right or who has a similar right of disposal, or physical control, over such goods.” EU Regulation 608/2013, art. 2(14), 2013 O.J. (L 181) 21. In this figure, we refer to both the declarant and the holder of the goods as interested parties.

<sup>c</sup>The regulation refers to “working days”; we refer to them as business days in this figure.

<sup>d</sup>Customs may also proceed to the following step and notify rights holders if they have received no response from interested parties, but not deemed the interested parties to have agreed to destruction of the good.

<sup>e</sup>EU Regulation 608/2013 refers to “holders of the decision,” as they are in possession of the decision to grant the application for action. EU Regulation 608/2013, art. 2(13), 2013 O.J. (L 181) 21. In this figure, we use the term “rights holders” when the regulation refers to holders of the decision because rights holders, in addition to others, may submit an application for action.

Under the U.S. approach, CBP’s time frames for seizure and forfeiture may be more than 120 calendar days before a counterfeit good can be destroyed.<sup>37</sup> Upon determining that a good is counterfeit, CBP may issue a seizure notice within 60 days, and then must allow 30 days for known parties-in-interest to the seizure to respond.<sup>38</sup> As part of the forfeiture process to transfer ownership of the good to the government, CBP must make information about the seizure publicly available.<sup>39</sup> This is typically done on [forfeiture.gov](http://forfeiture.gov), and postings state that any individuals with a claim to the property have 30 days to contact CBP. CBP determines the final disposition of the goods, which may involve destroying the goods or, where appropriate, donating them (see fig. 4).

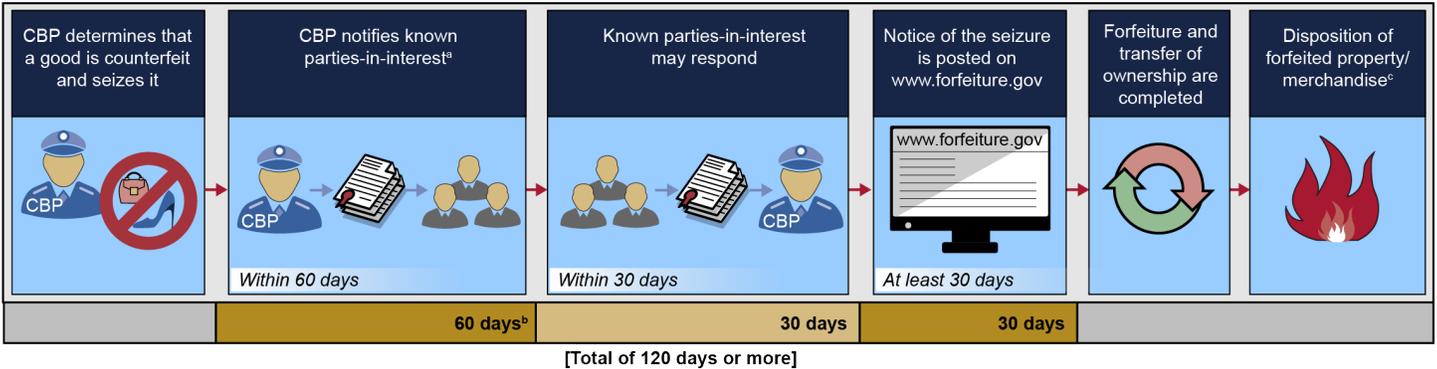
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<sup>37</sup>Because goods can be seized and forfeited without going through the 30-day detention period, our estimate of the amount of time to complete seizure and forfeiture does not include the detention period laid out in 19 C.F.R. § 133.21 (b)(1). According to CBP officials, although it is not a statutory requirement, CBP aims to issue a seizure notice within 60 days of seizing counterfeit goods. However, according to CBP officials, that part of the seizure process often takes longer. As such, we say that the process may take more than 120 days to complete.

<sup>38</sup>According to CBP officials, while CBP may issue the initial seizure notice in less than 60 days, it is not statutorily required to do so for seizures of counterfeit goods. Petitioners have 30 days from the date of mailing the notice of seizure to file a petition for relief of seizure unless an extension is granted. 19 C.F.R. § 171.2.

<sup>39</sup>19 U.S.C. § 1607 (requirements for notice including where the value does not exceed \$500,000 or the importation is prohibited), 19 C.F.R. § 162.45 (this regulation does not apply to Schedule I and Schedule II controlled substances). Among other requirements under section 162.45, notice will be published by its posting on an official government forfeiture website for at least 30 consecutive days.

**Figure 4: CBP General Time Frames for Seizure and Forfeiture of Counterfeit Goods**



Source: GAO analysis of the Code of Federal Regulations and interviews with U.S. Customs and Border Protection (CBP) officials. | GAO-20-692

Note: These time frames are based on GAO discussions with CBP officials as well as a review of regulations and a relevant Department of the Treasury directive that CBP officials told us they use as guidance. The seizure and forfeiture processes may take more than 120 days to complete. According to CBP officials, variables that affect the amount of time for these processes include: (1) whether petitions for relief from forfeiture are filed, and; (2) whether CBP extends the period of time in which the known parties-in-interest may respond.

<sup>a</sup>Known parties-in-interest to a seized counterfeit good include the importer and the rights holder.

<sup>b</sup>CBP officials told us that because the 60-day notification period is not set in statute or federal regulations for counterfeit goods, this step may take longer, and thus extend the total time frame beyond 120 days.

<sup>c</sup>The final disposition of the good may be destruction or, where appropriate, donation of the good.

## Rights Holders Can Be Billed for Storage and Destruction in the European Union but Are Not Subject to Cost Sharing under the U.S. Approach

Under the EU approach, member states can require rights holders to pay for the destruction of suspected counterfeit goods in small packages. The EU regulation states that “where requested by the customs authorities, the [rights holder] shall reimburse the costs incurred by the customs authorities...from the moment of detention or suspension of the release of the goods, including storage and handling of the goods...and when using corrective measures such as destruction of goods.”<sup>40</sup> EU and member state customs officials we spoke with noted that member states have taken different approaches to this provision of the regulation. Customs officials in two countries we visited told us that the fees charged to rights holders partially offset the costs incurred by the customs agency. Rights

<sup>40</sup>EU Regulation 608/2013, art. 29(1), 2013 O.J. (L 181) 30.

holders we spoke with expressed varying opinions, including that there could be more clarity and force to this part of the regulation, including options for customs authorities to recover costs from other actors in the import process (e.g., freight forwarders).<sup>41</sup>

Under the U.S. approach, according to CBP officials, the costs associated with storage and destruction of counterfeit goods are paid through the Department of the Treasury's Forfeiture Fund. However, CBP officials further explained that if goods are abandoned for any reason, CBP is liable for destruction costs related to those goods.<sup>42</sup> CBP officials told us that they could not provide an average or range estimate of the cost of destruction of counterfeit goods, explaining that the cost may vary greatly depending on the type of good and any relevant environmental considerations.<sup>43</sup>

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### EU Procedure Generally Gives Customs Authorities Discretion on Sharing Data with Rights Holders; U.S. Law Specifies Information CBP Provides to Rights Holders

Under the EU small packages procedure, customs authorities are required to provide information about suspected counterfeit goods to rights holders only under certain circumstances before the destruction of the goods. After such goods have been destroyed, member state authorities have some discretion over information they share with rights holders. Under EU Regulation 608/2013, where the rights holder has consented to the use of the procedure and the interested party has either consented or been deemed to have consented due to lack of response to a notification of detention, customs authorities may destroy the good without providing information to the rights holder. After destruction, customs authorities provide information about such goods to the rights holder "upon request and as appropriate," including information about the

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<sup>41</sup>EU Regulation 608/2013 does not preclude rights holders from pursuing reimbursement from intermediaries in the import process, as applicable, under relevant member state laws.

<sup>42</sup>According to CBP officials, in some cases, other parties such as the express carrier have agreed to bear responsibility for costs related to the destruction of suspected counterfeit goods.

<sup>43</sup>For example, according to CBP officials, destruction of counterfeit consumer electronics products may require compliance with environmental regulations.

actual or estimated quantity of destroyed goods and their nature.<sup>44</sup> Rights holders we spoke with in the European Union expressed varying opinions about this part of the regulation. While one group of rights holders stated that high-level, periodic information sharing about destroyed goods was satisfactory, another group stated that customs authorities should provide more detailed information to better enable rights holders to investigate suspected counterfeiters.

Under the U.S. approach, CBP is required to provide specific data about seized counterfeit goods to rights holders earlier in the enforcement process, upon seizure of those goods. The Code of Federal Regulations specifies the types of data CBP must provide to rights holders after seizure.<sup>45</sup> CBP provides data on the types of goods seized and ultimately destroyed by sending notifications to known parties-in-interest, including rights holders.<sup>46</sup>

Table 2 summarizes elements of the EU and U.S. approaches to combating counterfeit goods in small packages.

**Table 2: Selected Elements of European Union (EU) and U.S. Enforcement Approaches to Combating Counterfeit Goods in Small Packages**

Element	EU Customs authorities detain suspected counterfeit goods	U.S. U.S. Customs and Border Protection (CBP) determines whether goods are counterfeit
Procedure for small packages	The European Union has a streamlined destruction procedure specifically for small packages of suspected counterfeit goods. Member state customs officials detain suspected counterfeit goods if rights holders have requested this.	The United States uses seizure and forfeiture for all counterfeits, regardless of shipment size. CBP is legally required to seize all goods determined to be counterfeit, regardless of rights holder involvement.
Time frames	The detention period can be 11 business days before destruction or 21 business days before release of suspected counterfeit goods.	Seizure and forfeiture processes may take more than 120 calendar days before final disposition, which may be destruction or, where appropriate, donation.

<sup>44</sup>EU Regulation 608/2013, art. 26(7), 2013 O.J. (L 181) 30.

<sup>45</sup>In the event of seizure, CBP shall share the following information about the seized good with the rights holder within 30 days of the date of the notice of seizure: (1) the date of importation, (2) the port of entry, (3) the description of the merchandise, (4) the quantity involved, (5) the name and address of the manufacturer, (6) the country of origin, (7) the name and address of the exporter, and (8) the name and address of the importer. 19 C.F.R. §§ 133.21(e), 133.42(d).

<sup>46</sup>As noted above, seized and forfeited goods may be donated where appropriate.

Storage and destruction costs	Member state customs authorities can share costs with rights holders.	The U.S. government assumes the costs of storage and destruction.
Sharing data with rights holders	Member state customs authorities provide data to rights holders upon request and as appropriate after goods are destroyed.	CBP is required to provide certain data to rights holders upon seizure of a good bearing a counterfeit mark.

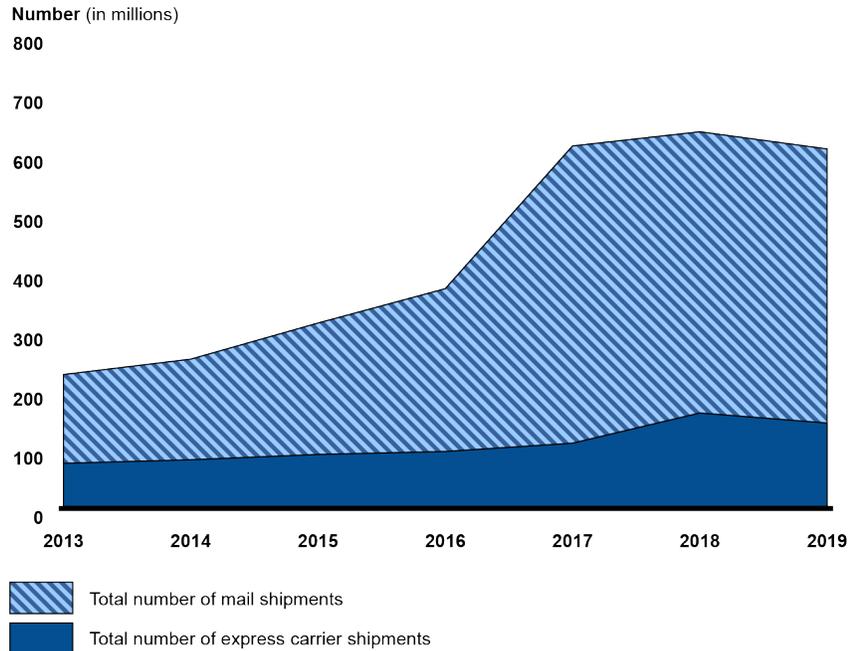
Source: GAO analysis of EU Regulation 608/2013, CBP documents, title 19 of the United States Code, and title 19 of the Code of Federal Regulations. Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15. | GAO-20-692

## EU and U.S. Customs Officials Reported They Face a High Volume of Small Packages and Lack of Data on Them

### Customs Officials Reported Enforcement Challenges and Competing Priorities Due to Increased Volume of Small Packages

EU and U.S. customs officials reported that the increased volume of small packages as a result of e-commerce is a significant challenge. The OECD has reported a substantial increase in the volume of small packages shipped internationally from 2010 to 2015. Similarly, CBP has reported that, since fiscal year 2013, the total number of small packages sent through express carriers and imported into the United States almost doubled. In the same time period, according to CBP, the total number of imported small packages sent through international mail more than tripled, increasing from about 150 million packages in fiscal year 2013 to almost 500 million in fiscal year 2019 (see fig. 5).

**Figure 5: Number of Small Packages Sent to the United States through International Mail and Express Carriers, Fiscal Years 2013–2019**



Source: GAO analysis of U.S. Customs and Border Protection (CBP) data. | GAO-20-692

**Data table for Figure 5: Number of Small Packages Sent to the United States through International Mail and Express Carriers, Fiscal Years 2013–2019**

Year	Total Number of Express Carrier Shipments	Total Number of Mail Shipments
2013	76,000,000	150,000,000
2014	82,000,000	170,000,000
2015	91,000,000	222,000,000
2016	96,000,000	275,000,000
2017	110,000,000	502,000,000
2018	161,000,000	475,000,000
2019	144,000,000	463,000,000

EU and U.S. customs officials told us that the large volume of small packages presents a challenge given their agencies' limited resources. Customs officials in the European Union stated that there are competing areas of customs enforcement responsibility—such as stopping packages that may contain drugs or weapons—and that these are often considered to be a higher priority than identifying packages with counterfeit goods. Further, one EU member state customs official stated that as e-

commerce creates a growing number of small packages shipped worldwide, individual package inspections are becoming increasingly insufficient to address the problem. One EU member state customs official stated that, while his agency had recently attempted to increase the number of inspections for counterfeit goods by 10 percent from the previous year, it was difficult not to be overwhelmed by the number of such goods coming in via small packages. An EU member state mail official we spoke with demonstrated a sorting protocol in which any package shown to have a declared value below the *de minimis* threshold was generally excluded from otherwise routine screening, due to the high volume of packages.

With respect to the recent raising of the *de minimis* amount in the United States, CBP officials told us that this has contributed to an increase in the number of packages under this threshold entering the country. According to CBP officials, the number of packages below the *de minimis* threshold processed by CBP has more than doubled since 2016. Officials stated that in fiscal year 2016, CBP processed 220 million such packages; in fiscal year 2019, the volume increased to nearly 500 million. CBP officials also told us that while the volume of small packages entering the United States has increased, the level of staff resources has remained the same. CBP officials also told us that due to resource constraints and the increased volume of small packages, the agency must prioritize resources by identifying higher-risk packages. As we have previously reported, CBP employs a risk-based approach that uses targeting and other tools to identify for further examination a selection of imported goods that arrive at U.S. ports.

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### Customs Officials Reported Lack of Data on Small Packages Limits the Ability to Determine Risk

EU and U.S. customs officials told us that they often do not receive significant, actionable data about the contents of small packages in the express carrier or international mail environments.<sup>47</sup> Specifically, customs officials stated that they lack data for small packages that are below the respective EU and U.S. *de minimis* thresholds. EU customs officials told us that there is little data on packages under this threshold because of limited entry data requirements in EU regulations. The officials stated that this, in turn, results in challenges for customs authorities who are tasked

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<sup>47</sup>EU and U.S. customs officials told us that generally the express carrier environment provides more actionable advanced electronic data than the mail environment.

with carrying out risk assessments based on this data. EU customs officials also told us that information found on entry forms for goods under the EU *de minimis* threshold of 22 euros is often insufficient to identify possible counterfeit goods for additional screening. For example, goods might be categorized in general ways that do not provide adequate information for targeting purposes. EU customs officials told us that a package might be described on entry forms as a “sample” or “kitchen hardware,” which does not provide sufficient information to determine whether to conduct additional screening. One EU customs official told us that roughly 80 percent of inbound packages from China contain electronic goods with declared values below the *de minimis* threshold. Customs officials in each EU country we visited told us that although they conduct random inspections of small packages based on available information such as the country of origin, such inspections are insufficient in number to identify all counterfeits.

CBP officials also told us that goods under the U.S. *de minimis* threshold of \$800 may lack sufficient actionable data for determining risk and initiating enforcement actions. CBP officials told us that data provided in the shipping manifest for items under the *de minimis* threshold may not be accurate indicators of risk because of the generalized description of the contents. CBP officials also told us that advanced electronic data they receive can be of low quality, because it may be incomplete, inaccurate, or both.<sup>48</sup> One CBP official stated that electronic data are particularly poor quality for e-commerce–related packages, which often have inconsistent commodity descriptions and weights. Another CBP official told us that although CBP has been receiving advanced electronic data for packages for about 2 years in the international mail environment, the information is often incomplete and difficult to use for identifying suspect shipments. A lack of adequate data may create difficulties for CBP officials in identifying

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<sup>48</sup>In September 2017, we found that CBP did not have performance goals for its pilot programs related to electronic advance data for international mail, and we recommended that it establish such goals and assess the performance of the pilots against them; CBP concurred with this recommendation. See GAO, *International Mail Security: Costs and Benefits of Using Electronic Data to Screen Mail Need to Be Assessed*, [GAO-17-606](#) (Washington, D.C.: Sept. 7, 2017). In December 2019, we found that while CBP had taken initial steps to assess advance electronic data quality and had planned coordination with the U.S. Postal Service, it had not developed regulations to clarify the U.S. Postal Service’s data transmission responsibilities in accordance with the Synthetics Trafficking and Overdose Prevention Act of 2018. See GAO, *International Mail: Progress Made in Using Electronic Data to Detect Illegal Opioid Shipments, but Additional Steps Remain*, [GAO-20-229R](#) (Washington, D.C.: Dec. 18, 2019). To outline such responsibilities, DHS drafted a rule and in August 2020 submitted it to the Office of Management and Budget for further review.

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which shipments may present a high risk of containing counterfeit goods. According to customs officials, one option for counteracting this difficulty is conducting physical inspections of individual packages and having familiarity with typical packaging for counterfeit goods in order to identify suspicious items. Officials described these kinds of physical inspections as time- and resource-consuming processes.

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## Although CBP Has Taken Steps to Address Reported Challenges, Its Primary Enforcement Processes Are Not Tailored to Combat Counterfeit Goods in Small Packages

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### CBP Conducted a Voluntary Abandonment Program Focused on the High Volume of Small Packages, but Ended It Due to Concerns from Rights Holders

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According to CBP officials, from November 2014 to February 2018, CBP conducted a pilot “voluntary abandonment” program through which CBP officers could choose to follow abandonment procedures for shipments valued below \$2,500 that contained suspected counterfeit goods. Importers, upon notification from CBP that their shipments contained suspected counterfeit goods, had the option to voluntarily abandon the items instead of going through the seizure and forfeiture processes, which, as noted previously, may take more than 120 days. Under this program, CBP considered the property abandoned and destroyed it if the importer did not respond to notification within 30 days. As part of the pilot program, the importer of record—typically the express carrier—paid for the destruction of the goods. CBP reported that the voluntary abandonment pilot increased the efficiency of counterfeit interdictions, reduced the amount of resources dedicated to the administrative actions in seizing and forfeiting goods, and created overall cost savings for the agency.<sup>49</sup> However, according to CBP officials, voluntary abandonment was an option only for importers with suspected counterfeit goods. Once a good is determined to be counterfeit, customs officials told us, they are required to proceed with the seizure and forfeiture processes.

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<sup>49</sup>Department of Homeland Security, U.S. Customs and Border Protection Office of Trade, *Intellectual Property Rights: Fiscal Year 2018 Seizure Statistics* (Aug. 9, 2019).

CBP officials told us that although some port staff members felt that this pilot program gave them an efficient tool to combat suspected counterfeit goods, CBP ended the program in February 2018 in response to negative feedback from rights holders. According to CBP officials, rights holders wanted data on abandoned goods in order to pursue their own IPR enforcement efforts, but CBP officials told us that they were not legally able to provide any information about goods destroyed under this program. According to CBP, under current regulations, when goods are voluntarily abandoned, rights holders do not receive information that would be provided if the goods were seized for bearing a counterfeit trademark.<sup>50</sup> CBP officials told us that additional regulatory authority would be required in order to provide information on abandoned goods to rights holders. In August 2019, CBP issued a notice of proposed rulemaking that would allow CBP to provide the same eight elements of information to rights holders for goods that are abandoned as when goods with a counterfeit trademark are seized.<sup>51</sup> The notice of proposed rulemaking also states that rights holders may use this information to help CBP prevent IPR violations by identifying sources or channels of counterfeit shipments. CBP officials told us in June 2020 that, as the proposed rule is still under review, there is no anticipated time frame for implementation.

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## CBP Initiated an Effort to Seek Additional Data on Small Packages

CBP began a voluntary pilot program in August 2019 to improve its ability to identify and target high-risk risk shipments, including counterfeit goods in small packages, by collecting additional data from participating carriers, e-commerce platforms, brokers, and other e-commerce actors.<sup>52</sup> As part of this voluntary program, participants electronically transmit to CBP certain additional data elements that are not required under existing

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<sup>50</sup>Disclosure of Information Regarding Abandoned Merchandise, 84 Fed. Reg. 44,790, 44,791 (Aug. 27, 2019).

<sup>51</sup>84 Fed. Reg. 44,790. CBP proposed sharing the following information about abandoned goods: (1) the date of importation, (2) the port of entry, (3) the description of the merchandise, (4) the quantity involved, (5) the name and address of the manufacturer, (6) the country of origin, (7) the name and address of the exporter, and (8) the name and address of the importer.

<sup>52</sup>The purpose of the voluntary data pilot is also to identify and target narcotics, weapons, and other health and safety risks in the express carrier and international mail environments.

regulations for packages under the U.S. *de minimis* value of \$800. CBP reported that the purpose of the pilot program is to alleviate the challenge that CBP faces in efficiently targeting packages below the *de minimis* threshold given that it does not receive adequate advance information to assess the security risk of these packages. Data elements transmitted to CBP through this program include: the name and address of the seller, the shipper, an enhanced product description, a hyperlink to the product listing, a picture of the product, the listed marketplace price, the consignee, the “deliver to” person, and the buyer. The additional data provided will be used to target high-risk shipments in the e-commerce environment, and also to identify the entity transporting the shipment, the final recipient, and the contents of the package. CBP officials told us that U.S. ports and the National Targeting Center began using this data for targeting in early 2020. According to CBP officials, as of July 2020, CBP has received enhanced data for more than 20 million shipments through this pilot. CBP officials told us that there have been some challenges due to pilot participants not meeting technical specifications for transmitting data; however, CBP port officers stated that the enhanced data have been helpful for verifying the contents of shipments held for examination. Officials stated that the data helped officials to more quickly assess and adjudicate e-commerce risk before shipments arrive in the United States. CBP officials told us that the pilot program will continue through August 2021.

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### CBP’s Primary Enforcement Processes Are Not Tailored to Address Counterfeits in Small Packages

While CBP has taken steps to address challenges related to counterfeit goods entering the United States in small packages, its primary enforcement processes—seizure and forfeiture—are not designed to address the risk related to such packages. According to CBP officials, seizure and forfeiture of counterfeit goods are time- and resource-consuming processes. However, CBP officials told us that, by law, upon determining that a good is counterfeit CBP must seize the good and complete the forfeiture process, including in cases where the item in question is below the *de minimis* threshold of \$800. CBP was unable to estimate the average cost or cost range for seizing and forfeiting counterfeit goods; however, officials told us that the cost to process a seizure likely exceeds \$800 on average. As such, CBP is required to conduct seizure and forfeiture even in cases where the value of a counterfeit good is much lower than the cost of such enforcement.

In April 2019, the White House released a presidential memorandum that required DHS and other agencies to identify appropriate administrative, regulatory, or statutory changes, including enhanced enforcement actions, to mitigate the trafficking of counterfeit goods.<sup>53</sup> In its January 2020 response to the presidential memorandum,<sup>54</sup> DHS listed several actions it could pursue, which included pursuing a modernized enforcement framework reflecting the current international e-commerce environment. The response identified several options, including exploring the use of summary forfeiture of counterfeit goods, similar to the treatment of Schedule I and II narcotics, as a potential way to streamline enforcement actions. Specifically, such summary forfeiture would allow CBP to treat counterfeit goods as equivalent to Schedule I and II narcotics, and such treatment could require fewer notifications steps than the seizure and forfeiture of counterfeit goods. However, CBP officials told us that this and other approaches outlined in the response were notional in nature, and that they are exploring these options. CBP officials stated they have not yet taken steps they identified as necessary to moving forward with a streamlined enforcement approach, such as assessing the feasibility and impact of summary forfeiture in order to commit to pursuing the statutory change that would be needed to authorize CBP to use it against counterfeits. In March 2020, CBP officials stated that they were also considering legal, regulatory, and policy changes to address operational challenges related to streamlining the processes for seizing, abandoning, and forfeiting counterfeit goods. However, CBP officials stated that they had not made any final decisions as to which options to pursue to address this issue.

Without taking steps to develop possible new enforcement actions to streamline what officials described as the time- and resource-intensive processes of seizure and forfeiture, CBP may be unable to efficiently take action against small packages of counterfeit goods and keep pace with the increasing flow of such goods into the country. While the number of small packages entering the United States through express carrier and international mail more than doubled from fiscal year 2013 to fiscal year 2019, increasing 169 percent, CBP reports that its IPR seizures increased

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<sup>53</sup>The White House, *Memorandum on Combating Trafficking in Counterfeit and Pirated Goods* (Apr. 3, 2019).

<sup>54</sup>Department of Homeland Security, Office of Strategy, Policy, and Plans, *Combating Trafficking in Counterfeit and Pirated Goods: Report to the President of the United States* (Jan. 24, 2020).

by 13 percent during this period.<sup>55</sup> Federal internal control standards state that management should identify, analyze, and respond to risks related to achieving its defined objectives and that management may need to conduct periodic risk assessments to evaluate the effectiveness of the risk response actions.<sup>56</sup> In doing so, management should analyze identified changes, and the effect of such changes, and respond by revising the system on a timely basis, when necessary, to maintain its effectiveness. Without developing a streamlined enforcement approach focused on small packages to respond to the growing volume of such packages entering the United States, CBP may be limited in its ability to address risks associated with this change, such as increased imports of counterfeit goods.

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## Conclusions

The EU and U.S. customs authorities differ in several elements regarding how they address counterfeit goods in small packages. Despite their differing approaches, both reported facing similar challenges regarding the increase in volume of and lack of data about small packages, hindering their ability to effectively take enforcement actions. CBP has taken some steps to address challenges presented by counterfeit goods in small packages. These steps include implementing and concluding a pilot program that allowed for the abandonment of suspected counterfeit goods, so that such goods could more quickly be destroyed and thus removed from the U.S. economy. Additionally, CBP has begun to obtain additional data for lower-value goods in small packages that typically enter the United States with little or poor-quality data about their contents, origin, or destination.

CBP is considering alternative approaches to streamline the enforcement process to address the specific risks posed by counterfeit goods. However, CBP describes these approaches as notional, and while it is exploring these approaches, it has not taken necessary steps to determine which, if any, to implement. Unless CBP takes steps to develop a streamlined enforcement approach to combating counterfeit goods in

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<sup>55</sup>As noted earlier in this report, according to CBP, the number of IPR seizures decreased in fiscal year 2019 due to (1) the one-month government shutdown and (2) challenges at the U.S. southern border.

<sup>56</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014), Principle 7—Identify, Analyze, and Respond to Risks.

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small packages, it will continue to rely exclusively on the time- and resource-intensive processes of seizure and forfeiture for such packages. Given the increased volume of such packages, CBP's use of these enforcement approaches may be insufficient to protect both the intellectual property of rights holders and the safety of U.S. consumers. Developing a streamlined enforcement approach could further CBP's efforts to address counterfeit goods in small packages in an efficient and effective way and reduce the resource-intensive nature of current enforcement actions, potentially creating cost savings.

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## Recommendation for Executive Action

We are making the following recommendation to CBP:

The Commissioner of CBP should take steps to develop a streamlined enforcement approach to counterfeit goods in small packages. This may include assessing the feasibility and impact of such an approach, including any potential for cost savings. (Recommendation 1)

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## Agency Comments

We provided a draft of this report to DHS, the Department of State, and the Department of Commerce for review. DHS generally concurred with our recommendation. In its comments, reproduced in appendix III, DHS noted that CBP is considering steps to expedite its seizure and forfeiture processes and thereby streamline its approach for processing IPR violations in small packages. DHS noted that, by January 2021, CBP's Office of Trade will implement a policy to streamline its forfeiture process for seized merchandise valued under \$2,500, and that this policy would result in such low-value shipments reaching a final disposition within 30 days of seizure. DHS expects that this streamlining will reduce the resources necessary for storage and other administrative costs related to enforcement against these goods. DHS and the Department of Commerce also provided technical comments, which we incorporated as appropriate. The Department of State did not provide technical comments.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretaries of Homeland

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Security, State, and Commerce, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>. If you or your staff has any questions about this report, please contact me at (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "Kimberly Gianopoulos". The signature is written in a cursive style with a large, sweeping initial "K".

Kimberly Gianopoulos  
Director, International Affairs and Trade

## Appendix I: Objectives, Scope, and Methodology

We examined (1) how selected elements of the European Union (EU) and U.S. approaches to combating counterfeit goods in small packages compare, (2) any common challenges reported by EU and U.S. customs officials in conducting enforcement against such goods, and (3) the extent to which U.S. Customs and Border Protection (CBP) has taken steps to address these challenges.<sup>1</sup>

To identify and compare selected elements of the EU and U.S. approaches to combating counterfeit goods in small packages, we reviewed EU and U.S. laws and regulations, including EU Regulation 608/2013,<sup>2</sup> and sections of the United States Code pertaining to seizure and forfeiture, as well as CBP guidance on these topics.<sup>3</sup> In addition, we reviewed government reports, including those produced by the European Union Intellectual Property Office, EU member state customs authorities, the Department of Homeland Security, CBP, and the Office of the U.S. Intellectual Property Rights Enforcement Coordinator. We also reviewed reports on counterfeits and enforcement frameworks for small packages from international organizations, including the World Customs Organization and the Organisation for Economic Co-operation and Development. In the European Union and the United States, we interviewed a total of 56 customs officials and representatives of postal services. During fieldwork in Europe in November 2019, we interviewed EU officials in Belgium from the Directorate-General of Taxation and Customs Union (DG TAXUD), which coordinates with member states in implementing EU Regulation 608/2013, as well as cognizant officials from the customs authorities and postal services of France, Germany, and the

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<sup>1</sup>For the purposes of this report, we use the term “counterfeit goods” to refer to any physical goods that violate a trademark or copyright authority. We did not review “gray market” goods—items legally manufactured abroad and imported into the United States without the consent of the trademark holder—because they are not counterfeit goods and are therefore outside the scope of this review.

<sup>2</sup>Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15 (hereinafter “EU Regulation 608/2013”).

<sup>3</sup>This includes relevant sections of Title 19 of the United States Code.

Netherlands. We selected these locations based on input from knowledgeable U.S. agency officials and private sector stakeholders with experience in both the EU and U.S. customs environments, and through a review of available English-language information on relevant laws and processes for enforcement against counterfeit goods. Because the specifics of each of these EU countries' practices differ, we describe the details of these practices in appendix II. In addition, we interviewed CBP officials in Washington, D.C., as well as in the field at the Port of Los Angeles/Long Beach, California. We selected this field location because it processes a sizeable portion of goods entering the United States and has had a significant role in seizures of counterfeit goods. Observations from our fieldwork there are not generalizable to all locations where intellectual property rights (IPR) enforcement takes place. To understand the differences in conducting enforcement against counterfeit goods entering the European Union and the United States in small packages, we interviewed private sector stakeholders, including four representatives of e-commerce platforms, seven representatives of express carriers, and eight representatives from associations of owners of intellectual property rights. We selected these individuals in consultation with cognizant U.S. officials and through a review of information available online. We analyzed these documents and interviews in order to develop major points of comparison of the EU and U.S. approaches, and describe differences between these approaches in the areas of (a) focus on small packages, (b) time frames, (c) costs, and (d) information sharing.

To identify common challenges reported by EU and U.S. customs officials in conducting enforcement against counterfeit goods in small packages, we interviewed cognizant customs officials at DG TAXUD headquarters in Belgium, and customs officials in France, Germany, and the Netherlands. We also interviewed CBP officials from the Office of Field Operations, Office of Trade, the National Targeting Center, and the Fines, Penalties, and Forfeitures office, as well as CBP officials from the Port of Los Angeles/Long Beach, California. We analyzed the results of these interviews in order to identify the challenges reported by customs officials in the European Union and the United States. We grouped the reported challenges into categories, and determined the frequency with which officials in each location reported challenges in each category. Our analysis does not constitute the entirety of relevant challenges, but is intended to highlight significant ones that were common to both the European Union and the United States. The results of this analysis are not generalizable beyond the uses in this report.

To determine the extent to which CBP has taken steps to address the challenges it faces in conducting enforcement of intellectual property rights with respect to goods in small packages, we reviewed documents, including the April 2019 *Memorandum on Combating Trafficking in Counterfeit and Pirated Goods*, issued by the White House.<sup>4</sup> We also reviewed the Department of Homeland Security's January 2020 response to this memorandum, *Combating Trafficking Report to the President*.<sup>5</sup> In addition, we reviewed agency documentation related to CBP's efforts in this area, including its annual IPR seizure reports.<sup>6</sup> We assessed the reliability of the data in these reports through review of previous GAO work using these data, and through interviews with CBP officials to identify any changes since the use in previous work. We determined the data to be sufficiently reliable for our purposes. We also interviewed cognizant CBP officials about the agency's previous, ongoing, and planned efforts related to counterfeit goods in small packages, and assessed these efforts against relevant federal internal control standards, specifically, Principle 7—Identify, Analyze and Respond to Risks.<sup>7</sup>

We conducted this performance audit from April 2019 to September 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>4</sup>The White House, *Memorandum on Combating Trafficking in Counterfeit and Pirated Goods* (Apr. 3, 2019).

<sup>5</sup>Department of Homeland Security, Office of Strategy, Policy, and Plans, *Combating Trafficking in Counterfeit and Pirated Goods: Report to the President of the United States* (Jan. 24, 2020).

<sup>6</sup>CBP's website lists annual IPR seizure statistics dating back to fiscal year 2003. See <http://www.cbp.gov/trade/priority-issues/ipr/statistics>.

<sup>7</sup>GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

## Appendix II: Intellectual Property Rights Enforcement Practices of Selected European Union Countries

### France

In France, according to customs officials, domestic laws establish the authority to seize goods if a customs official determines that the goods are obviously counterfeit. As such, while French customs officials do use the general procedure for counterfeit goods outlined in European Union (EU) Regulation 608/2013,<sup>1</sup> small packages are seized under domestic authority if a customs officer identifies the goods as counterfeit. French authorities told us that they also have the authority to seize counterfeit goods found within the domestic market; according to French officials, these goods make up the majority of counterfeit goods seized.

French customs officials told us that counterfeit goods identified entering France are destroyed after seizure. According to customs officials, France shares information on destroyed packages with rights holders only for detentions made under the general procedure of EU Regulation 608/2013. For example, at Charles de Gaulle airport, updates with summary-level data have been provided on an informal basis to rights holders who are able to meet with customs officials there. French customs officials told us that, in case of seizure based on domestic laws, French customs is not legally allowed to share information about seizure with rights holders. At the time of our November 2019 meetings with French customs officials and rights holders, representatives of these groups told us that France had recently begun to require that rights holders cover a portion of the cost of destruction, as the EU regulation allows.

Express Carriers Transport Small Packages



Packages arrive via express carrier at Paris-Charles de Gaulle Airport.

Source: GAO. | GAO-20-692

<sup>1</sup>Regulation (EU) No. 608/2013 of the European Parliament and the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003, 2013 O.J. (L 181) 15 (hereinafter “EU Regulation 608/2013”).

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## Germany

According to German customs officials, Germany implements the process in EU Regulation 608/2013 for destroying suspected counterfeits in small packages, and has added thresholds that rights holders can adjust to avoid being notified for quantities of goods that they feel do not merit the resources involved in a response. German customs officials told us that these thresholds for action, which are not a formal part of the EU regulation, also help reduce the administrative cost to customs of detaining suspected counterfeits in cases where the rights holder is not interested in such enforcement. According to German customs officials we spoke with, about 20 percent of rights holders implement such thresholds. German customs officials we spoke with told us that Germany requires rights holders to pay a portion of destruction costs, and charges a flat fee per item for destruction of suspected counterfeit goods.

Small Packages to be Sorted



Small packages to be sorted at the Deutsche Post DHL Frankfurt Airport mail facility.

Source: GAO. | GAO-20-692

Inspection of Incoming Packages



A Dutch Customs official inspects incoming packages at a national postal facility.

Source: Dutch Customs. | GAO-20-692

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## The Netherlands

According to Dutch customs officials, the Netherlands implements the process for detaining suspected counterfeits in small packages as outlined in EU Regulation 608/2013, and, similar to Germany, offers thresholds for action to rights holders. In addition, customs officials told us that they maintain a list of rights holders that have a history of not responding to notifications of detained goods. The officials stated that customs will stop contacting those rights holders once they have been determined to be non-responsive. Dutch customs officials told us that they generally do not regularly share information with rights holders about destroyed small packages, but will provide summary data if a rights holder requests this. According to Dutch customs officials, React, an association of rights holders, manages most of the destruction process with customs by taking the suspected counterfeit items and recycling them. Rights holders pay a membership fee to participate in React; however, according to Dutch customs officials, this does not cover the total cost of recycling of suspected counterfeit goods, and customs will send a separate invoice to members for associated costs.

## Appendix III: Comments from the Department of Homeland Security

U.S. Department of Homeland Security  
Washington, DC 20528



August 25, 2020

Kimberly Gianopoulos  
Director, International Affairs and Trade  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-692, "INTELLECTUAL  
PROPERTY: CBP Has Taken Steps to Combat Counterfeit Goods in Small  
Packages but Could Streamline Enforcement"

Dear Ms. Gianopoulos,

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

DHS is pleased to note that GAO's draft report highlights that U.S. Customs and Border Protection (CBP) has taken steps to address challenges related to enforcing intellectual property rights (IPR). The Department agrees with the need for CBP to continue strengthening its seizure processes for IPR trade violations with respect to small packages and is committed to exploring the avenues discussed in this report to make progress on this goal.

CBP is facing an unprecedented number of counterfeit goods arriving in small packages that infringe on IPR, which can harm the U.S. economy and threaten consumer safety. During fiscal year 2019 alone, CBP processed more than 600 million small packages, including 144 million express consignment and 463 million international mail shipments. This large volume of small packages presents challenges that make trade enforcement difficult for CBP.

CBP continues to address the challenges presented by the influx of counterfeit goods in small packages. For example, CBP is working to implement the action items listed in the DHS January 24, 2020, report "Combating Trafficking in Counterfeit and Pirated Goods:

**Appendix III: Comments from the Department  
of Homeland Security**

Report to the President of the United States” (DHS Report). In particular, CBP and DHS are seeking (1) ways to create a modernized e-commerce enforcement framework, as consumers are increasingly using e-commerce platforms to make purchases, and (2) avenues to enhance regulatory and statutory authority to streamline our e-commerce enforcement processes with respect to IPR violative goods.

Additionally, CBP regularly engages with the Commercial Customs Operations Advisory Committee (COAC) IPR Working Group to explore ways to enhance and streamline CBP’s seizure processes. The COAC IPR Working Group, which is comprised of IPR industry stakeholders, made several recommendations to CBP with respect to improving IPR enforcement, to include naming parties that consistently import IPR-infringing goods, and updating CBP’s regulatory framework. CBP is working to prioritize these recommendations and solicit the working group members for feedback on the implementation of action items in the DHS Report.

CBP is also considering steps to expedite its seizure processes and streamline its approach for processing IPR violations in small packages. During January 2020, for instance, the CBP Office of Trade (OT) held an internal IPR summit with CBP officials from field operations to discuss actionable ways in which its seizure processes could be streamlined. The summit brought together field experts and policy officials for the purpose of assessing and finding avenues to mitigate the issues surrounding the influx of goods in the small package environment. Following the IPR summit, CBP OT and Office of Field Operations established an internal expedited seizure working group. This working group, with IPR stakeholders from various offices within CBP, is working to build on the progress made in the IPR summit and to enhance CBP’s seizure procedures within existing regulatory and statutory frameworks.

The draft report contained one recommendation, with which the Department concurs. Attached find our detailed response to the recommendation. DHS previously submitted technical comments under a separate cover for GAO’s consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H

CRUMPACKER

JIM H. CRUMPACKER, CIA, CFE

Director

Departmental GAO-OIG Liaison Office

Digitally signed by JIM H  
CRUMPACKER  
Date: 2020.08.25 16:28:23  
-0400

Attachment

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**Attachment: Management Response to Recommendations  
Contained in GAO-20-692**

GAO recommended that the Commissioner of CBP:

**Recommendation 1:** Take steps to develop a streamlined enforcement approach to counterfeit goods in small packages. This may include assessing the feasibility and impact, including any potential for cost savings, of using summary forfeiture for such goods, or developing additional options for streamlining the process.

**Response:** Concur. CBP's OT will implement a policy to streamline its current process on the forfeiture and disposition of seized merchandise, valued under \$2,500. The new streamlined policy will be accomplished by issuing a Notice of Seizure concurrent with the publication of forfeiture notices, thus resulting in the adjudication of these low valued shipments within 30-days from the date of seizure. The new policy will reduce resources for storage, inventory and other administrative functions. Estimated Completion Date: January 29, 2021.

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## Text of Appendix III: Comments from the Department of Homeland Security

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Page 1

August 25, 2020

Kimberly Gianopoulos

Director, International Affairs and Trade

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548

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## Page 2

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JIM H. CRUMPACKER, CIA, CFE

Director

Departmental GAO-OIG Liaison Office

Attachment

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Page 3

Attachment: Management Response to Recommendations Contained in GAO-20-692

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**Recommendation 1: Take steps to develop a streamlined enforcement approach to counterfeit goods in small packages. This may include assessing the feasibility and impact, including any potential for cost savings, of using summary forfeiture for such goods, or developing additional options for streamlining the process.**

**Response: Concur.**

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## Appendix IV: GAO Contact and Staff Acknowledgments

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### GAO Contact

Kimberly Gianopoulos, (202) 512-8612 or [gianopoulosk@gao.gov](mailto:gianopoulosk@gao.gov)

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### Staff Acknowledgments

In addition to the contact named above, Joyee Dasgupta (Assistant Director), Cristina Ruggiero (Analyst in Charge), Jina Yu, Megan Stewart, Justin Fisher, William Johnson, Chris Keblitis, Reid Lowe, Grace Lui, Seyda Wentworth, and Kirk Kiester made key contributions to this report.

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Washington, DC 20548

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U.S. Government Accountability Office, 441 G Street NW, Room 7149  
Washington, DC 20548

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## Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707  
U.S. Government Accountability Office, 441 G Street NW, Room 7814,  
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