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Summary

Counterfeiting is a growing and increasingly dangerous phenomenon. There has recently been an enormous growth in the illegal market for designer goods with a 'name' or trademark (counterfeit goods), as well as goods made without paying for the intellectual property rights (pirated goods). Quite apart from having economic consequences, counterfeited and pirated articles threaten the health and safety of EU citizens, their jobs, Community competitiveness, trade, and investment in research and innovation. The agrofood Italian production, famous all over the world for their qualitative characteristics, it reenters among the products that are imitated. The imitation of such products certainly risks to damage the Italian productions, above all in comparison to the parameters of the quality and the food safety, both instruments of marketing used by the Italian producers in the international markets. The purpose of the paper is develop a collective understanding of the extent of the food (agro-food) counterfeit problem. The carrying out of the study foresees, initially, to consider the volumes of counterfeit commodities to world level and the politics harvest in action from the various countries to oppose this phenomenon. Subsequently the agrofood productions will be analyzed, and particularly those Italian, object of imitation trying to quantify their characteristics and to measure its effects on the economic systems.

KEYWORDS: counterfeit, Italian food production

1. Introduction

On the international scene Italy is one of a number of countries which possess a rich and varied agricultural and food heritage, due to its historical and cultural traditions, its wealth of natural resources and variety of pedological and climatic environments. The food industry plays a significant role in the Italian economy in terms of both turnover and employment, and is of strategic importance not only to meet domestic requirements but also on account of the export capacity it offers.

As is known, food production in Italy is increasingly oriented towards quality, especially in the form of certified products, both traditional (i.e. those recognised by the Ministry for Agriculture) and organic. In 2005, the turnover for sales of these products was 30 billion 560 million Euros, representing an increase of 2.8 per cent as compared with 2004. Export figures were also considerable, amounting to over 4 billion 678 million Euros, an increase of 10.3% on 2004 (MIPAF, 2005). Currently there are over 700 certified PDO (Protected Designation of Origin), PGI (Protected Geographical Indication), and TSG (Traditional Speciality Guaranteed) products in Europe (including wines) and as many again awaiting recognition by the EU. The economic strength of these products is significant above all in Italy, the European leader in this sector, with 155 recognised products.

In this context, Italian food products are often counterfeited and imitated. The former case refers to adulterated products, obvious fakes, the misleading use of geographical origin or counterfeited sell-by dates; the latter refers to the use of "Italian-sounding" names or images. In reality the problem does not only concern food products: the phenomenon has

reached enormous proportions, affecting products of all kinds, violating intellectual property and thus becoming a legally pursuable offence.

The purpose of the paper is develop a collective understanding of the extent of the food (agro-food) counterfeit problem, and to identify effective anti-counterfeiting measures to be taken by governments and the private sector.

The aim of the study is initially to consider the volume of food production, particularly in Italy, and then that of counterfeit commodities at a worldwide level.

It will then focus on the phenomenon of illegal counterfeiting at a European and national level (thus neglecting the phenomenon of imitation), investigating the evolution of seizures by EU customs authorities and trying to quantify the consumption of fake Italian products. Finally, the main lines of development of EU regulations drawn up to combat the phenomenon will be traced.

2. The value of Italian food products

Italy possesses a vast food and wine heritage that needs protecting and at the same time promoting at an international level.

Typical national products (DOC, DOCG, PDO, TGI, PGI) are the “jewel in the crown” of a highly differentiated and diversified range of products, and the presence on the international market of consumers who are becoming increasingly aware of nutritional aspects, in terms of calories, and the genuine, original and unique nature of certain products has created fertile ground for the popularity of the “Mediterranean diet” and the products it comprises. In the last few years Italian food and wines have become a distinctive feature of Italian style, representing one of the factors contributing to the success of products “Made in Italy”.

Typical and traditional food products are produced throughout the country and this has favoured the development of a national food “awareness”, thanks to which great attention is paid locally to supporting this sector, viewed as being of primary importance.

The Italian food industry is second, in terms of turnover, only to the metal and mechanical sector and, according to the most recent data available (INEA, 2006) in 2005 the production amounted to a value of 102,400 billion Euros (base prices), representing 5.1% of the GDP in the year 2004.

There are more than 70,000 companies working in the sector (13% of the total amount of manufacturing industries) and they provide employment for about 450,000 workers (9.0% of the total) mostly concentrated in the central and northern regions. Most are small to medium enterprises, although takeovers occurring over the last few years have resulted in over 50% of the turnover being made by a limited number of multinationals and large Italian corporations. The growing attention paid to quality and the promotion of company images has not, however, sufficed to qualify the whole sector from an entrepreneurial viewpoint. Whereas the great number of Italian agricultural and food enterprises points to the wealth of the sector, it also shows its inherent structural weakness: the fragmentation of the supply deprives the Italian food industry of the bargaining power it needs to fully penetrate international markets and compete with its foreign counterparts.

This structural weakness is, however, in part compensated for by specialisation, considering that a large number of small enterprises offer typical products of quality, often with protected designation of origin, which place them in profitable market niches protected from competition by large industrial groups.

In the framework of Italian import-export movements, the weight of the food industry is falling slightly: in 2005 it deteriorated, exhibiting a negative balance passing from 6,856 to 7,190 million Euros (Tab. 1). The most recent data (October 2006) point to good prospects for the future, showing an improvement in Italy’s structural deficit towards the rest of the world with the negative balance dropping to 6,316 million Euros. Most Italian food products exported go to the EU (68.5%) and North America (13.4%). In 2005, six countries

accounted for 63.9% of total exports: Germany (21.3%), France (12.1%), the USA (11.5%), the UK (9.6%), Switzerland (4.5%) and Spain (4.9%). The same applies to the first ten months of 2006.

In terms of the most important commodities, in 2005 in decreasing order by the value exported we have: wine (16.8%), fruit and vegetable products (14.1%), preserves and juices (8.8%), confectionery (8.7%), meat (8.2%), oil and fats (7.7%), pasta (7.3%) and dairy products (7.2%). The situation in October 2006 was similar: wine (16.6%, or 2,562 million Euros), fruit and vegetable products (13.4%, or 2,078 million Euros), confectionery (9.3%, 1,439 million Euros), meat (8.1%, 1,251 million Euros), oil and fats (8.3%, 1,287 million Euros), pasta (7.3%, 1,125 million Euros) and dairy products (7.1%, 1,091 million Euros). The top five food products exported by Italy are representative of the Mediterranean tradition: red and rosé VQPRD wines, pasta, canned tomatoes and tomato paste, olive oil and biscuits; as regards imports, the top five products show up the weakness of certain sectors of the Italian food industry: imports are mainly beef and pork, frozen crustaceans and molluscs and bovine breeding stock.

The Italian share of the international market in this sector has been stable for several years, oscillating between 3.8% and 4%, which is substantially in line with the overall Italian share of worldwide import-export movements. Observing the range of certified D.O.P. and I.G.P. products, the turnover in 2004 was estimated at about 7.8 million Euros, over 1.5 million of which derived from exports. More specifically, the estimated total turnover can be subdivided into the following sectors: cheeses 4,346 million Euros, about 14% of which is exported; processed meat products 2,800 million Euros, 22% of which in exports; fruit, vegetables and cereals 75 million Euros, about 17% in exports; olive oil 46 million Euros, over 41% exported. Exports of D.O.C.G. and D.O.C. wines, which accounted for 21% of the world market in 2002, exceeded 3 billion Euros (CNEL 2004).

3. *The value of counterfeit products*

It is difficult to quantify the flow and provenance of counterfeit products at a world level. In past years the Counterfeiting Intelligence Bureau set up by the International Chamber of Commerce (ICC), stated that the value of counterfeit goods ranged between 5-7% of worldwide trade, amounting to 200-300 billion Euros a year (Counterfeiting Intelligence Bureau 1997). More recent studies claim that the sale of counterfeit products or reproductions represent as much as 9.5 of world trade. About 27 per cent of counterfeit products come from the Mediterranean basin and are destined for sale in Europe, the United States, Africa and Eastern Europe. 73 per cent, on the other hand come from South-East Asia; their destinations are about 60 per cent to the EU and the remaining 40% to non-EU markets. As regards capacity for counterfeit production, the countries with the largest number of enterprises devoted to this activity are, in order of magnitude, Thailand, China, Korea, The Czech Republic, Turkey and Taiwan. In these countries the phenomenon accounts for a significant part of the GDP. In China alone, the counterfeiting industry has a turnover of over 34 billion dollars a year. The sectors most hit are toys, ceramics, hi-tech, electronic and mechanical products, and textiles (IPI 2004).

As far as the European situation is concerned, according to a report published by the European Commission's Taxation and Customs Union Office, in 2005 38% of products intercepted entering the EU came from China, 10% from Thailand, 8% from Hong Kong, 7% from Turkey, 4% from the USA, and 33% from other countries. This is certainly destined to grow: counterfeit products seized in 2005 represented an increase of 118 per cent as compared with the previous year. These phenomena are in practice difficult to measure: EU statistics make it possible to quantify the overall amount of products seized by EU customs authorities, but they are lacking in detail as food products are not grouped specifically but generically classified as "foodstuffs, alcoholic and other drinks".

With all due caution as to the reliability of the data, it is still possible to trace certain trends in the phenomenon being observed. In the European food sector, there has been a constant growth in counterfeiting in the last five years, going from 10 cases of products seized by customs authorities to 50 cases in 2005. The number of items seized went from about 2,350 million to 5,230, and the percentage of food products seized as compared with the total went from 4% to 7% (Tab.2).

If we observe the provenance or origin of the food products seized, it can be seen that the countries most involved are Turkey, China and Thailand, which correspond in substance with the provenance of counterfeit products in general. A surprising finding is the high value attributed to "other countries", which would suggest that although some countries can be defined as leaders in the field of counterfeiting, there are a series of satellite countries producing counterfeit goods, albeit in lesser quantities (Tab. 3).

As regards Italian food products, it is again difficult to provide an estimate of the economic damage caused. According to Federalimentare, the Italian Federation of Food Industries, it can be quantified, at least as far as the American market is concerned, as amounting to 1,510 million Euros, i.e. 70% of the corresponding value of the counterfeit products (Federalimentare 2003). From analysis of the data it is evident that there is a lack of balance between the level of the counterfeit phenomenon in the EU and in North America. Also evident is the economic damage, in terms of exports, suffered by Italy, not least in consideration of the fact that the phenomenon is rapidly expanding; despite cautious estimates which do not predict geometrical progression (i.e. annual figures constantly doubling), Federalimentare estimated that a threshold of 5.4 billion Euros would be reached in 2006 (Tab.4).

4. Legislative measures

Considering that counterfeiting, imitation and piracy have become a consolidated phenomenon of international proportions, and that besides having serious economic and social repercussions they jeopardise the regular functioning of the market and deceive consumers, there is an urgent need for legislative measures, provisions and initiatives to limit their effects, in particular on the competitiveness of enterprises, both Italian and foreign, in the international context in which they operate.

The earliest EU intervention in this direction was the European Commission's Green Paper, adopted in 1998, which launched general consultation on the issue; the most recent are EC Regulation 1383/2003 which replaced Reg. 3295/94 and Reg. CE 1891/2004.

In recent years the EU has also issued communications (COM (2000)789 def.; COM (2005) 479 def.) and directives (2004/48/CE), with the aim of improving and strengthening the fight against counterfeiting and piracy, and in particular at making better use of existing information systems; reinforcing cooperation between the private sector (e.g. the holders of intellectual property rights) and public authorities (customs authorities); and standardising and harmonising both EU measures and the framework of procedures and sanctions established by the Member States.

The most recent provision extends customs control from counterfeit goods to cases of encroachment on intellectual property rights regarding food products with protected designations of origin. It also expedites procedures for those needing to assert rights to trademarks, especially small to medium enterprises.

It is also known that the EU recognises protection for products with designation of origin, especially food products, although this protection does not extend beyond the EU itself. The only protection available for non-certified products appears to be the registration of trademarks together with the compulsory use of labelling indicating the origin of products, thus allowing consumers to know what they are buying.

Interest has also been shown at an international level, especially by the World Trade Organization (WTO), although the debate would currently appear to have dried up.

At a national level various initiatives have been taken in Italy to protect food (and other) products in the attempt to prevent imitations and thus competition with products genuinely made in Italy.

The juridical basis supporting the activity of the customs authorities regarding goods suspected of being counterfeit is mainly provided by Art. 4 of the 2004 “Legge finanziaria” (Finance Bill) and EU regulations.

The measures set forth in the Finance Bill introduce heavier penal sanctions concerning counterfeiting; the setting up of an operations centre with a database containing images scanned during customs checks; a multimedia database with the aim of protecting both products and holders of trademarks (the FALSTAFF Project); the creation of single customs offices to reduce the time required for customs clearance; the transmission of Ministry circulars and directives to Customs offices regarding the rationalisation and application of customs intervention; the sharing of information with other organisations for the purpose of intercepting illegal trafficking.

The essential driving force behind the fight against counterfeiting is operating in “partnership” with the system of enterprise, with the aim of acquiring detailed knowledge of the nature, structure and requirements of the market and thus facilitating the role assigned to customs authorities, above all by extending their territory of competence within the EU and the further opportunities this expansion would provide.

5. Final remarks

The amount of “fakes” on the market has now reached enormous proportions, with significant consequences for various sectors, including the food industry, and heavily penalising Italy’s export capacity. But the limitations in market access, with imitations stealing a large amount of space from authentic products, are not the only effects, as these imitations are often accompanied by aggressive price lowering strategies which induce consumers to opt for counterfeit products. In addition, the resulting image of poor quality certainly does not help the global image of the sector.

From the concise survey conducted EU statistics do not make it possible to analyse the phenomenon in great detail: although they quantify the amount of goods seized by customs in the EU, they provide very little detail, classifying food products under the generic heading “foodstuffs, alcoholic and other drinks”, thus not identifying not only products with DOP and IGP certificates but also conventional ones. In addition, there is no data regarding investigations conducted by non-EU countries, nor is it possible to know the proportions of the phenomenon outside the EU.

It seems clear that countries in which the fake industry is rife are focusing increasingly on widely and commonly used products and observation of the provenance of the products seized shows that it is substantially the same as that of generic counterfeit goods. This means that there is no specific specialisation: fakers tend to fake in all categories of goods.

The problem is without doubt of international interest: to fight the phenomenon it appears necessary not only to intervene by means of regulations (the recent legislative measures adopted in the EU seem appropriate) but also to establish trade agreements under the guidance of organisations such as the WTO, so as to guarantee products of quality, both Italian and European.

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Tables

Table 1. The agro-food Italian balance (millions euros value)

	Export			Import			Saldi		
	2004	2005	Var %	2004	2005	Var %	2004	2005	Var.
Wine	2.866	2.986	1,04	256	279	1,09	2.609	2.707	97
Fruit and vegetable products	2.468	2.511	1,02	2.346	2.559	1,09	122	-48	-170
Preserves and juices	1.458	1.551	1,06	1.594	1.544	0,97	-136	7	143
Confectionery	1.609	1.566	0,97	685	659	0,96	924	906	-17
Oil and fats	1.162	1.370	1,18	1.813	1.853	1,02	-651	-482	168
Meat	1.419	1.461	1,03	3.507	3.827	1,09	-2.088	-2.366	-278
Pasta	1.251	1.305	1,04	29	34	1,16	1.222	1.272	49
Dairy products	1.242	1.281	1,03	2.745	2.756	1,00	-1.504	-1.475	28
Others product	4.337	4.494	1,04	11.692	12.203	1,04	-7.355	-7.709	-355
Total	17.810	18.525	1,04	24.667	25.715	1,04	-6.857	-7.190	-334

Source: ICE data processed on basis of ISTAT information

Table 2. Counterfeit in EU: number of cases registered and number of articles seized by product type "foodstuffs, alcoholic and other drinks"

	2000	2001	2002	2003	2004	2005
Number of cases registered by customs	10	18	13	17	53	50
Number of articles seized	2.340.334	4.106.663	841.259	1.489.908	4.432.161	5.228.896
Percentage of total seized	4	4	1,0	1,6	4	7

Source: data processed on basis of information from European Commission — Taxation and Customs Union

Table 3. Counterfeit in EU: number of cases registered expressed as % by origin (product type “foodstuffs, alcoholic and other drinks”)

Origin	Number of cases					
	2000	2001	2002	2003	2004	2005
Turkey	20%	33%	10%	18%		16%
China	10%	17%	20%	6%		8%
Thailand		11%	20%			
Poland	20%			18%		
Czech. Rep.	10%					
Spain	10%			6%		
Japan	10%					
Chile			10%	18%		
Ukraine				12%	13%	10%
Honk Kong			10%			
Indonesia			10%			6%
Iran			10%			
Greece			10%			
Russia					13%	12%
Dominican Rep.					9%	
USA					6%	
Hungary					4%	
Argentina					4%	
Others	20%	39%		22%	51%	48%
Total	100%	100%	100%	100%	100%	100%

Source: data processed on basis of information from European Commission — Taxation and Customs Union.

Table 4. Italian food products and the counterfeit: estimated consumption of illegal products (2002)

Area	Export	Estimated consumption of illegal fake products – protected Italian designations	
	Value	Value	Inc. % export
USA + Canada	2.157	1.510	70
European Union	8.443	422	5
Other countries	3.345	668	20
Total	13.945	2.600	18,6

Source: Federalimentare (2003)

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