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(FINAL)

**Report of the Study on Counterfeiting and Smuggling of Manufactured Products
in Nigeria**

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EXECUTIVE SUMMARY

This study, commissioned by the UNIDO regional office, Abuja, Nigeria, at the instance of the Organized Private Sector (OPS) think tank group that identified the problems of products counterfeiting and smuggling requiring investigation and urgent attention. The study was therefore aimed at providing evidence-based information on the problems of counterfeiting and smuggling of products of the manufacturing sector of the Nigerian economy. In doing this, the study assessed the severity of counterfeiting and smuggling of products in the manufacturing sector; identified the causes of counterfeiting and smuggling in Nigeria; ascertained the effects of counterfeiting and smuggling on the firms and the economy at large; took stock of firm-level and industry-level initiatives against counterfeiting and smuggling; collate opinions on the adequacies of anti-counterfeiting and smuggling regulations in Nigeria; and offered suggestions on actions for improvement in the fight against counterfeiting and smuggling in the country.

A National expert was engaged to manage the study. The management tasks involved the following: (i) in consultation with the organized private sector (OPS), design an appropriate survey instrument for the manufacturing sector on smuggling and counterfeiting; (ii) conduct a survey on the subjects of counterfeiting/smuggling of products in the manufacturing sector of the Nigerian economy with a view to ascertaining its causes, effects and solution; (iii) process and analyze data from the survey and prepare a report on the subject of smuggling and counterfeiting of products in Nigeria; (iv) present research report at the UNIDO's meeting with the OPS, take comments and observations and revise and finalize the report; and (v) submit a final implementation report to UNIDO.

The study relied on primary data sourced through survey of firms across some major industrial cities of the country namely Abuja, Lagos, Ibadan, Kaduna and Kano. Information was also collected from key regulatory agencies and institutions that were believed to be relevant to the study. The agencies and institutions include Nigeria Customs Service (NCS), Standards Organization of Nigeria (SON), National Agency for Food and Drug Administration and Control (NAFDAC), and the Manufacturers Association of Nigeria (MAN).

Data collection from the sampled firms and key regulatory agencies and institutions were obtained through structured questionnaires. The questionnaire designed by the National Expert was validated UNIDO and institutions. The data collected from firms and key regulatory agencies and institutions were collated, organized, summarized and carefully analyzed using descriptive statistics.

The highlights of the findings are that: (i) counterfeiting and smuggling are severe problems to the manufacturing sector and the economy of Nigeria; (ii) counterfeiting and smuggling have had significant negative effects on the operations of the manufacturing firms, the manufacturing sector and the economy of Nigeria (through employment loss, revenue loss to government, high cost of law enforcement, etc.) ; (iii) the causes of counterfeiting and smuggling in Nigeria are numerous; (iv) firm level initiatives against counterfeiting and smuggling exist but need to be improved upon; industry level initiatives are on board and should be expedited; (v) the popular opinion is that the existing regulations against counterfeiting and smuggling are not adequate; and (vi) it is the general belief that much more needs to be done by all to deal with the menace of smuggling and counterfeiting. A number of issues need to be addressed urgently – by firms, manufacturers associations, regulatory agencies and government in Nigeria - if the tide of counterfeiting and smuggling are to be stemmed.

On the basis of the foregoing findings, the following recommendations have been proffered: (i) business leaders need to establish the fight against smuggling and counterfeiting as a priority within their companies and industries, and put more resources towards finding solutions. *In this regard, the system to collect on a regular basis information on illicit manufacturing and seizures of counterfeit products and the extent of counterfeiting activities and “the MANBRAND Protection Group” project that is being put in place by MAN should be fast tracked;* (ii) businesses need to establish stronger collaborative efforts to share information, best practices and to speak with one voice to government on the issue and to raise awareness of the serious consequences of counterfeiting for consumers, government and society at large; (iii) businesses, manufacturers associations, regulatory agencies/institutions and government need to look for increased opportunities to collaborate and partner for solutions; (iv) all parties impacted by counterfeiting need to work together to develop more

comprehensive and persuasive data on the total impact of counterfeiting; (v) improve on collection-the Government, regulatory agencies/institutions and the industry at large can help to maximise the value of data by ensuring that it is systematically collected, comparable and comprehensive; (vi) a reporting framework need to be agreed upon and developed to serve as a working template by law enforcement agencies and industry; and (vi) for the attention of policymakers, there is the need to:

- Improve co-ordination amongst domestic agencies;
- Consider having a clear Counterfeiting & Smuggling policy;
- Have a clear and enforceable legal and regulatory framework with stiffer penalties; Ensure effective enforcement: Foster international co-operation, bilateral, plurilateral and multilateral;
- Increase awareness amongst government officials and consumers;
- Enhance co-operation with industry; and
- Monitor progress through programme evaluation and measurement:

I. INTRODUCTION

1.1 Background to the Study

Under its “Governance, Trade Facilitation, Investment Promotion and Public-Private Partnership” Integrated Programme (IP), the United Nations Industrial Development Organization (UNIDO) is providing support through quarterly meetings to the Organized Private Sector (OPS) bodies in Nigeria. The quarterly meetings are aimed, among other things, at creating a platform for organized private sector bodies to interact and discuss shared experiences and challenges relating to the industrial sector of the Nigerian economy. The meetings also serve as an engine room for capacity development of the OPS and a forum for direct interaction with Government with the participation of key officials of the Federal Ministry of Commerce and Industry. In addition, the quarterly meetings are designed for policy advocacy. In effect, the outcome of the deliberations is programmed to influence industrial policy formulation and implementation in the country.

In strategizing for year 2010, the OPS group initiated the idea of forming themselves into a think tank to arrive at areas requiring intervention by UNIDO in the course of the year. Thus, the problems of products counterfeiting and smuggling were brought to the front burner of discussion. UNIDO was therefore requested to do a study on these problems with a view to finding lasting solution to them.

1.2 Objectives of the Study

In light of the foregoing, the broad objective of this study is to provide evidence-based information on the problems of counterfeiting and smuggling of products of the manufacturing sector of the Nigerian economy in order to make informed strategic/policy response. The specific objectives are to:

- Assess the severity of counterfeiting and smuggling of products in the manufacturing sector;

- Identify the causes of counterfeiting and smuggling in Nigeria;
- Ascertain the effects of counterfeiting and smuggling on the firms and the economy at large;
- Take stock of firm-level and industry-level initiatives against counterfeiting and smuggling;
- Collate opinions on the adequacies of anti-counterfeiting and smuggling regulations in Nigeria; and
- Suggest actions for improvement in the fight against counterfeiting and smuggling in the country.

1.3 Methodological Approach to the Exercise

The task of conducting a survey on the problems of counterfeiting and smuggling of products of the manufactured sector in Nigeria was conducted through a number of steps. The steps are listed /described below.

1.3.1 Approach

A National expert was engaged to manage the study. The management tasks involved the following:

- (i) In consultation with the organized private sector (OPS), design an appropriate survey instrument for the manufacturing sector on smuggling and counterfeiting;
- (ii) Conduct a survey on the subjects of counterfeiting/smuggling of products in the manufacturing sector of the Nigerian economy with a view to ascertaining its causes, effects and solution;
- (iii) Process and analyze data from the survey and prepare a report on the subject of smuggling and counterfeiting of products in Nigeria;
- (iv) Present research report at the UNIDO's meeting with the OPS, take comments and observations and revise and finalize the report; and

- (v) Submit a final project implementation report to UNIDO.

1.3.2 Data Collection

1.3.2.1 Nature and Sources of data.

The study relied on primary data sourced through survey of firms across some major industrial cities of the country namely Abuja, Lagos, Ibadan, Kaduna and Kano. Information was also collected from key regulatory agencies and institutions that were believed to be relevant to the study. The agencies and institutions include Nigeria Customs Service, Standards Organization of Nigeria (SON), National Agency for Food and Drug Administration and Control (NAFDAC), and the Manufacturers Association of Nigeria (MAN).

1.3.2.2 Method of Data Collection

Data collection from the sampled firms and key regulatory agencies and institutions were obtained through structured questionnaires. The questionnaire designed by the National Expert was validated UNIDO and institutions.

The questionnaire for the firms has eight major sections. The eight sections in sequential order are firm identification; severity of counterfeiting and smuggling problems; causes of counterfeiting and smuggling; the effects of counterfeiting and smuggling; firm level initiatives against counterfeiting and smuggling; industry level initiatives against counterfeiting and smuggling; counterfeiting and smuggling regulations; and suggestions on solutions to the counterfeiting and smuggling problems (see appendix I for the firm questionnaire).

The questionnaires to SON and NAFDAC sought information essentially on the severity of counterfeiting in Nigeria, firms conformity with General Manufacturing Practices (GMP), whether or not firms registered their products and the extent to which they fulfill registration requirements, and their informed opinions on the causes of counterfeiting and smuggling in Nigeria. Given her mandate, the questionnaire for the Nigeria Customs Service focused only on the smuggling aspect of the study.

The questionnaire sought for information on the severity of smuggling in Nigeria, causes of smuggling, points and mode of smuggling in Nigeria, the treatment of smugglers and Customs officers' collaboration with smugglers. From MAN, we sought for information on membership, members' firms' conformity with General Manufacturing Practices (GMP), causes of counterfeiting and smuggling, anti-counterfeiting and smuggling initiatives of the Association, and suggestions as well as possible ways to further prevent counterfeiting and smuggling in Nigeria (see appendices II for these institutional questionnaires).

As indicated earlier, firms were sampled across some major industrial cities of the country including Abuja, Lagos, Ibadan, Kaduna and Kano. 25 firms were randomly sampled in each city. The small sample size was informed primarily by the time frame available to conduct this study and funding.

1.3.3 Method of Data Analysis/Report Writing

The data collected from firms and key regulatory agencies and institutions were collated, organized, summarized and carefully analyzed using descriptive statistics.

II. Overview of the Literature on Counterfeiting and Smuggling

Counterfeiting is an age-long menace. Likewise, smuggling may be counted among the oldest forms of deviance (Jütte, 1994). From ancient times people have palmed off fake valuables as the real thing. However, the original "cottage/village industry" nature of counterfeiting is no longer the norm. Counterfeiters are now much more organized and sophisticated. They have added mass production capability and expanded their markets via cross-border trade. Generally, the more famous or well known the brand is, and the more successful it is in the marketplace, the more likely it is to be copied by counterfeiters. However, the impact is not limited to large global brand-owning companies. Small successful brands are also impacted. Counterfeit products are often smuggled, both to circumvent inspections and to evade import taxes. Similarly, smuggled products, particularly famous brands are often the target of counterfeiting and counterfeiters.

Available evidence suggests that counterfeiting and smuggling form global activities of enormous and increasing magnitude. Today, no country is immune to counterfeiting and smuggling. While there are definite “hotspots,” where production bases and distribution networks are concentrated, the rise of globalized trade in counterfeits and smuggled goods is a growing concern. This therefore explains why the literature on these illegal activities is also burgeoning. The emphasis of the literature has been on conceptualizing/defining these activities, identifying their causative factors, issues of their control and their impacts.

The emphasis on conceptualizing/defining counterfeiting and smuggling is crucial not only for understanding the subject, but also in terms of measuring the extent and nature of the problem. This is because in practice, particularly for counterfeiting, its boundaries are blurred and as such the conceptualization/definition of what constitutes a counterfeit rests, on the one hand, on views about consumer perceptions and, on the other, on the views of Intellectual Property (IP) enforcement agents (e.g. the police, customs and excise officials, trading standard officials) with the responsibility for the seizure of counterfeits.

This review therefore follows the observed pattern in the literature. The review begins with counterfeiting and followed by that on smuggling.

2.1. Counterfeiting

A counterfeit, on a strict definition, is something that is forged, copied or imitated without the perpetrator having the right to do it, and with the purpose of deceiving or defrauding. Thus, counterfeiting is ultimately an infringement of the legal rights of an owner of intellectual property.

The OECD (1998:3) defined counterfeiting as ‘manufacturing a product which so closely imitates the appearance of the product of another to mislead a consumer that it is the product of another’. It further classified counterfeiting into both ‘Deceptive’, when both the counterfeit and the original product appear very similar to deliberately mislead a consumer and ‘Non-deceptive’, where the consumer recognizes that the product is not authentic and so pays an adjusted price for it . Similarly, the Agreement on Trade-related Aspects on Intellectual Property Rights (the TRIPs

Agreement) says “counterfeit trademark goods” shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;

Counterfeiting can apply to both branded and generic products and counterfeit products may include products with the correct ingredients or with the wrong ingredients, without active ingredients, with insufficient active ingredients or with fake packaging.

It is estimated that trade in counterfeit goods is now worth more than 5 per cent of world trade. The high trade volume can be attributed to a number of factors. The basic cause is profit opportunity and a risk-to-reward balance that favors criminal activity. Other identified causes of counterfeiting include (i) low security features of firm’s products; (ii) lack of clear, established, respected and enforced rule of law, (iii) laxity in the enforcement of rules, minimal penalties and punishment that provide little or no deterrent, (iv) laws on counterfeiting are unclear and piecemeal, leading to ad hoc enforcement and gaps that criminals exploit, (v) none recognition of counterfeiting as a serious economic and social crime subject to serious penalties that could serve as deterrent, (vi) poor inspection and control of the flow of counterfeit goods over the Nigerian borders., (vii) high levels of internal and border taxes on luxury goods, alcohol and tobacco that provide a major incentive for counterfeiting , (viii) lack of Anti-counterfeiting enforcement specialists, (ix) the advancements in, and relatively inexpensive availability of sophisticated photocopying and printing technologies and equipment that allow counterfeiters to create labels and packaging nearly identical to the real product quickly and cheaply, (x) attraction of unscrupulous and unethical suppliers who have sold legitimate labels, packaging and other materials to counterfeiters, (xi) mass production in factories (large and small) using increasingly more advanced production equipment that facilitated the replication of the appearance of just about any product on the market, and (xii) increased international trade, and emerging markets.

Most counterfeiting combat efforts are focused on ‘Awareness’ and ‘Enforcement’. Awareness involves the launch of public awareness campaigns for consumers, while enforcement includes both legislation and execution, in the form of penalties.

To date, anti-counterfeiting laws have been non-existent or the penalties imposed by most governments are vague or not tough enough to act as a deterrent. The result is the growth of large-scale manufacturing and distribution of counterfeit products. In recent years, there have been efforts in some problematic countries to improve and better enforce laws, but there is still a long way to go even in these countries. In general, the key issues are:

- **Laws on counterfeiting are often unclear or piecemeal, leading to ad hoc enforcement and gaps that criminals can exploit.** This is an issue even in some developed countries. However, legislation in some of the most problematic countries does not define counterfeiting e.g. Azerbaijan, Bosnia- Herzegovina, Georgia, Kazakhstan and, until 2002, Russia. In some countries it is illegal to manufacture counterfeits but not to sell them, in others the reverse applies.
- **Few countries’ laws recognize counterfeiting as a serious economic and social crime subject to serious penalties.** Likewise in many countries the judiciary is unaware of the “economic crime” nature and consequences of counterfeiting and so imposes sentences that fail to combat or deter criminals. Therefore, high rates of repeat offenders. Given the enormous negative impact on consumer health and safety, legitimate business, national revenue and foreign investment, those found guilty of counterfeiting should be treated as seriously as criminals engaged in drug trafficking, racketeering and other organized criminal activities.
- **Insufficient customs resources to inspect and control the flow of counterfeit goods over international borders.** This is a problem for all sectors but particularly for branded goods such as clothing and sportswear in which counterfeiting involves importing huge volumes of plain clothing and shoes into which counterfeit labels are later sewn close to the intended points of sale.

- **High levels of internal and border taxes on luxury goods, alcohol and tobacco also provide a major incentive for counterfeiting** by increasing the scale of profits available to the counterfeiters – who price their fake wares at close to the genuine taxed product while not paying the taxes to the government. The result is the growth of large-scale manufacturing and distribution of counterfeit products in these sectors.
- **In virtually all countries, government enforcement resources are limited and focused on other higher profile criminal activity.** Anti-counterfeiting enforcement specialists are virtually non-existent. Along with vague and confusing laws, this opens the door for corruption, which in turn fuels the acceptability and profitability of counterfeiting as a viable, if not legitimate, business.

In addition to the legal and government regulatory reasons why counterfeiting has flourished, there are also practical “business” reasons for the success of these illegal activities. The advancements in, and relatively inexpensive availability of sophisticated photocopying and printing technologies and equipment allow counterfeiters to create labels and packaging nearly identical to the real product quickly and cheaply. Mass production in factories (large and small) using increasingly more advanced production equipment can replicate the appearance of just about any product on the market. Counterfeiters have also attracted unscrupulous and unethical suppliers who have sold legitimate labels, packaging and other materials to counterfeiters.

Counterfeiting is not a victimless crime. It bears effects on all countries, whether they are centers for counterfeit production or distribution, or on the receiving end of the fake product distribution network. The effects include:

- can impact negatively on innovation and growth;
- may reduce employment through job cuts by the companies whose products are being counterfeited as a result of falls in sales and profits, and job cuts by suppliers to, and other businesses reliant on, companies whose products are being counterfeited as demand for their services declines;

- can reduce foreign direct investment (FDI) as branded goods companies become reluctant to manufacture their products in countries where counterfeiting is rife;
- damages sales volume, profits, brand value and capitalisation of rights' owners, and can lead to potential legal liability;
- can seriously affect health and safety of users;
- can negatively affect consumer confidence;
- reduce tax revenues (corporate, income, consumption/value-added taxes, etc) to governments- since very few counterfeit goods manufacturers pay any company/income taxes at all, it results in lower national tax receipts which either leads to reductions in government spending or higher tax rates for legitimate businesses (that are thus hit twice by counterfeiting);
- induce high costs on governments and industry to combat counterfeiting; and
- encourages participation by organised crime and can be the cause of corruption.

2.2 Smuggling

Smuggling is an illegal method of conducting business. It is a clandestine activity which involves the importation or exportation of goods by wrong or unlawful means with the objective of evading taxes and any other measures prohibiting or restricting the importation or exportation of such goods. The methods of smuggling are as many and varied as the smuggler has imagination to dream up. They use:

- **Outright Avoidance of Official Customs Controls across the Borders** e.g. on Lake, overland on road, rail, airport and often through the bush ways. This form of smuggling is generally associated with highly marketable goods, goods of high tax value, and prohibited or restricted goods;
- **Under declaration of Goods:** This is a circumstance where the importer declares less quantity on importation documents than the actual goods being imported. This form of smuggling occurs through customs controls – usually deliberately, on the side of the importer;

- **Under valuation of Goods:** This is a situation whereby goods are given a lower value than they actually have. Undervaluation often happens out of ignorance, negligence or connivance at the customs control. It aids smuggling indirectly;
- **Mis-Classification of Goods:** This means that goods are declared under a different class of imports particularly to attract lower rates of tax with intent to reduce the tax liability. This again may happen out of ignorance, negligence or deliberately. This problem also aids smuggling;
- **Falsification of Documents:** Sometimes documents pertaining to certain goods are tampered with in their particulars with intent to benefit the taxpayer by a reduction in tax;
- **Mis-declaration of Country of Origin:** This is a circumstance whereby a different country is declared as the source of goods instead of the correct country of origin;
- **Short landing Transit and/or Re-Export Goods:** Transit goods are those goods which are destined to other countries through another country, e.g. from abroad through Uganda to Rwanda, DRC, ETC. Re-exports are goods which come into the country but subsequently exited. In both cases, smuggling occurs when the goods finally end up on the Ugandan market, leading to total evasion of taxes and other controls;
- **Concealment:** Hiding the smuggled goods in another product;
- **Quantity:** Premised on the tenet that if enough of a particular product is smuggled then realistically some will get through;
- **Bribery:** Get officials to turn the wrong way by paying them;
- **Threats:** Get officials to turn the other way or else;
- **Subterfuge:** Bring the product in away from the eyes of the officials; and

- **Cover:** Get someone, like a diplomat to bring the goods in under their own cover.

Smuggling like counterfeiting is also a crime of opportunity that is enabled by differential tariffs or price disparities between markets (Norton 1988). Economists emphasize that smuggling is motivated by risk-taking strategies prompted by a desire to avoid paying taxes or to make money from the sale of clandestinely imported goods. The risks involved in smuggling are influenced by a variety of factors, such as anticipated monetary gain, and adjusted accordingly, for instance by cutting back on the amount of goods smuggled in order to reduce the chance of detection by customs officials (Sheikh 1989). Supplementing the view that economic conditions influence smuggling, economic theorists also argue that smuggling has an effect on price disparity and other aspects of the economy.

So, smuggling is caused by high tax differentials between neighbouring areas, weak border controls, and import restrictions and bans - often to protect state monopolies - on goods which are in high consumer demand. Other commonly fingered causes include (i) porous border, (ii) poor inspection at borders, (iii) corruption, (iv) tax levels, tax and price differentials, (v) presence of informal distribution networks, (vi) organized crime, and (vii) industry participation

Where governments are not prepared to address the causes of smuggling, it can rapidly spiral to overwhelm an orderly market and will frequently be penetrated by organised crime. For centuries, smuggling has been exacerbated by bans and excessive taxes imposed on political or 'disapproval' grounds which are not welcomed or endorsed by the majority of consumers. One major way by which government can address the causes of smuggling is for the government to upscale its anti-smuggling drive so that seizures can add to the cost of smuggling and thus render smuggling uncompetitive.

Smuggling as an illegal activity also affects firms and nations in a number of important ways. Some of these ways include:

- **Loss of Revenue:** Smuggling is an act of tax evasion which deprives government of revenue for public expenditure;

- **Distortion of Market Prices:** Goods which are smuggled into the country are often sold a lot cheaper than goods brought onto market through the right procedures. Smuggling therefore deprives traders of free competition;
- **Collapse of Local Industries:** A country achieves better economic growth by developing its own industrial base. Smuggling under-cuts prices of the locally manufactured goods thus destroying the market for local products. This leads to collapse of local industries;
- **Unemployment:** When there is unfair competition in the market, compounded by the collapsing of industries, the labour market (employment base) is eroded. Many professionals, skilled and unskilled personnel remain jobless;
- **Undermine firms' investments:** Which are often substantial in developing well-managed distribution networks;
- Smuggling also corrodes market share and destroys the reputation and profitability of brands - amongst any company's most important assets; and
- It also facilitates the equally damaging problem of counterfeiting.

2.3. Initiatives and Strategic Actions against Counterfeiting and Smuggling

A number of policy initiatives against counterfeiting and smuggling exist at both the private and the official level across countries and particularly African countries. Companies, as well as enforcement agencies, are becoming increasingly aware of the problems of counterfeiting. Most companies are making sure that their trademarks are adequately protected and implementing anti-counterfeiting and anti-smuggling policies to deal with the menace. A number of technologies, such as holograms, smart cards, biometric markers and inks, are being employed to protect and authenticate genuine products. These devices vary considerably in the degree of sophistication and cost. However, in order to be implemented the technology must be cost-effective, compatible with the product and distribution chain, resistant and durable.

Countries with a strong representation of trademark owners have established anti-counterfeiting associations. These are membership organizations, whose main activities include promoting adequate IPR protection, information gathering and liaison with enforcement agencies.

Some trade associations are also becoming very active in assisting their members to combat counterfeiting. For example, in Ghana, business Coalition Against Counterfeits and Illicit Trade (CACIT) was launched on the 18th July 2007 with membership drawn from the following bodies:

- Ghana Standards Board whose role is to prescribe the standards for products to be sold in Ghana, and ensure that products meet those set standards.
- Food and Drugs Board whose role is to regulate and monitor foods, drugs, cosmetics, devices and chemicals substances on the Ghanaian markets. The FDB registers all such products and ensures that only registered products are sold on our market. FDB is also responsible for ensuring that all registered products are wholesome and fit for human consumption/use.
- The Registrar General's Department. They are responsible for registering Intellectual Property Rights including trademarks, designs and patents and also for ensuring that no individual or entity registers a trademark/design/patent that is similar to one that has already been registered or one that is commonly known globally to belong to another individual or entity e.g. Coca Cola.
- Customs Excise and Preventive Service whose role is to police the country's borders and ports to prevent counterfeit, unwholesome and illicit products from entering the country. CEPS is also responsible for ensuring that all products that enter Ghana legitimately pay the right taxes and duties.
- Ghana Immigration Service whose role is to ensure that relevant action can be taken where foreigners are involved in counterfeit activities.
- Ghana Union of Traders Association representing the interests of traders who unknowingly (and sometimes knowingly) deal in counterfeit goods.
- Ghana Trades Union Congress representing the interests of employees whose jobs could be affected by increased levels of counterfeits.

- The Association of Ghana Industries. AGI's role is to represent the interests of private sector companies and intellectual property right holders whose products are the target of counterfeiters.
- Ghana Employers' Association, sponsor of the initiative and representing Employers.

As a coalition, CACIT seeks the enforcement of intellectual property laws, copyright, patent, and trademark protection, and licensing laws in order to protect consumers from counterfeit products and all other forms of illicit trade, thereby defending the integrity of member organizations' brands. The strategy for achieving these goals is to use all legal means at its disposal to significantly increase intellectual property rights levels. These include working for the enactment of tougher laws and the education of the business community, consumers, and the media and interaction with authorities – local and international – to strengthen the enforcement of those laws governing illicit trade in all its forms.

There is also the effort among the East African Countries (EAC) comprising Burundi, Kenya, Rwanda Tanzania, Uganda, and Zanzibar; beginning from 2008 to formulate an EAC policy on anti-counterfeiting, anti-piracy and other intellectual property rights violations

2.4 Summary of the Literature Review

The following seven (7) points summarize the review of the literature:

- Counterfeiting and smuggling are mutually reinforcing illegal activities, from which no country is immune;
- Counterfeiting and smuggling are significant and growing problems that have enormous negative economic and social effects;
- The severity of counterfeiting and smuggling is being aided by a number of factors;
- Counterfeiters and smugglers are well organised and adept at establishing distribution channels, and this encourages the participation of organised crime;
- The infiltration of legitimate supply lines, and the potentially harmful effects of many products is of growing concern;

- The very damaging effects on consumers, rights holders and governments are now beyond dispute; and
- More priority, co-operation and information collection is necessary to better understand and deal with these problems.

III. Data Analysis/Findings

The analysis of data and reporting of findings done in this section covers those firms from which we were able to retrieve the questionnaires administered on them. The distribution of the sampled firms is contained in table 1. The questionnaires administered on the sampled firms in Abuja could not be retrieved. Also, questionnaires were retrieved from 24, 10, 22, and 20 firms in Lagos, Ibadan, Kaduna and Kano, respectively. This gives a total of seventy-six firms for the analysis (see appendix III for the list of these firms). The questionnaires administered to regulatory agencies and institutions were all retrieved.

Table 1: Geographical Distribution of Sampled Firms

Location	No of Firms
Abuja	0
Lagos	24
Ibadan	10
Kaduna	22
Kano	20
Total	76

Source: Field Survey, 2010

The analysis/report of findings is presented under eight major sub-sections. Accordingly, Section 4.1 presents a brief profile of the sampled firms. The severity of counterfeiting and smuggling problems are analyzed in 4.2. Section 4.3 assesses the effects of counterfeiting and smuggling on the sampled firms operations. This is followed in section 4.4 by the analysis on the perceptions of the causes of counterfeiting and smuggling in Nigeria. Section 4.5 discusses the initiatives against counterfeiting and smuggling. Issues in counterfeiting and smuggling regulations in the country are examined in section 4.6

4.1 Profile of the Sampled Firms

Some defining information on the respondents-firms are contained in table 2. From the table, majority of firms cities totaling 64, and representing about 84 percent of total sample indicated that they are private firms. Only four (4) firms, two (2) each from Lagos and Kano, are publicly owned. These four firms represent about 5 per cent of the total. The remaining 11 percent is accounted for by 8 firms across the cities, but with half of them from Ibadan, that gave no response on their firm type.

On the nature of the firms, the Limited Company category dominates with a frequency count of 58 out of 76. Next are the Limited Liability Companies (Plc) with a count of 8. Sole Proprietorship comes next with 4 and then Partnership with 3. The remaining 3 firms, two in Lagos and one in Kano did not indicate the nature of their companies. All the firms except three (3) from Lagos indicated that they are registered members of the Manufacturers Association of Nigeria (MAN). Lastly, table 2 shows that respondent-firms are spread across the 10 sectoral groupings of the MAN, however, with skewed distributions in favour of the Chemicals & Pharmaceuticals, Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear, and Domestic & Industrial Plastic, Rubber and Foam in order of listing. One of the firms, particularly, from Lagos by nature of its operations and products falls into two sectoral groups.

Table 2: Profile of the Respondents Firms

	Lagos	Ibadan	Kaduna	Kano	Total
Firm Type					
Public	2	0	0	2	4
Private	20	6	21	17	64
No Response	2	4	1	1	8
Total	24	10	22	20	76
Nature of Company					
Sole Proprietorship	0	0	1	3	4
Partnership	1	0	1	1	3
Limited Company	17	10	17	14	58
Limited Liability Company (Plc)	4	0	3	1	8
Government Company/Corporation	0	0	0	0	0
No Response	2	0	0	1	3
Total	24	10	22	20	76
Affiliation to MAN					
Yes	21	10	22	20	73
No Response	3	0	0	0	3

Total	24	10	22	20	76
Sectoral Group					
Food, Beverages & Tobacco	4	2	1	2	9
Chemicals & Pharmaceuticals	10	1	3	4	18
Domestic & Industrial Plastic, Rubber and Foam	2	2	4	2	10
Basic Metal, Iron & Steel and Fabricated Metal Products	0	2	4	1	7
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	3	1	1	1	6
Electrical & Electronics;	1	0	3	1	5
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear;	2	0	4	6	12
Wood and Wood Products Including Furniture;	0	0	1	0	1
Non Metallic Mineral Products;	0	2	0	1	3
Motor Vehicle & Miscellaneous Assembly	1	0	1	2	4
Belong to Two (2) Sectoral Groups	1	0	0	0	1
Total	24	10	22	20	76

Source: Field Survey, 2010

4.2 Severity of Counterfeiting and Smuggling Problems

To establish the severity of counterfeiting and smuggling problems, firms were asked to indicate whether or not their products are been counterfeited and smuggled into the country. In addition to this, on counterfeiting, both NAFDAC and SON were asked to provide information on the total number of seizures of broad classification of manufactured goods (food and drugs by NAFDAC) between 2005 and 2009 as well as the extent of conformity with the Good Manufacturing Practices (GMP) by firms in Nigeria. For smuggling, the Customs was asked to provide information on the total number of seizures of broad classification of manufactured products over the period 2005 and 2009, point and mode smuggling into Nigeria, the treatment of smugglers and opinion on the adequacy of the penalty for those arrested.

The first row of table 3a shows that a total of 46 firms out of the 76 sampled firms; representing about 61 per cent, disclosed that they are confronted with the problem of counterfeiting. For smuggling, about 46 per cent of the firms; indicated that they are affected by smuggling activities (see second row, table 3a). The sectoral groups' distribution of firms confronted with the counterfeiting and smuggling problems is shown in table 3b. From the table, the firms in the Chemicals and Pharmaceuticals group are the most affected by counterfeiting followed by those of the

Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear group. The Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear group is the most affected from smuggling activities

Table 3a: Number of Respondent-Firms Confronting Counterfeiting and Smuggling Problems.

	Lagos	Ibadan	Kaduna	Kano	Total
Counterfeiting					
Yes	21	3	14	8	46
No	3	3	7	12	25
No Response	-	4	1	-	5
Total	24	10	22	20	76
Smuggling					
Yes	12	1	17	5	35
No	5	7	5	13	30
No Response	7	2	-	2	11
Total	24	10	22	20	76

Source: Field Survey, 2010

Table 3b: Sectoral Groups Distribution of Firms Confronting Counterfeiting and Smuggling Problems.

Sectoral Groups	Counterfeiting	Smuggling
Food, Beverages & Tobacco	4	1
Chemicals & Pharmaceuticals	13	4
Domestic & Industrial Plastic, Rubber and Foam	5	5
Basic Metal, Iron & Steel and Fabricated Metal Products	4	4
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	3	4
Electrical & Electronics	3	4
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	10	10
Wood and Wood Products Including Furniture	1	1
Non Metallic Mineral Products	1	0
Motor Vehicle & Miscellaneous Assembly	1	1
Belonging to two sectoral groups	1	1
Total	46	35

Source: Field Survey, 2010

Further to the enquiry on whether firms are faced with problems of counterfeiting and smuggling, firms were asked to give indications of when their products became counterfeited and/or smuggled. The responses of firms on this are contained in table 4. As seen from the table, 38 out of 46 firms (about 83 per cent) are confronted with the problem of counterfeiting. In terms of how long the problem has been, 5 firms indicated that it started recently. A total of 22 firms (the majority) traced the counterfeiting of their products to a while ago, while another 11 are of the opinion that counterfeiting of their products began long time ago. The remaining 8 firms did not respond to the question. The

story for smuggling is similar as 29 out of 35 firms (about 83 per cent) are affected by smuggling. In terms of how long they have been grappling with the problem, 4, 15 and 10 of the firms indicated that it began recently, a while ago and long time ago, respectively. The remaining six firms have no memory of when it commenced.

Table 4: Indication of when Products became Counterfeited/Smuggled

	Lagos	Ibadan	Kaduna	Kano	Total
Counterfeiting					
Recently	2	0	3	0	5
A while Ago	12	0	6	4	22
Long Time Ago	5	3	0	3	11
No Response	2	-	5	1	8
Total	21	3	14	8	46
Smuggling					
Recently	3	0	1	0	4
A while Ago	4	0	9	2	15
Long Time Ago	5	1	1	3	10
No Response	-	-	6	-	6
Total	12	1	17	5	35

Source: Field Survey, 2010

The rating of the extent of products counterfeiting and smuggling is shown in table 5. Table shows that, 11 firms consider the extent of their products counterfeiting as very high. 20 others considered it high; while it is considered moderate by 6 firms. Only 3 firms reported a low extent. The remaining six firms gave no response.

Table 5: Rating of the Extent of Product Counterfeiting/Smuggling

	Lagos	Ibadan	Kaduna	Kano	Total
Counterfeiting					
Very High	8	1	1	1	11
High	5	1	10	4	20
Moderate	1	0	2	3	6
Low	1	1	1	0	3
No Response	6	-	-	-	6
Total	21	3	14	8	46
Smuggling					
Very High	6	0	3	1	10
High	4	0	8	2	14
Moderate	0	0	0	1	3
Low	0	1	2	1	2
No Response	2	-	4	-	6
Total	12	1	17	5	35

Source: Field Survey, 2010

It is also very instructive that majority of the firms have knowledge of the sources of their product counterfeiting and smuggling (see table 6). For counterfeiting, the sources mentioned include Asian countries, particularly China, Niger, Cotonou, and within Nigeria. The main sources of smuggling identified are Asian countries particularly China, Singapore, Hong Kong and India; Europe, mainly Turkey and Italy; Middle East, chiefly Dubai; and Niger Republic and Cotonou.

Given that smuggling is usually a syndicated activity; the firms were asked if they are aware of the financiers and backers of smuggling activities in the country. The responses are contained in table 7. While 21 firms representing about 28 per cent of total claimed they know the financiers and backers of smuggling activities in the country, 35 constituting about 46 per cent of the total denied having knowledge of who the financiers and backers of smuggling activities are in the country. A total of 20 firms (amounting to about 26 per cent) avoided the question. Those who claimed they know the financiers and backers of smuggling activities in the country mentioned customs officers and their cronies, politicians and their wives, clearing agents and a particular influential individual in the north (specifically by firms from Kaduna and Kano).

Table 6: Knowledge of Sources of Products Counterfeiting/Smuggling

	Lagos	Ibadan	Kaduna	Kano	Total
Counterfeiting					
Yes	12	1	14	3	30
No	7	2	0	5	14
No Response	2	-	-	-	2
Total	21	3	14	8	46
Smuggling					
Yes	8	1	15	3	27
No	3	0	2	2	7
No Response	1	-	-	-	1
Total	12	1	17	5	35

Source: Field Survey, 2010

Table 7: Knowledge of Financiers and Backers of Smuggling Activities

	Lagos	Ibadan	Kaduna	Kano	Total
Yes	3	0	14	4	21
No	11	8	7	9	35
No Response	11	2	1	7	20
Total	24	10	22	20	76

Source: Field Survey, 2010

Evidences from NAFDAC also suggest that counterfeiting is severe in the country. NAFDAC identified various forms of fake/counterfeit drugs, which include:

- Drugs with no active ingredient(s);
- Drugs with insufficient active ingredients;
- Drugs with active ingredient(s) different from what is stated on the packages;
- Clones of fast moving drugs -these are drugs with the same quantity of active ingredients as the genuine original brand;
- Drugs without full name and address of the manufacturer;
- Herbal Preparations that are toxic, harmful, ineffective or mixed with orthodox medicine;
- Expired drugs or drugs without expiry date, or expired and re-labelled with the intention of extending their shelf-life; and
- Drugs not certified and registered by NAFDAC

Counterfeit products, (drugs, food, cosmetics, medical devices, chemicals, and water including all drinks but mostly pharmaceuticals) valued at over N8.0b (US\$60 million) were reportedly seized and destroyed in Nigeria by NAFDAC between April 2001 and December 2004. And between 2005 and 2009, a total of 218 of broad classifications of drugs were reportedly seized. The monetary values of these seizures were not disclosed, but it is certain that they would be of significant monetary value.

NAFDAC noted that most of the fake/counterfeit drugs in Nigeria are imported from Asia, particularly India and China. The problem is not much within the country because NAFDAC enforces the GMP compliance of Local Manufacturers. Monitoring is done routinely and compliance directives are issued and enforced to the letter when lapses are observed. Prosecution is carried out as a last resort when necessary. NAFDAC says it now operates the policy of stopping the importation of

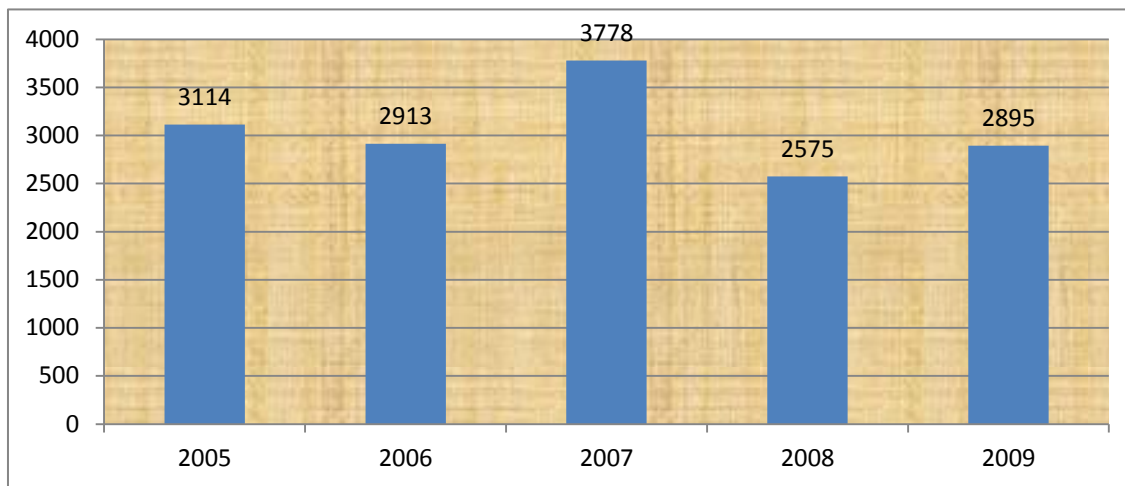
counterfeit medicines to Nigeria at source. In doing this, the Agency has in place the following administrative guidelines:

- A factory must be GMP certified before it can export drugs to Nigeria;
- NAFDAC officials must inspect factories anywhere in the world before we register or renew registration for their drugs, foods and other regulated products;
- NAFDAC has appointed analysts in India and China who re-certify any drug from the two countries before importation into Nigeria;
- For drugs imported from any country, NAFDAC requires mandatory pre-shipment information to be provided by all importers before the arrival of the drugs.
- Through advocacy and collaboration, Nigerian banks have been convinced to assist in the war against fake drugs. Since February 2003, the banks insist on NAFDAC clearance before processing financial documents for drug importers. This agreement is now a government policy because of its adoption by Central Bank of Nigeria. It is highly recommended that banks around the world should adopt this measure as it will go a long way to deter the activities of counterfeiters globally; and
- Importation of drugs through land borders is banned, and there are only two designated airports and two seaports for drug importation into Nigeria.

Information on the severity of smuggling from the Nigerian Customs Service is provided in figure 1 and table 8. Figure 1 shows the total number of smuggling seizures from 2005 to 2009, while table 8 bears the same information but in addition explores the sectoral distribution of the seizures. From figure 1, it can be seen that total seizures amounted to 3114 in 2005 but declined to 2913 in 2006. It then increased to 3778 in 2007, the highest over the five years period covered. It declined again to 2575 by 2008 and further increase to 2895 in 2009. Total seizures over the five years period amounted to 15,275. Table 8 shows that seizures in Motor Vehicle & Miscellaneous Assembly

accounting for about 54 per cent of the total over the five years covered. The group of others comes next followed by Textiles, Wearing Apparels, Carpet, and Leather/Leather Footwear. The insignificant share of the Food, Beverages & Tobacco and Chemicals & Pharmaceuticals sectors is understandable given that they fall under the mandate and control of NAFDAC.

Figure 1: Total Number of Smuggling Seizures 2005-2009



Source: Nigeria Customs Services, Headquarters, Abuja.

Table 8: Sectoral Distribution of Smuggling Seizures 2005-2009

Sectoral Groups/Year	2005	2006	2007	2008	2009	Total
Food, Beverages & Tobacco	-	-	2	3	2	7
Chemicals & Pharmaceuticals	-	-	-	1	5	6
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	368	187	191	88	283	1117
Motor Vehicle & Miscellaneous Assembly	1,385	1,630	1,809	1,790	1,685	8299
Others	1,361	1,096	1,776	693	920	5846
Total	3114	2913	3778	2575	2895	15275

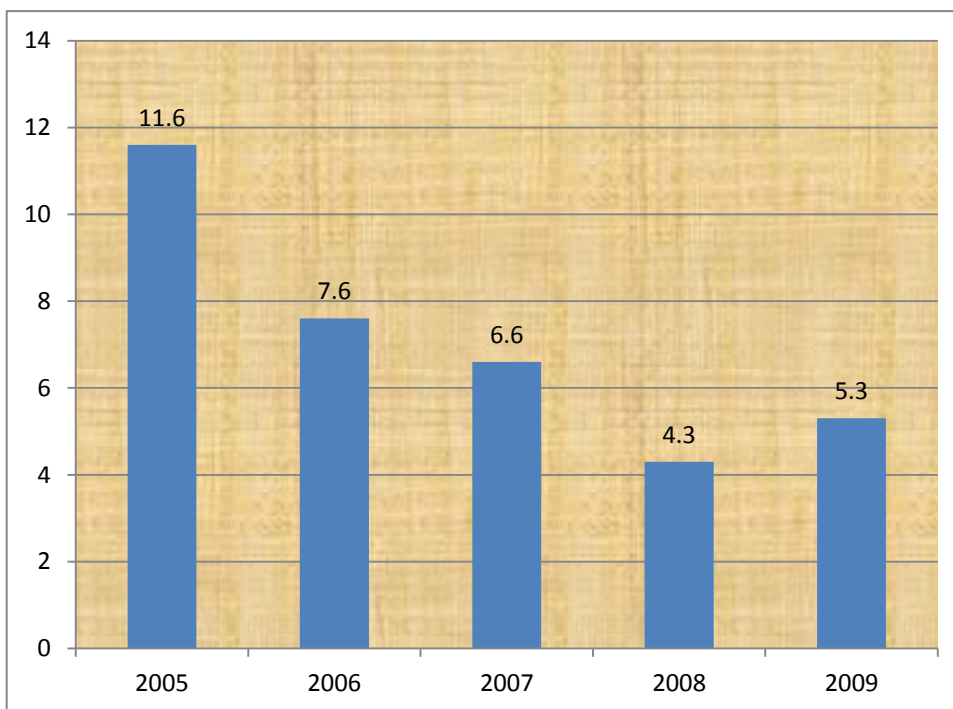
Source: Nigeria Customs Services, Headquarters, Abuja.

The monetary values of the smuggling seizures reported in figure 1 and table 8 is presented in figure 2 and table 9. The monetary value of the 2005 seizures amounted to ₦ 11.6 billion, while that of 2006 was ₦ 7.6billion. It amounted to ₦ 6.6billion, ₦ 4.3 billion and ₦ N5.3 billion for 2007, 2008 and 2009, respectively. The total value of the seizures for the five years summed up to ₦35.4 billion.

Disclosures on the point of smuggling and seizures made by Nigeria Customs Service (NCS) indicate that most smuggling and seizures in Nigeria occur mainly through seaports and other water ways. The second entry point of significance is through border areas (land and creeks), and thirdly through airports. The modes and /or strategies often adopted by smugglers according to the Customs include (i) bribery of the security agencies policing the roots and border areas, and (ii) use of border communities other information sources to check when Customs operatives are not around or less busy.

The treatment meted to smugglers when caught basically involves prosecution after their goods are seized. Some are made to face other penalties such as issuance of debit notes. In all, the maximum penalty given to smugglers is imprisonment if found guilty.

Figure 2: Monetary Value (Duty Paid Value) of Smuggling Seizures, 2005-2009 (₦Billion)



Source: Nigeria Customs Services, Headquarters, Abuja.

**Table 9: Sectoral Distribution of Monetary Value (Duty Paid Value) of Smuggling Seizures
2005-2009 (₦Billion)**

Sectoral Groups/Year	2005	2006	2007	2008	2009
Food, Beverages & Tobacco			6,600,000.00	58,603,522.00	553,245.26
Chemicals & Pharmaceuticals				5,280,000.00	4,811,955.96
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	2,568,987,081.26	1,557,618,607.77	2,259,832,171.60	575,483,553.00	1,729,602,086.78
Wood and Wood Products Including Furniture					
Non Metallic Mineral Products					
Motor Vehicle & Miscellaneous Assembly	3,198,094,985.97	1,459,959,600.81	1,367,452,104.34	1,129,610,540.01	1,268,675,107.83
Others	5,801,028,550.54	4,650,189,703.74	2,984,717,809.27	2,537,981,182.77	2,248,841,507.11
Total	11,568,110,417.77	7,667,767,912.32	6,618,602,084.21	4,306,958,797.78	5,252,483,902.94

Source: Nigeria Customs Services, Headquarters, Abuja.

From the above, it is evident that counterfeiting and smuggling are severe problems faced by the manufacturing sector of the economy of Nigeria.

4.3 The Effects of Counterfeiting and Smuggling on the Firms

Attempt was made to assess the effects of counterfeiting and smuggling on the operations of sampled firms. To accomplish this, firms were requested to provide information on how their firms have been affected by counterfeiting and smuggling in a number of identified ways. These include sales loss, decline revenue, reduced market share, employment loss, reduction in capacity utilization, and cost of protecting and enforcing products trademarks.

Only fifteen (15) firms responded to this enquiry. They all indicated that counterfeiting and smuggling have affected their operations in all the ways indicated. They are distributed as follows: by location-Lagos (5), Ibadan (2), Kaduna (7) and Kano (1); by sector- Food, Beverages & Tobacco (2), Chemicals & Pharmaceuticals (4), Domestic & Industrial Plastic, Rubber and Foam (4), Basic Metal, Iron & Steel and Fabricated Metal Products (2), Pulp, Paper & Paper Products, Printing, Publishing and Packaging (1), Motor Vehicle & Miscellaneous Assembly (1), and firms belonging to two sectoral groups (1) (see table 10).

Table 10: Locational and Sectoral Distribution of Firms that Provided Information on the Effects of Counterfeiting and Smuggling on their Operations

Sectoral Groups	Lagos	Ibadan	Kaduna	Kano	Total
Food, Beverages & Tobacco	-	-	1	1	2
Chemicals & Pharmaceuticals	3	-	1	-	4
Domestic & Industrial Plastic, Rubber and Foam	1	1	2	-	4
Basic Metal, Iron & Steel and Fabricated Metal Products	-	1	1	-	2
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	-	-	1	-	1
Motor Vehicle & Miscellaneous Assembly	-	-	1	-	1
Belonging to two sectoral groups	1	-	-	-	1
Total	5	2	7	1	15

Source: Field Survey, 2010

Of these 15 firms, only 3 firms put figures to the information. For sake of confidentiality the 3 firms are simply identified as A, B and C and the information provided are presented in table 11 a, 11b and 11c. From the tables, it is evident that counterfeiting and smuggling have significantly and negatively affected the operations of these firms and perhaps all other firms confronting counterfeiting and smuggling problems. As a matter of fact, a firm reported that it is on the verge of closing down.

Table 11 a: The Effects of Counterfeiting and Smuggling on Firm A

Effect/Year	2005	2006	2007	2008	2009
Sales Loss	₦353,650,660	₦558,674,850	₦ 877,846,680	₦ 1,312,608,850	₦2,240,278,560
Declined Revenue	₦ 7,823,117	₦ 8,020,134	₦ 11,948,380	₦ 39,627,650	₦ 51,068,760
Reduced Market Share	6%	7%	7%	8%	9%
Employment Loss	60 workers	100 workers	130 workers	150 workers	200 workers
Reduction in Capacity Utilization	10%	15%	20%	25%	33%
Cost of protecting and enforcing Products Trademarks	₦ 2.73M	₦ 5.10M	₦ 10.20M	₦ 19.30M	₦ 37.22M

Source: Field Survey, 2010

Table 11 b: The Effects of Counterfeiting and Smuggling on Firm B

Effect/Year	2005	2006	2007	2008	2009
Sales Loss	₦100M	₦ 130M	₦ 130M	₦ 250M	₦ 350M
Declined Revenue	₦ 100M	₦ 130M	₦ 130M	₦ 250M	₦ 350M
Reduced Market Share	30%	30%	20%	35%	35%
Employment Loss	-	-	25 staff	35 staff	55 staff
Reduction in Capacity Utilization	20%	20%	40%	40%	50%
Cost of protecting and enforcing Products Trademarks	-	-	-	-	-

Source: Field Survey, 2010

Table 11c: The Effects of Counterfeiting and Smuggling on Firm C

Effect/Year	2005	2006	2007	2008	2009
Sales Loss	₦ 2M	₦ 2.5M	₦ 3M	₦ 5M	₦ 9M
Declined Revenue	-	-	-	-	-
Reduced Market Share	-	-	-	-	-
Employment Loss	-	-	-	-	-
Reduction in Capacity Utilization	30%	30%	30%	20%	20%
Cost of protecting and enforcing Products Trademarks	NIL	NIL	NIL	NIL	NIL

Source: Field Survey, 2010

4.4 Causes of Counterfeiting and Smuggling

The understanding of the causes of counterfeiting and smuggling is very fundamental to any attempt at devising strategic responses to these problems. In the light of this, sampled firms and the regulatory agencies/ firm Association were asked to indicate their extent of agreement or disagreement to a number of causes of counterfeiting and smuggling distilled from the literature. The level of agreement was done on a scale from strongly agree to agree, undecided, disagree to strongly disagree. In collating the responses, only factors in the agreed and strongly agreed categories were counted to be valid. All responses in undecided disagree and strongly disagree categories as factors not recognized as probable causes. The responses are discussed in turn beginning with that of counterfeiting. Table 12 presents the sampled firms perceptions of causes of counterfeiting.

As can be seen from the table, majority of firms affirmed that the suggested factors are causes of counterfeiting except for high levels of internal and border taxes on luxury goods, alcohol and tobacco that provide a major incentive for counterfeiting, and lack of Anti-counterfeiting enforcement specialists. To the extent that at least 50 per cent of firms affirmed mass production in factories large and small using increasingly more advanced production equipment that facilitated the replication of the appearance of just about any product on the market, and increased international trade, and emerging markets, we take it that they are potent causes of counterfeiting.

Table 12: Perception of the Causes of Counterfeiting by Sampled Firms

S/ N	Perception of Causes/Location	Lagos	Ibadan	Kaduna	Kano	Total	% of 76
1	Low security features of firms products in Nigeria	15	7	8	17	47	62
2	The lucrative nature of the counterfeiting business	24	6	19	17	66	87
3	Lack of clear, established, respected and enforced rule of law	21	5	19	17	62	82
4	Laxity in the enforcement of rules, minimal penalties and punishment that provide little or no deterrent.	22	7	19	18	66	87
5	Laws on counterfeiting are unclear and piecemeal, leading to ad hoc enforcement and gaps that criminals exploit	20	3	18	16	57	75
6	None recognition of counterfeiting as a serious economic and social crime subject to serious penalties that could serve as deterrent.	21	4	19	16	60	79
7	Poor inspection and control of the flow of counterfeit goods over the Nigerian borders.	18	6	19	17	60	79
8	High levels of internal and border taxes on luxury goods, alcohol and tobacco that provide a major incentive for counterfeiting	8	6	6	11	31	41
9	Lack of Anti-counterfeiting enforcement specialists	8	2	5	7	22	29
10	The advancements in, and relatively inexpensive availability of sophisticated photocopying and printing technologies and equipment that allow counterfeiters to create labels and packaging nearly identical to the real product quickly and cheaply.	11	6	18	12	47	62
11	Attraction of unscrupulous and unethical suppliers who have sold legitimate labels, packaging and other materials to counterfeiters.	19	3	18	13	53	70
12	Mass production in factories large and small using increasingly more advanced production equipment that facilitated the replication of the appearance of just about any product on the market.	11	3	19	6	39	51
13	Increased international trade, and emerging markets	17	4	13	4	38	50

Source: Field Survey, 2010

The expressed agreements with the suggested causes of counterfeiting differ among the trio of NAFDAC, SON and MAN¹ (see table 13). However, they all agreed that the lucrative nature of the counterfeiting business is a cause. In a similar pattern, they all disagreed that lack of anti-counterfeiting enforcement specialists is a cause of counterfeiting in the country.

In addition to expressing their opinions with respect to the suggested causes of counterfeiting, the firms and the regulatory agencies/ firms Association were also asked to identify causes of counterfeiting from their point of view. The following were mentioned: (i) high cost of production and therefore non competitive products prices (high cost of products); (ii) preference for cheaper product even at low quality; (iii) unemployment; (iv) the get rich quick syndrome; (v) unmet demand for a market moving brand or product, and (vi) inadequate supervision by regulatory bodies.

Table 13: Perception of the Causes of Counterfeiting by Law Enforcement Agencies/Firms Association

S/N	Perception of Causes/Location	NAFDAC	SON	MAN
1	Low security features of firms products in Nigeria	✓	-	✓
2	The lucrative nature of the counterfeiting business	✓	✓	✓
3	Lack of clear, established, respected and enforced rule of law		-	✓
4	Laxity in the enforcement of rules, minimal penalties and punishment that provide little or no deterrent.	✓	-	✓
5	Laws on counterfeiting are unclear and piecemeal, leading to ad hoc enforcement and gaps that criminals exploit	✓	-	✓
6	None recognition of counterfeiting as a serious economic and social crime subject to serious penalties that could serve as deterrent.	-	-	✓
7	Poor inspection and control of the flow of counterfeit goods over the Nigerian borders.	✓	-	✓
8	High levels of internal and border taxes on luxury goods, alcohol and tobacco that provide a major incentive for counterfeiting	-	-	✓
9	Lack of Anti-counterfeiting enforcement specialists	-	-	-
10	The advancements in, and relatively inexpensive availability of sophisticated photocopying and printing technologies and equipment that allow counterfeiters to create labels and packaging nearly identical to the real product quickly and cheaply.	✓	✓	✓
11	Attraction of unscrupulous and unethical suppliers who have sold legitimate labels, packaging and other materials to	-	✓	-

¹ Customs was excluded from this part of the analysis since it has no mandate related to checking counterfeiting.

	counterfeiters.			
12	Mass production in factories large and small using increasingly more advanced production equipment that facilitated the replication of the appearance of just about any product on the market.	✓	-	-
13	Increased international trade, and emerging markets	✓	-	✓

Source: Field Survey, 2010

Coming to smuggling, a higher proportion of the firms endorsed each of the suggested causes except for industry participation, for which only about 36 per cent of the firms assented to. In order of ranking, porous border and corruption were recognized as the leading causes of smuggling. Poor inspection at borders comes next and followed by tax levels, tax and price differentials. Organized crime as a cause of smuggling was ranked 5th while the presence of informal distribution networks took the 6th position (see table 14). The perceptions of the regulatory agencies/firms Association also tallied with those of the firms. From NAFDAC and MAN, all the suggested causes were endorsed except for industry participation. SON is of the opinion that poor inspection at borders, corruption and industry participation are not causes of smuggling in Nigeria. For the Nigeria Customs Service, all the suggested factors are valid (see table 15). In addition to the causes of smuggling suggested and to which we sought responses, the respondents were also asked to indicate further causes of smuggling in the country. The following causes were mentioned: (i) lack of political will; (ii) lack of good governance; (iii) cheaper products in other countries; (iv) high cost of production in Nigeria/local products are more expensive; (v) high customs duties; (vi) prohibition of imports; (vii) attempt to invade paying duties and taxes; (viii) the desire to gain commercial advantage over fellow importers; (ix) as a means of avoiding processing of documents; (x) to avoid import and export permits requirements; (xi) to avoid exchange control regulations; and (xii) money laundering.

Table 14: Perceptions of the Causes of Smuggling by Sampled Firms

Perception of Causes/Location	Lagos	Ibadan	Kaduna	Kano	Total	Rank
Porous Border	22	7	19	18	66 (86.8)	1 st
Poor inspection at borders	23	6	18	16	63 (82.9)	3 rd
Corruption	23	6	19	18	66 (86.8)	1 st
Tax Levels, Tax And Price Differentials	13	4	18	13	48 (63.2)	4 th
Presence Of Informal Distribution Networks	11	2	14	12	39 (51.3)	6 th
Organized Crime	18	1	17	11	47 (61.8)	5 th
Industry Participation	4	1	12	10	27 (35.5)	7 th

Source: Field Survey, 2010

Table 15: Perceptions of the Causes of Smuggling by Law Enforcement Agencies/Firms Association

Perception of Causes/Location	NAFDAC	SON	MAN	CUSTOMS
Porous Border	√	√	√	√
Poor inspection at borders	√	-	√	√
Corruption	√	-	√	√
Tax Levels, Tax And Price Differentials	√	√	√	√
Presence Of Informal Distribution Networks	√	√	√	√
Organized Crime	√	√	√	√
Industry Participation	-	-	-	√

Source: Field Survey, 2010

4.5 Initiatives against Counterfeiting and Smuggling

Further to the enquiries on the severity, effects and causes of counterfeiting and smuggling, we sought to know the initiatives that the firms and industries have experimented with in dealing with these problems. The discussion under this section is bifurcated. In the first part, we discussed the firm level initiatives against counterfeiting and smuggling. The industry level initiatives are taken up in the second part.

4.5.1 Firm Level Initiatives against Counterfeiting and Smuggling

The attempt at uncovering or providing insights into the firm level initiatives against counterfeiting was hinged on the premise that firms' products should carry some security features no matter how little. Based on this tenet, firms were asked to indicate if or not their products carry any security features to prevent counterfeiting them. The responses obtained are presented in table 16. From the table, about half of the firms have their products carrying security features; while the

products of about another half carry no security features. 13 firms gave no response. *It is interesting to know that 15 of the 46 firms (about 33 %) that indicated being confronted with counterfeiting have products carrying no security features.*

The firms that indicated having their products carrying security features were further asked to indicate the nature or type of security features that their products carry. The list of security features indicated include: trade mark and packing materials, threading and batch numbering, embossment and labeling format, different shade of colouring of packaging materials, temper proof logo and seal, customize packaging materials, printing on products caps and inside of caps, logo and trademark, and NIS mark /number and hologram.

Table 16: Firm Level Initiatives against Counterfeiting

Initiatives/Location	Lagos	Ibadan	Kaduna	Kano	Total
Product Security Features					
Yes	6	2	12	11	31
No	13	8	7	4	32
No Response	5	-	3	5	13
Total	24	10	22	20	76
Ability to Distinguish Products from counterfeits					
Yes	8	6	16	11	41
No	8	2	3	4	17
No Response	8	2	3	5	18
Total	24	10	22	20	76

Source: Field Survey, 2010

Table 16 also contains the responses obtained from further asking the firms if they can easily distinguished their products from counterfeits. A total of 41 firms answered this question affirmatively. 17 others can't easily distinguish their products from counterfeits while the remaining 18 firms did not respond. From the 41 firms that claimed they could easily distinguish their products from the counterfeits, 10 have their products carrying no security features. There is doubt, therefore, about their ability to easily distinguish their products from counterfeits. As such, the valid number of firms that could easily distinguish their products from counterfeits is the 31 that have their products carrying some security features. These firms disclosed that they could differentiate their products from

counterfeits in the following ways: security features on the products; labeling, embossments; packaging and design; quality; thickness; and weight and texture of products.

Furthermore, the firms were asked about the last time they changed their product design and/or packaging as a way of safeguarding their products from being easily counterfeited. Only 26 firms responded. Table 17 provides information on the sectoral group distribution of these firms as well as the time they last changed their product designs.

Table 17: Product Design Change Records of the Sampled Firms

Sectoral Groups	2002	2003	2004	2005	2006	2007	2008	2009	2010	Often	Total
Food, Beverages & Tobacco	-	1	-	1	-	-	-	1	-	-	3
Chemicals & Pharmaceuticals	-	-	-	-	-	-	1	6	-	-	7
Domestic & Industrial Plastic, Rubber and Foam	1	-	-	1	-	-	-	1	-	1	4
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	-	1	-	-	-	-	-	-	-	1	2
Electrical & Electronics	-	-	-	-	-	-	1	1	2	-	4
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	-	-	-	-	1	1	-	-	-	-	2
Wood and Wood Products Including Furniture	-	1	-	-	-	-	-	-	1	-	2
Non Metallic Mineral Products	-	-	-	1	-	-	-	-	-	-	1
Belonging to two sectoral groups	-	-	-	-	-	-	-	1	-	-	1
Total	1	3	-	3	1	1	2	10	3	2	26

Source: Field Survey, 2010

Some of the measures that firms have taken in response to counterfeiting of their products were identified to include market raids and seizures, litigation, advertisement/awareness campaign, protected labels, specially designed packaging materials, improve quality of products, reduce the channel of distribution, wrote complaints to relevant Ministries, Chinese embassy, Customs, MAN, NAFDAC etc. Other measures are diversification, provision of technical assistance in carrying out enforcement to the regulators, being careful in appointing distributors, regular change of product design and packaging, inscribe trade mark on products, support different public institutions in building capacities in finding counterfeit products and supporting them in enforcements, cut down the cost of production, searching for sources of counterfeiting, and ensuring that product quality are of high standards.

To address the problem of smuggling, the affected firms reported that they have tried a number of initiatives or measures largely similar to those under counterfeiting. These initiatives include product quality enhancement beyond the smuggled ones, price reduction, market visitations, on the counter spot check, prayers, making complaints to regulatory bodies, litigation, market raid and seizures, advertisement/campaign for patronage of made in Nigeria products, use bodies like MAN, NACCIMA etc. for advocacy, capacity expansion. They have also tried to get a law passed to ban the importation/smuggling of products, liaising with SON, and writing complaints to China and Hong Kong embassies.

4.5.2 Industry level initiatives against counterfeiting and smuggling

In order to determine how seriously the firms and Manufacturing Association of Nigeria (MAN) takes the twin problems of counterfeiting and smuggling affecting its members, we sought information on what initiatives at the industry level are in place or being contemplated to curtail the severity of these problems from MAN head office and the firms. The response from MAN indicated that a system is being put in place to collect on regular basis information on illicit manufacturing and seizures of counterfeit products and the extent of counterfeiting activities. The Association has established a group known as “*the MANBRAND Protection Group*” to enlighten the public from time to time on the dangers of patronizing counterfeit products. MAN has also organized a workshop against counterfeiting and smuggling.

However, it is rather surprising that only a few of the sampled firms seems to have knowledge of the existence of any of these industry level initiatives against counterfeiting and smuggling. Table 18a & b conveys the information on this. While table 18a conveys a summarized picture, table 18b provides sectoral distribution of these firms. According to the tables, only 17 out of the 76 firms, representing about 22 per cent claimed to have knowledge of any industry anti-counterfeiting and anti-smuggling initiatives in place or being planned. Even among the 17, just three firms could state (correctly) what these initiatives are. The remaining firms either out rightly declared lack of

knowledge or did not respond. It is not unlikely that those who declined to respond do not know as well.

Table 18a: Knowledge of any Industry Level anti-Counterfeiting and anti-Smuggling Initiative in Place

	Lagos	Ibadan	Kaduna	Kano	Total
Yes	9	0	3	5	17
No	6	7	14	5	32
No Response	9	3	5	10	27
Total	24	10	22	20	76

Source: Field Survey, 2010

Table 18b: Sectoral Distribution of Firms having Knowledge of any Industry Level anti-Counterfeiting and anti-Smuggling Initiative in Place.

Sectoral Groups/Response	Yes	No	No Response	Total
Food, Beverages & Tobacco	3	3	3	9
Chemicals & Pharmaceuticals	6	6	6	18
Domestic & Industrial Plastic, Rubber and Foam	1	2	7	10
Basic Metal, Iron & Steel and Fabricated Metal Products	1	6	0	7
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	1	0	5	6
Electrical & Electronics	0	5	0	5
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	4	5	3	12
Wood and Wood Products Including Furniture	0	1	0	1
Non Metallic Mineral Products	0	2	1	3
Motor Vehicle & Miscellaneous Assembly	0	2	2	4
Belonging to two Sectoral Groups	1	0	0	1
Total	17	32	27	76

Source: Field Survey, 2010

4.6 *Anti-Counterfeiting and Anti-Smuggling Regulations*

The intent of this section is three fold. The first is to explore the level of awareness and knowledge of sampled firms of existing laws, regulations and strategic actions against counterfeiting and smuggling in the country. The second is to harvest the opinions of firms on the adequacy of these anti-counterfeiting and anti-smuggling laws, regulations and strategic actions. The third is to elicit the opinions of firms on collusion of law enforcement agents/agencies with counterfeiters and smugglers.

Beginning with the first of the intents, tables 19a and 19b show that only 31 firms claimed awareness of any regulation against counterfeiting and smuggling. A total of 26 firms have no

awareness of any regulation against counterfeiting and smuggling. The remaining 19 firms avoided this question. The high proportion of firms that do not know about any regulation against counterfeiting and smuggling plus those that avoided the question; couple with the earlier indication that many of the firms are also not in the knowledge of any industry level initiatives against counterfeiting and smuggling all point to two possibilities. It is either they have not taken seriously the problems of counterfeiting and smuggling as they ought to or the regulations are unclear and/or piecemeal nature.

Table 19a: Awareness about any Regulation against Counterfeiting and Smuggling Among the Sampled Firms.

	Lagos	Ibadan	Kaduna	Kano	Total
Yes	11	0	16	4	31
No	5	10	5	6	26
No Response	8	0	1	10	19
Total	24	10	22	20	76

Source: Field Survey, 2010

Table 19b: Awareness about any Regulation against Counterfeiting and Smuggling Among the Sampled Firms by Sectoral Distribution.

Sectoral Groups/Response	Yes	No	No Response	Total
Food, Beverages & Tobacco	4	3	2	9
Chemicals & Pharmaceuticals	7	5	6	18
Domestic & Industrial Plastic, Rubber and Foam	7	2	1	10
Basic Metal, Iron & Steel and Fabricated Metal Products	3	4	0	7
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	2	1	3	6
Electrical & Electronics	1	3	1	5
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	4	5	3	12
Wood and Wood Products Including Furniture	1	0	0	1
Non Metallic Mineral Products	0	3	0	3
Motor Vehicle & Miscellaneous Assembly	1	0	3	4
Belonging to two Sectoral Groups	1	0	0	1
Total	31	26	19	76

Source: Field Survey, 2010

Tables 20a and 20b bear the opinions of the 31 firms that are aware of existing regulations against counterfeiting and smuggling. About 87 per cent of these firms consider the existing regulations inadequate. Only two (2) firms, constituting about 6 per cent pronounced the regulations adequate. Two (2) other firms expressed no opinions.

Table 20a: Opinion on Adequacy of Anti-Counterfeiting and Smuggling Regulations by the Sampled Firms.

	Lagos	Ibadan	Kaduna	Kano	Total
Adequate	0	0	1	1	2
Not Adequate	9	0	15	3	27
No Response	2	-	-	-	2
Total	11	0	16	4	31

Source: Field Survey, 2010

Table 20b: Opinion on Adequacy of Anti-Counterfeiting and Smuggling Regulations by Sectoral Distribution of Sampled Firms.

Sectoral Groups/Response	Yes	No	No Response	Total
Food, Beverages & Tobacco	1	3	-	4
Chemicals & Pharmaceuticals	0	7	1	8
Domestic & Industrial Plastic, Rubber and Foam	0	5	-	5
Basic Metal, Iron & Steel and Fabricated Metal Products	1	1	-	2
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	0	1	-	1
Electrical & Electronics	0	2	-	2
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	0	5	1	6
Wood and Wood Products Including Furniture	0	1	-	1
Non Metallic Mineral Products	0	0	-	0
Motor Vehicle & Miscellaneous Assembly	0	1	-	1
Belonging to two Sectoral Groups	0	1	-	1
Total	2	27	2	31

Source: Field Survey, 2010

Lastly, the elicited opinions of the firms on whether or not law enforcement agents/agencies collude with counterfeiters and smugglers are presented in table 21a and 21b. Table 21a presents it by the location of the firms, the second is by the sectoral distribution of the firms. In the usual pattern, majority of the firms (about 51 per cent) refused to express their opinions. Of the 37 firms that responded, 10 (about 27 per cent) are of the opinion that the law enforcement agents/agencies do not

collude with counterfeiters and smugglers. However, the remaining 27, the majority and constituting about 73 per cent believed that law enforcement agents/agencies collude with counterfeiters and smugglers. Some of the ways through which the law enforcement agents/agencies collude with counterfeiters and smugglers were identified. For smuggling, they include misclassification of goods and escorting them when they smuggled, falsification of documents, and mis-declaration of country of origin. For counterfeiting, offenders are either left of the hook or pay fewer fines than stipulated by law.

Table 21a: Opinion on Collusion of Law Enforcement Agents with Counterfeiters and Smugglers by Sampled Firms.

	Lagos	Ibadan	Kaduna	Kano	Total
Yes	4	0	15	8	27
No	3	3	1	3	10
No Response	17	7	6	9	39
Total	24	10	22	20	76

Source: Field Survey, 2010

Table 21b: Opinion on Collusion of Law Enforcement Agents with Counterfeiters and Smugglers by Sectoral Distribution of Sampled Firms.

Sectoral Groups/Response	Yes	No	No Response	Total
Food, Beverages & Tobacco	1	1	7	9
Chemicals & Pharmaceuticals	7	2	9	18
Domestic & Industrial Plastic, Rubber and Foam	4	1	5	10
Basic Metal, Iron & Steel and Fabricated Metal Products	3	0	4	7
Pulp, Paper & Paper Products, Printing, Publishing and Packaging	2	0	4	6
Electrical & Electronics	2	1	2	5
Textiles, Wearing Apparels, Carpet, Leather/Leather Footwear	5	1	6	12
Wood and Wood Products Including Furniture	1	0	0	1
Non Metallic Mineral Products	1	2	0	3
Motor Vehicle & Miscellaneous Assembly	1	1	2	4
Belonging to two Sectoral Groups	0	1	0	1
Total	27	10	39	76

Source: Field Survey, 2010

V. Summary, Recommendations and Conclusion.

This section provides summary of the study, draws important policy implications and recommendations from the findings and make conclusion. The limitations of the study and suggestions for further study are also contained in this section.

5.1 Summary of Study and Findings

The study an attempt provides evidence based information on the problems of counterfeiting and smuggling of products of the manufacturing sector in the Nigerian economy with a view to making informed strategic/policy response. In doing this, firms were surveyed across some major industrial cities of the country namely Abuja, Lagos, Ibadan, Kaduna and Kano. Information was also collected from key regulatory agencies and institutions believed to be relevant to the study. The survey of firms and collection of information from key regulatory agencies and institutions were geared towards (i) assessing the severity of counterfeiting and smuggling of products in the manufacturing sector; (ii) ascertaining the effects of counterfeiting and smuggling on the firms and the economy at large; (iii) identifying the causes of counterfeiting and smuggling in Nigeria; (iv) taking stock of firm level and industry level initiatives against counterfeiting and smuggling; (v) collating opinions on the adequacy of anti-counterfeiting and anti-smuggling regulations in Nigeria; and (vi) suggesting actions for improvement in the fight against counterfeiting and smuggling in the country.

The analysis of the data and reporting of findings cover a total of seventy-six firms from Lagos, Ibadan, Kaduna and Kano and across the ten sectoral groupings of MAN; and the partial information obtained from the regulatory agencies and institutional association. The following highlights of the findings are presented from the analysis of data:

- Counterfeiting and smuggling are severe problems to the manufacturing sector and the economy of Nigeria;

- Counterfeiting and smuggling have had significant negative effects on the operations of the manufacturing firms, the manufacturing sector and the economy of Nigeria (through employment loss, revenue loss to government, high cost of law enforcement, etc.) ;
- The causes of counterfeiting and smuggling in Nigeria are numerous;
- Firm level initiatives against counterfeiting and smuggling exist but need to be improved upon; industry level initiatives are on board and should be expedited
- The popular opinion is that the existing regulations against counterfeiting and smuggling are not adequate; and
- It is the general belief that much more needs to be done by all to deal with the menace of smuggling and counterfeiting. A number of issues need to be addressed urgently – by firms, manufacturers associations, regulatory agencies and government in Nigeria - if the tide of counterfeiting and smuggling are to be stemmed.

5.2 Policy Recommendations

On the basis of the above findings, the following recommendations have been proffered:

- Business leaders need to establish the fight against smuggling and counterfeiting as a priority within their companies and industries, and put more resources towards finding solutions. *In this regard, the system to collect on a regular basis information on illicit manufacturing and seizures of counterfeits products and the extent of counterfeiting activities and “the MANBRAND Protection Group” project that is being put in place by MAN should be fast tracked.*
- Businesses need to establish stronger collaborative efforts to share information, best practices and to speak with one voice to government on the issue and to raise awareness of the serious consequences of counterfeiting for consumers, government and society at large;

- Businesses, manufacturers associations, regulatory agencies/institutions and government need to look for increased opportunities to collaborate and partner for solutions;
- All parties impacted by counterfeiting need to work together to develop more comprehensive and persuasive data on the total impact of counterfeiting.

On improving data collection, the Government, regulatory agencies/institutions and the industry at large can help to maximise the value of data by ensuring that it is

- systematically collected
- comparable
- Comprehensive

A reporting framework need to be agreed upon and developed to serve as a working template by law enforcement agencies and industry.

For the attention of policymakers, there is the need to:

- ***Improve co-ordination amongst domestic agencies:*** This entails improving teamwork among the key regulatory agencies (Customs, SON, NAFDAC, etc) and the Nigerian Ports Authority, Nigerian Airways Authority, Shipping Lines and Airlines in order to create a sterile ground for counterfeiters and smugglers to escape detection, arrest and sanctions. Some of the criminally minded counterfeiters and smugglers take advantage of this lack of cooperation to propagate their illegal business.
- ***Consider having a clear Counterfeiting & Smuggling policy:*** priority should be accorded the need to prohibit and control trade in counterfeit and pirated goods which is becoming rampant in the country to serve as a big disincentive to investors, both local and foreign. To this end, policy on Anti-Counterfeiting, Piracy and Other Intellectual Property Rights Violations and Anti-smuggling based on international best practices should therefore be drawn up urgently and be subjected to national validation as soon as possible.
- ***Have a clear and enforceable legal and regulatory framework with stiffer penalties:*** Nigeria has a multiplicity of control laws and regulations against counterfeiting and smuggling that are unwieldy, overlapping and sometimes conflicting. Some of the laws and regulations are also

old and need to be amended or updated to meet the demands of present day realities for effective regulation. In addition, there is the need to designate counterfeiting and smuggling as criminal violation (currently construed as civil violations) with stricter penalties (jail term and higher fines). Also, shorten the time required to action legal cases and reduce bureaucratic barriers; impose heavy fines for counterfeiters and smugglers if they are caught; impose heavy fines on not only importers, but also on retailers of such counterfeit products.

- ***Ensure effective enforcement:*** through information sharing and proactive responses by regulatory and law enforcement agencies, effective enforcement also requires that timely and adequate databases on counterfeits and smuggling are employed as well as that regular trainings are conducted for officials of regulatory and law enforcement agencies in partnership with the industry, establish specialized Intellectual Property tribunals to handle civil and criminal cases, at least in major cities; and where possible, recover costs of investigation, detection and destruction of counterfeit and smuggled products from perpetrators. The extensive use of the military should also be made to counter the smuggling problem.
- ***Foster international co-operation, bilateral, plurilateral and multilateral:*** by actively negotiating with its trading partners around the world and jointly operate on an agreed framework in combating counterfeiting and smuggling.
- ***Increase awareness amongst government officials and consumers:*** by publicizing from time to time the enforcement actions and penalties for all types of counterfeit and illicit trade activities to increase public awareness and deter future potential violators; and also by encouraging the general public to report counterfeiters and smugglers by introducing a system of rewards and leading public awareness campaigns (a consumer hotline);
- ***Enhance co-operation with industry:*** through creation of coalition entities with membership of brand owners, industry bodies, legal firms and government bodies; ***and***

- ***Monitor progress through programme evaluation and measurement:*** the progress made in the fight against counterfeiting and smuggling following specific strategic actions and interventions should be closely monitored and evaluated from time to time.

5.3 Conclusion

The study has shown through evidence-based information that counterfeiting and smuggling are severe problems to the manufacturing sector and the economy of Nigeria with significant negative effects. Counterfeiting and smuggling have been allowed to foster by initial apathy on the part of businesses and the industry, the absence of clear and enforceable legal and regulatory framework, ineffective enforcement of regulations, and poor co-ordination amongst regulatory agencies among other.

It can be concluded that to make success of the fight against counterfeiting and smuggling and their undesired effects on businesses and the economy requires an integrated approach from stakeholders.

5.4 Limitations of the Study

The major limitation of this study is data. There are dimensions to it. The first is that only 76 firms were analyzed out of the 2,000 firms that are registered members of MAN, as well as numerous others that are not. The second aspect has of the data problem has to do with the poor response from most of the sampled firms and even the regulatory agencies. These limitations notwithstanding, we strongly believe that generalizations based on the findings of this study remain valid.

5.5 Suggestions for Further Research.

A significant area of extension on this study that should be made through subsequent research efforts is to commence a tracking of the trend in counterfeiting and smuggling so that the dynamics of these problems can be better understood. Subsequent research efforts should also be directed at monitoring and evaluation following the implementation of the suggested policy actions.

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Appendix III: List of Sampled Firms

S/N	Firms	Location
1	International Uniforms Nigeria Ltd.	Lagos
2	PMS Electrical Manufacturing Nig. Ltd	Lagos
3	Woollen And Synthetic Textiles	Lagos
4	Literamed Publications Nigeria Ltd.	Lagos
5	Onward Paper Mill Plc	Lagos
6	Skin Beauty Ltd.	Lagos
7	Eagle Paints Nigeria Ltd.	Lagos
8	Dove Pharmaceuticals Ltd.	Lagos
9	Dops Products Ltd	Lagos
10	Nigeria Ball-Point Pen Industry Plc	Lagos
11	Vitabiotics Ltd.	Lagos
12	Gongoni Company Limited	Lagos
13	A.B. Chami &Co. Ltd	Lagos
14	Blendtech Coatings Ltd.	Lagos
15	Stellar Company Nigeria Ltd.	Lagos
16	Shagoya Nigeria Ltd.	Lagos

17	Goal Global Investment Ltd.	Lagos
18	Crown Flour Mills Ltd	Lagos
19	Frutta Juice & Services Nigeria Ltd	Lagos
20	Classic Beverages Nigeria Ltd.	Lagos
21	Unilever Nigeria Plc	Lagos
22	International Starchen Industry Ltd	Lagos
23	Crystal Glass Plc	Lagos
24.	United Nigeria Textiles Ltd.	Lagos
25	Nigerian Gas Cylinder Manufacturing Company Ltd.	Ibadan
26	Abayomi Foundry Engineering Works Ltd.	Ibadan
27	Aroaic Batteries Ltd.	Ibadan
28	Cocoa Production Industry Ltd.	Ibadan
29	Lister Flour Mills Ltd.	Ibadan
30	Enibe Brothers Industry Ltd.	Ibadan
31	Litho-Chrome Ltd.	Ibadan
32	Isoglass Industries Ltd.	Ibadan
33	Associated Match Industry Ltd.	Ibadan
34	Polyfilm Packaging Nig.Ltd.	Ibadan
35	Safa Foam Products Nigeria Ltd	Ibadan
36	Woodcraft Industries Ltd	Kaduna
37	Kaduna Furniture And Crafts Co.Ltd	Kaduna
38	Zaria Industries Ltd	Kaduna
39	United Nigeria Textile Ltd.	Kaduna
40	Nigerian Textiles Manufacturing Industries Ltd	Kaduna
41	Electricity Meter Company Nig. Plc	Kaduna
42	Prime Power Ltd.	Kaduna
43	Northern Cable Processing And Manufacturing Company Ltd.	Kaduna

44	Eslon Nigeria Ltd.	Kaduna
45	Mouka Foam	Kaduna
46	Nice Top Paper Industry Ltd.	Kaduna
47	Arewa Metal Containers Ltd.	Kaduna
48	Crittal-Hope Kaduna Ltd.	Kaduna
49	Modular Aluminium And Steel Fabrication Ltd.	Kaduna
50	Peak Aluminium Products Ltd.	Kaduna
51	Oando Nigeria Plc	Kaduna
52	Powerseal Paints Nigeria Ltd.	Kaduna
53	Federal Superphosphate Fertilizer (Privatized)	Kaduna
54	International Beer & Beverage Industry Ltd	Kaduna
55	Comrade Cycle Nigeria Ltd.	Kaduna
56	Terutex Nig. Ltd.	Kano
57	Tofa Textiles Ltd., Kano	Kano
58	African Textiles Manufacturers Ltd.	Kano
59	Jaykay Carpets Inudtries Ltd.	Kano
60	Adhama Textile And Garment Ltd.	Kano
61	Angel Spinning And Dyeing Ltd	Kano
62	Chellco Industries Ltd	Kano
63	Klysat Cables And Wires	Kano
64	Silver Plastics Ltd.	Kano
65	Gidan Hassan Industries Ltd.	Kano
66	Vitro-Health Nigeria Ltd.	Kano
67	Asad Pharmaceuticals Ltd.	Kano
68	Ammasco International Ltd.	Kano
69	Pal Pharm Industry Ltd.	Kano
70	Shamad Concept Nigeria Ltd	Kano

71	Bua Flour Mills Ltd	Kano
72	P.S. Mandrides Plc	Kano
73	Automotive Parts Industries Ltd	Kano
74	Star Agro International Nigeria Ltd.	Kano
75	M/S Fullmark Commodities Ltd.	Kano
76.	Triumph Nigeria Ltd.	Kano