

# A Critical Analysis of the Laws Regulating the Sale of Counterfeit Goods in Cameroon

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## ABSTRACT

The rules governing the sale of counterfeit goods in Cameroon are critically analysed in this paper, which also maps the legislative framework, assesses enforcement practices, and suggests specific improvements to improve consumer welfare and intellectual property protection. In response to growing worries about the negative effects of counterfeit goods on the economy, public health, and society, from lost profits and intellectual property degradation to consumer safety hazards and reputational harm to respectable companies, the study examines the suitability of Cameroon's current legal framework and enforcement system.

The analysis begins by summarising the normative framework that governs counterfeiting, including national laws that either criminalise or civilly regulate trademark and copyright infringement, rights-holders' procedural avenues, administrative tools (such as border controls and customs detention), and Cameroon's commitments under international agreements. The implementation is then critically evaluated, including institutional coordination between law enforcement, customs, and the judiciary; evidentiary standards and burdens in criminal and civil proceedings; access to remedies for consumers and rights-holders who have been wronged; capacity constraints (forensics, case management); and barriers that encourage a flourishing counterfeit market (informal retail networks, digital marketplaces, and low consumer awareness). Important discoveries show a disconnect between official legal safeguards and practical enforcement. The deterrent effect of the law is diminished by procedural delays, insufficient sanctions, unpredictable judicial outcomes, and low specialist capacity. Detection and attribution are made more difficult by informal distribution methods and the expansion of online sales. Additionally, enforcement frequently favours administrative fines and seizures over targeted criminal prosecutions or civil remedies that can break up profit chains and compensate victims. The study suggests a calibrated reform package that includes: improved customs and digital marketplace cooperation; capacity-building for forensic evidence and case preparation; public awareness campaigns; more precise statutory definitions and proportionate sanctions; streamlined procedural mechanisms to speed evidence preservation and prosecution; strengthened inter-agency coordination and specialized IP courts or judicial training; and legislative alignment with regional and international standards while protecting access to legitimate trade and public interests.

**Keyterms:** Counterfeited Goods, Intellectual Property(IP), Enforcement

## INTRODUCTION

### Background

Selling fake goods has become a major global issue with serious legal, societal, and economic repercussions. The illegal copying of authentic goods, frequently using fictitious trade names or logos, to mislead customers and violate the rights of lawful manufacturers, is known as counterfeiting. Consumer safety, fair competition, and innovation are all negatively impacted by counterfeiting, as the World Trade Organisation (WTO) and the World Intellectual Property Organisation (WIPO) have underlined time and again.<sup>1</sup> Although there are laws in place to try and stop the trade in counterfeit goods, it nevertheless flourishes in many underdeveloped nations, including Cameroon. In Cameroon, the issue is severe, as counterfeit pharmaceuticals, electronics, food

products, and apparel permeate the markets, endangering consumers and jeopardising legitimate enterprises. Counterfeiting violates intellectual property rights (IPRs), such as trademarks, copyrights, and patents. Cameroon, as a member of the World Intellectual Property

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<sup>11</sup> World Intellectual Property Organization (WIPO). (2022). Understanding Counterfeiting and Piracy: Impact on Global Trade. Geneva: WIPO Publications.

Organisation (WIPO)<sup>1</sup> and the African Intellectual Property Organisation (OAPI),<sup>2</sup> is also a signatory to international treaties like the Paris Convention for the Protection of Industrial Property (1883) and the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS).<sup>3</sup> Cameroon's participation in international and regional agreements requires it to implement anti-counterfeiting legislation. However, the enforcement of these rights continues to be weak because of inadequate resources, corruption, a lack of awareness, and procedural inefficiencies.

Cameroon is especially susceptible to counterfeit goods because of its status as a central African trading hub, particularly through the Port of Douala. The Penal Code, Customs Code, Law No. 2003/006 on Trademarks, Trade Names and Marks,<sup>4</sup> and the Bangui Agreement under OAPI are only a few of the legal tools the government has passed to address this issue, but their enforcement is still mainly ineffectual. The informal economy is still a thriving place for counterfeiting, which has serious negative effects on the economy, society, and health.

Counterfeit goods put Cameroonians' lives in jeopardy beyond the economic aspect. Consumers face significant health and safety risks due to the distribution of counterfeit food items, medications, and electrical goods. Additionally, the protection of intellectual property (IP) rights is compromised by counterfeit goods, which also deters investment and damages Cameroon's reputation as a secure business environment.

Therefore, this study aims to do a critical analysis of the laws governing the sale of counterfeit goods in Cameroon, assessing the suitability of current legal provisions, the institutional mechanisms in place for enforcement, and the obstacles that impede their efficacy.

## Problem Statement

Despite the existence of numerous institutional and legal restrictions intended to stop it, the trade in counterfeit goods continues to flourish in Cameroon. On paper, the legal framework, which is made up of international treaties, regional agreements under OAPI, and national statutes, seems robust, but in practice, it is still not well enforced.

First, there is a difference between what is really done and what is required by law. Law enforcement agencies, such as the Customs Department, the Ministry of Commerce, the National Agency for Standards and Quality (ANOR), and the judiciary, often lack the technological capacity, coordination, and resources required to effectively identify, capture, and convict counterfeiters.

Second, the penalties imposed by the current legal system are sometimes insufficient to deter perpetrators. Because they think the potential profits outweigh the risks of prosecution, many counterfeiters operate with nearly total freedom.

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<sup>1</sup> World Trade Organization (WTO). (1994). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Marrakesh Agreement Establishing the World Trade Organization.

<sup>2</sup> African Intellectual Property Organization (OAPI). (2015). Bangui Agreement Relating to the Creation of an African Intellectual Property Organization. Revised Text. Yaoundé: OAPI.

<sup>3</sup> TRIPS Agreement, (1994) Annex 1C of the Marrakesh Agreement Establishing the World Trade Organisation.

<sup>4</sup> Law No. 2003/006 Of 21 April 2003 To Lay Down Safety Regulations Governing Modern Biotechnology In Cameroon.

Third, the problem is exacerbated by institutional corruption and open borders that allow counterfeit goods to enter and move freely. Since the judiciary is often perceived as resolving counterfeit-related matters slowly and inconsistently, rights-holders are deterred from pursuing reparation.

Fourth, the usage of counterfeit goods has become commonplace due to the public's ignorance of the dangers involved. Many Cameroonians view counterfeit goods as less costly alternatives to illicit goods, which boosts demand and compromises consumer safety.

Because these problems are so common, a comprehensive legal and policy analysis is required. Therefore, the primary problem this study aims to solve is the ineffectiveness of current laws and enforcement procedures governing the sale of counterfeit goods in Cameroon, despite the existence of international and regional requirements.

### **Research Hypothesis**

This study is based on the assumption that, despite Cameroon's adoption of a number of laws and regulatory tools to combat counterfeit goods, their effectiveness is still restricted due to legal framework gaps, ineffective enforcement mechanisms, institutional inefficiencies, and low public awareness.

### **Research Questions**

This study seeks to answer the following key questions:

What are the existing national, regional, and international laws that regulate the sale of counterfeited goods in Cameroon?

How effective are these laws and institutions in combating counterfeiting?

What legal, institutional, and socio-economic challenges hinder effective enforcement?

What reforms can be proposed to enhance the legal and institutional framework for combating counterfeit trade in Cameroon?

### **Objectives Of The Study**

#### **Main Objective**

To critically examine the legal framework regulating the sale of counterfeited goods in Cameroon and assess its adequacy, effectiveness, and compliance with international standards.

#### **Specific Objectives**

To identify and analyse the national, regional, and international instruments governing counterfeiting in Cameroon.

To assess the enforcement mechanisms and institutions responsible for regulating counterfeit goods.

To evaluate the challenges faced by these institutions in implementing anti-counterfeiting laws.

To propose reforms and policy recommendations to strengthen the legal and institutional regime combating counterfeiting in Cameroon.

## **LITERATURE REVIEW**

A good number of authors have written on the issues related to the topic under study. For the purpose of this paper, many works have been read for the search for credible materials.

**Njie and Chia's**<sup>5</sup> article explores the widespread sale of counterfeit drugs in Cameroon and their impact on public health and consumer safety. They argue that the weak enforcement, poor regulatory oversight, and limited consumer education contribute to the proliferation of fake drugs in local markets. This paper focuses on Cameroon and highlights the legal and institutional weakness that facilitates counterfeiting. It establishes the dangers of counterfeiting to public health and the limitations of Cameroon's regulatory bodies, like the Ministry of Public Health and ANOR. This study has its focus on Cameroon and highlights the legal and institutional weakness that facilitates counterfeiting. This paper will equally establish the mechanisms of enforcement or implementation of the fight against the sale of counterfeited goods in Cameroon, as well as the sanctions for their violations.

**Staake, Thiesse, and Fleisch**<sup>6</sup> provide in their work a comprehensive global perspective on counterfeit trade, arguing that it is driven by globalisation, weak enforcement, and consumers' demand for cheaper alternatives. It categorises counterfeiting into dangerous (e.g. pharmaceuticals) and non-dangerous (e.g. clothing) forms. The fact that their work offers a global grounding for understanding the global nature of counterfeiting and its spread into developing countries like Cameroon caught my attention. Their study talk of or supports the claims that poor enforcement and market demands fuel the sale of counterfeited goods, a supportive point to our work. Although the authors concentrated on global trends without specific reference to Cameroon or its legal framework, which is the initial point of focus but global trends that mentioned as an additive reference to our paper for contextual purposes and references. The fact that their study lacks legal analysis or a jurisdiction-specific application, such as to Cameroon or Sub-Saharan Africa, makes this paper stand out.

**Ajibola, A**<sup>7</sup>, in his work, explores the proliferation of counterfeit goods in Nigeria, attributing it to weak institutional enforcement, porous borders, and public unawareness. He emphasises the role of administrative agencies like the NAFDAC and Customs in curbing fake pharmaceuticals and textiles. Cameroon faces the same problem, especially with counterfeit medicines and imported goods, making Ajibola's work regional insight relevant and similar to this paper. His work does not evaluate the legal effects of counterfeiting on consumers, businesses, or the broader economy. This paper fills in this gap by examining the legal consequences, such as infringement on consumers' rights, economic loss to the business, reduced tax revenue, public health threats, within the Cameroon legal framework, offering a legalistic and jurisprudential angle missing in Ajibola's policy-centred analysis.

**Eteka J.M.**<sup>8</sup>, in his thesis, focuses on the legal protection for trademarks and patents in Cameroon and how they have failed to reduce counterfeit activities. This work is relevant to this paper because it directly supports the discussion on the local enforcement inefficiencies, such as inadequate border control, lack of coordination among agencies, corruption and poor governance. It also offers an insight into Cameroonian court like delayed judicial processes (where the judiciary is often overloaded in IP law, and subject to procedural delays and cases that take years to be resolved while counterfeiters continue to exploit this delay to continue their operation in counterfeiting) and administrative bottleneck like poor monitoring and evaluation system, insufficient budget allocation to navigate these borders and urban areas, lack of data sharing and centralised IP data bases, inadequate institutional capacity and cumbersome registration process. The fact that the work is less comprehensive on the social and health effects makes the paper different, as it seeks to evaluate the legal effects of counterfeiting in a broader manner.

<sup>5</sup> Njie, A. & Chia, E. (2020) "Consumer protection and Counterfeited pharmaceutical's in Cameroon: Challenges and prospects", *Africa Journal of Law and Society*, p.5.

<sup>6</sup> Staake, T. Thiesse, F., & Fleisch, E. (2009). "The Emergence of Counterfeit Trade: Economic and Social Consequences". *Research in business & Economic Journal*, 3(1), p1-15.

<sup>7</sup> Ajibola, A. (2016), "Counterfeited Goods and Intellectual Property Rights Enforcement in Nigeria". *Africa Journal of Law and Practice*, 4(1) p, 89-102.

<sup>8</sup> Eteka, J.M. (2017). "Intellectual Property Protection and Counterfeiting in Cameroon", *University of Yaoundé II*

**Jeremy Wilson and Tim Lindsey**<sup>9</sup>, in their article, explore the global scope of counterfeit trade, highlighting those counterfeiting supports transitional crime networks, loss of tax revenue, an increase in consumer safety risks, and weakening of public trust in the legal system. Linked to Cameroon, its porous borders and informal markets are consistent with the authors' focus on states with weak regulatory enforcement. Counterfeit electronics, clothing, and pharmaceuticals are widespread in cities like Douala and Yaoundé. The authors recognise that weak enforcement and porous borders or boundaries are major enablers or promoters of counterfeiting. The article uses a global and mostly theoretical approach. It lacks countryspecific data or analysis on a specific country. This paper provides a country-specific, legal analysis of counterfeiting in Cameroon, examining domestic laws, OAPI compliance, and case law, thereby filling the gap in localised enforcement and regulatory evaluation.

## RESEARCH METHODOLOGY

The study uses a critical, analytical, and comparative approach to: Examine the existing statutory and regulatory framework in Cameroon, Compare national laws with international instruments (TRIPS Agreement, WIPO treaties) and regional frameworks (OAPI, CEMAC regulations). Critically analyse enforcement mechanisms, identify gaps, challenges, and propose reforms. This paper adopts a qualitative doctrinal legal research design. It focuses on analysing primary sources such as national legislations, regional instruments, international instruments, and secondary legal sources such as Academic Journals, textbooks on Intellectual Property Law, reports, Previous theses, dissertations, seminars, and online academic databases to evaluate the adequacy, effectiveness, and enforcement of laws regulating the sale of counterfeited goods in Cameroon. The doctrinal approach is appropriate because the study examines existing legal frameworks, jurisprudence, and regulatory structures both at the national and international levels.

A non-doctrinal (empirical) component is also included, involving interviews with key stakeholders to complement doctrinal findings and provide practical perspectives.

### Definition of Key Terms

#### Definition of Counterfeit Goods

The Cameroonian authorities have not given a clear definition of counterfeited goods; the law simply provides that counterfeiting is both a civil wrong and a criminal offence.<sup>11</sup>

The term counterfeited goods refers to items that bear, without authorisation, a trademark identical to, or indistinguishable from, a registered trademark, and that thereby infringe the rights of the legitimate owner. The World Customs Organisation (WCO) defines counterfeit goods as “goods, including packaging, bearing without authorisation 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.”<sup>10</sup>

Similarly, Article 51 of the WTO TRIPS Agreement provides that counterfeit trademark goods mean goods bearing a mark identical or substantially indistinguishable from a registered trademark without authorisation from the right-holder.<sup>11</sup>

### Distinction Between Counterfeiting and Piracy

Despite their frequent interchangeability, the legal definitions of piracy and counterfeiting are different. In order to deceive customers, counterfeiting typically entails the imitation of tangible goods and trademark infringement.

<sup>9</sup> Wilson, J.N., & Lindsey, T. (2017, “The Global Impacts of Counterfeited Goods/Why They Matter and what can be Done, Global Policy Journal, 8(12), P. 156-168.

<sup>10</sup> World Customs Organization (WCO, 2019), WCO Model Provisions on Customs Enforcement of Intellectual Property Rights.

<sup>11</sup> Art 51 of the WTO (TRIPS1994), Agreement on Trade-Related Aspects of Intellectual Property Rights.



Contrarily, piracy is mainly associated with copyright infringements, such as the unapproved duplication or dissemination of literary and artistic works (such as software, music, and movies).<sup>12</sup>

### **Nature and Characteristics of Counterfeiting**

Counterfeiting is characterised by three essential elements:

- a. Deceptive Intent: the deliberate attempt to mislead consumers.
- b. Intellectual Property Infringement: violation of rights relating to trademarks, patents, or designs.
- c. Economic Motivation: the pursuit of illegal profit through imitation and market deception.

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<sup>11</sup> Section 359 of the 2016 Cameroon Penal Code.

In Cameroon, counterfeit products often range from consumer goods such as cosmetics, electronics, and auto parts to critical goods such as medicines and foodstuffs. Their production and distribution are largely embedded in informal market networks that are difficult to regulate effectively.

### **Historical Context of Counterfeiting in Cameroon**

In Cameroon, the sale of counterfeited goods has changed in tandem with globalisation and trade liberalisation. Due to colonial administration's import restrictions and limited industrial production, counterfeiting was comparatively rare before independence. However, the growth of unofficial marketplaces and post-independence economic liberalisation led to a gradual expansion of counterfeit trade.

By the early 2000s, the influx of counterfeit goods, particularly from Asia, became a major concern for policymakers. The creation of the National Agency for Standards and Quality (ANOR) and the revision of the Penal Code (2016)<sup>13</sup> were partly motivated by the need to address this growing threat. Despite these measures, Cameroon's porous borders and dependence on imported goods have continued to facilitate the circulation of counterfeit products. Counterfeiting has thus become a structural issue, reflecting broader challenges in trade regulation, consumer protection, and enforcement of intellectual property rights.

However, in contemporary commerce, these terms often overlap, particularly with the advent of digital trade and e-commerce, where counterfeit and pirated goods are both distributed through online platforms.

## **THEORETICAL FRAMEWORK**

The fight against counterfeit goods is anchored in several legal and economic theories:

### **Natural Rights Theory**

This theory, advanced by John Locke, posits that creators and inventors have a natural right to control and benefit from the products of their labour.<sup>14</sup> Counterfeiting violates this moral entitlement by depriving right-holders of their legitimate rewards.

### **Utilitarian Theory**

Under the utilitarian approach, intellectual property rights are justified because they promote innovation and economic efficiency. Effective anti-counterfeiting laws are necessary to incentivise creators, encourage investment, and ensure market fairness.<sup>15</sup>

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<sup>12</sup> P. Torremans, Holyoak & Torremans (2019): Intellectual Property Law, 9th edn, Oxford University Press, p.467.

<sup>13</sup> The 2016 Cameroon Constitution.

<sup>14</sup> J. Locke (1689), *Second Treatise of Government* ch 5.

<sup>15</sup> J. Bentham, (1789). An Introduction to the Principles of Morals and Legislation.

## Consumer Protection and Public Welfare Theory

This theory views anti-counterfeiting law as an extension of consumer protection. The sale of counterfeit goods endangers public health, safety, and economic welfare, thus necessitating regulatory intervention by the state.

These theoretical perspectives collectively justify the existence of legal instruments aimed at combating counterfeiting in Cameroon.

## Legal Framework for the Protection of the Sale of Counterfeited Goods in Cameroon

There are numerous legal tools available to combat counterfeiting, each with a unique focus and substance. On the one hand, Cameroon has ratified international and regional legal instruments that guarantee public participation in environmental management<sup>16</sup>, which requires the Cameroonian government to guarantee its applicability at the domestic level.

### International Instruments

#### The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The TRIPS Agreement was adopted as part of the Final Acts of the Uruguay Rounds of Multilateral Trade Negotiations, administered by the World Trade Organisation (WTO) and came into force in January 1995.<sup>17</sup> It is the most comprehensive international treaty on intellectual property rights (IPRs), binding on all WTO members, including Cameroon. Part III (Enforcement of IPRs) mandates that countries provide effective enforcement procedures, including civil, administrative and judicial processes, to address IP violations like counterfeiting. Articles 51-60 outline: Civil remedies: Injunctions, damages, destruction of infringing goods and the tools used in their manufacturing<sup>18</sup>; Criminal procedures: For willful trademark counterfeiting and copyright piracy; Border measures: Customs officials may suspend the release of suspected goods in many Countries, including Cameroon<sup>19</sup>.

Cameroon has incorporated many TRIPS provisions into its domestic legislation, particularly the Consumer Protection Law. Cameroon can now seize goods at the borders and initiate criminal prosecutions for counterfeit activities. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): As a WTO member, Cameroon is obliged to comply with the minimum standard for the enforcement of IP rights under TRIPS<sup>20</sup>. Cameroon incorporates the TRIPS provision, allowing customs authorities to seize suspected counterfeit goods at borders. This has helped reduce the entry of fake pharmaceuticals and electronics. For instance, in 2021, Customs officials at the Douala port, applying TRIPS border enforcement provisions, seized containers with counterfeit “Samsung” electronics. Legal action followed in partnership with Samsung’s regional legal office.<sup>21</sup>

#### The Berne Convention for the Protection of Literary and Artistic Works (1886)

The Berne Convention was adopted on September 9, 1886, in Berne in Switzerland. Cameroon is a contracting party to this treaty, and it has incorporated many of its provisions in Law No.2000/011 of 19 December 2000 on Copyrights and Neighbouring Rights. The convention guarantees authors the exclusive rights to reproduce and

<sup>16</sup> Article 45 of the 1996 Cameroon Constitution which provides that duly ratified treaties and International Agreement shall, following their publication, override national laws, provides the other party implements the said treaty or agreement

<sup>17</sup> The Agreement on Trade –Related Aspects of Intellectual Property Rights (TRIPS), was signed on April 15, 1994, in Marrakesh, Morocco.

<sup>18</sup> Ibid., Article 46

<sup>19</sup> Agreement on Trade Related-Aspects of Intellectual Property Rights(TRIPS),1994,Articles 51-60.

<sup>20</sup> Ibid, Article 60.

<sup>21</sup> Cameroon Customs, Border Seizure Report, Douala Port, 2021.

distribute their work,<sup>22</sup> which is crucial in the fight against piracy, a form of counterfeiting. It also establishes the principle of national treatment and ensures protection in all member states without the need for registration.<sup>25</sup> It's applicable in Cameroon as it enables authors to sue for piracy of books, music, or films sold as counterfeits and also promotes bilateral cooperation in the investigation and prosecution of copyright infringement.

### **The Paris Convention for the Protection of Industrial Property (1883)**

The Paris Convention, which protects industrial property and forbids unfair competition, including the counterfeiting of trademarks and trade names, also applies to Cameroon because it is a member of OAPI. Cameroon is a party to the Stockholm Act of the Paris Convention. Under Article 6quinquies of the Convention, a trade mark registered in one member country must be accepted for registration in others, while Article 10bis requires member states to provide protection against unfair competition, which includes the imitation of trade names and trade dress, hallmarks of counterfeiting. This convention provides genuine manufacturers from competitors who use confusingly similar marks or trade dress and also enables foreign rights holders to enforce rights in Cameroon, and vice versa. The Paris Convention for the Protection of Industrial Property (1883 as revised): This establishes basic standards for intellectual property protection and gives Cameroon the ability to combat trademark infringements<sup>23</sup>.

### **The WIPO Copyright Treaty (WCT) and WIPO Performance and Phonograms Treaty (WPPT)**

To help member states improve their national IP enforcement systems, the World Intellectual Property Organisation (WIPO) has created model rules and recommendations. Cameroon's obligations under international IP law are strengthened by its adherence to WIPO's standards. In order to combat digital piracy and counterfeiting, these "internet treaties" update copyright protection. Although Cameroon is not yet a signatory to these agreements, its domestic copyright laws have included provisions that are consistent with those agreements,<sup>24</sup> such as the ban on unapproved digital distribution and reproduction.<sup>25</sup> These treaties are essential in tackling counterfeit software, eBooks, films, and music growing concern in the digital age.

The aims of the convention are to prohibit circumvention of technological protection measures (TPMs), grant exclusive rights to make work available online and lastly, offer protection to performers and producers of phonograms from unauthorised distribution.<sup>26</sup>

### **Regional Legal Instruments**

The fight against the sale of counterfeited goods has also been widely expressed at the regional level through efforts made by the national governments to ensure the better management of the spread of counterfeited goods. This is evident in some legal instruments ratified by national governments to ensure the fight against counterfeiting in Cameroon.

### **The Bangui Agreement**

The Bangui Agreement of 1977, which was updated in 1999, created the African Intellectual Property Organisation (OAPI), of which Cameroon is a founding member. In accordance with this agreement, OAPI manages intellectual property rights on behalf of its 17 member states, including the registration and enforcement of industrial designs, patents, and trademarks.<sup>27</sup>

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<sup>22</sup> Section 17 & 18 of the 2000 Copyright Law of Cameroon respectively. <sup>25</sup>

Ibid, Section 3.

<sup>23</sup> Paris Convention for the Protection of Industrial Property, article 10bis.

<sup>24</sup> Law No.2000/011 of 19 December 2000 on Copyright and Neighbouring Rights in Cameroon.

<sup>25</sup> WIPO Copyright Treaty (WCT), 1996. WIPO Performance and Phonograms Treaty (WPPT), 1996.

<sup>26</sup> Article 3 of the WIPO Convention states that the goal is to promote the protection of intellectual property globally through international cooperation.

<sup>27</sup> Bangui Agreement Relating to the Creation of an African Intellectual Property Organization (OAPI) (1999 Revision).



The Agreement gives rights-holders the ability to pursue injunctions, reparations, and the seizure of infringing items in civil and criminal proceedings against counterfeiting. Additionally, it requires member governments to impose suitable punishments for counterfeiting offences and to cooperate in enforcement. Cameroon is a founding and active member of this organisation. The revised Bangui Agreement comprises Annexes that cover the protection of various forms of intellectual property, including trademarks (Annex III), patents (Annex I), industrial designs (Annex IV) and geographical indications (Annex VI). Of particular relevance to the fight against counterfeiting is Annex III, which governs the restriction and protection of trademarks. Counterfeiting often involves the unauthorised use of registered trademarks, and under Article 24 of Annex III, such acts constitute an infringement punishable by law. Importantly, Article 45 of the Bangui Agreement provides for administrative and judicial remedies, including injunctions, seizures of counterfeiting goods, and payment of damages by infringers. The agreement also empowers customers' authorities and courts in OAPI member states to take action against counterfeit goods, both at the borders and within the market. In the case of *Société Guinness Cameroun v. Les Brasseries du Cameroun*,<sup>28</sup> the court upheld the protection of a registered trade mark under the OAPI system, emphasising that the unauthorised use of a registered trademark constituted a violation of both national and OAPI Laws.<sup>29</sup>

### Harmonisation of IP Laws in OAPI States

In contrast to regional organisations like ARIPO (African Regional Intellectual Property Organisation), OAPI has a unitary structure, which means that all member states, including Cameroon, are automatically covered by IP rights registered with OAPI. In addition to preventing forum-shopping by violators, this coordinated strategy improves regional collaboration in the fight against counterfeiting. Even with its unified structure, OAPI enforcement is still mostly done domestically. The Bangui Agreement's efficacy hinges on its national execution, which in Cameroon has been hampered by institutional flaws and a lack of judicial expertise in IP cases.

The African Intellectual Property Organisation provides a regional approach to Intellectual Property Protection. This is done through: Rights enforcement Support: OAPI supports right holders in litigation and provides technical support to law enforcement and judges. Example: In 2019, OAPI intervened in a trade mark dispute between a Chinese electronics firm and a Cameroonian company using a similar name and logo. The dispute was resolved in favour of the registered trademark holder.<sup>30</sup>

Cameroon has no standalone law specifically addressing counterfeiting. While it is a member of OAPI and a signatory to international instruments such as the TRIPS Agreement, these instruments are not always directly applicable without domestic enforcement legislation. This creates legislative gaps, especially in handling cross-border counterfeiting and counterfeit pharmaceuticals. A proposed Draft Bill on the Protection of Intellectual Property Rights has yet to be passed into law<sup>31</sup>, and as a result, enforcement bodies lack a clear and unified legal basis to act effectively.

### CEMAC Custom and Trade Regulations

CEMAC stands for "Economic and Monetary Community of Central Africa" "CEMAC is a regional organisation that promotes economic integration amongst its member states in Central Africa. As a member, Cameroon is also bound by its customs regulations, which play a pivotal role in combating counterfeiting, especially through border control mechanisms. The CEMAC Customs code provides customs officials with the authority to inspect, detain and seize goods suspected of infringing intellectual property rights. Specifically, Articles 325-329 of the CEMAC custom code enable the suspension of the release of goods suspected of being counterfeit. It also allows for the destruction of such goods if confirmed to be infringing and provides for cooperation between customs, trademark owners, and law enforcement. The custom cooperation protocol encourages member states to share intelligence and conduct joint enforcement operations, a measure that has been utilised in cross-border

<sup>28</sup> *Société Guinness Cameroun v. Les Brasseries du Cameroun*, Court of First Instance Douala, 2007 Unreported Decision

<sup>29</sup> Bangui Agreement Relating to the Creation of an African Intellectual property Organisation (OAPI), 1977? REVISED, 1999.

<sup>30</sup> OAPI IP Dispute Report, 2019

<sup>31</sup> Draft Bill on the Protection of Intellectual Property Rights in Cameroon, Ministry of Justice, 2021 (Unpublished).<sup>35</sup>

CEMAC customs Cooperation bulletin, vol.6, 2021.

crackdowns involving Cameroon and neighbouring countries. For example, in 2021, a joint operation between Cameroonian and Gabonese customs authorities led to the seizure of counterfeit pharmaceuticals in Kye-ossi, a tri-border region, under the auspices of CEMAC enforcement protocol<sup>35</sup>.

## National Legal Instruments

The national legal structure of Cameroon, which combats counterfeiting, is complex and includes judicial procedures, regulatory tools, and statutory regulations. The legal basis for the defence of intellectual property rights (IPRs), the implementation of anti-counterfeiting policies, and the prosecution of violators is provided by these instruments. In order to ensure the battle against counterfeiting, Cameroon has incorporated the spirit and guidelines of these international legal instruments into its national legal instruments.

## The Cameroon Constitution

By guaranteeing the right to property and requiring the State to preserve it, Article 19 of the Constitution indirectly supports anti-counterfeiting.<sup>32</sup> Thus, this constitutional safeguard extends to intellectual property. It does so by stating that ownership means the right guaranteed to every person by law to use, enjoy and dispose of property. No person should be deprived thereof, save for public purposes and subject to the payment of compensation under conditions determined by law.

## The Cameroon Penal Code

The production, possession, and sale of products bearing fraudulent trademarks or labelling are all prohibited by the Cameroon Penal Code.<sup>33</sup> It imposes fines and jail time on counterfeiters, particularly in situations where the public's health or safety is in jeopardy.

The Cameroonian Penal Code provides the principal criminal framework for punishing offences related to counterfeiting. The code<sup>34</sup> provides sanctions for acts of fraud, forgery, and deception that are often associated with the sale of counterfeit goods. Relevant provisions include: Section 327 punishes infringement on intellectual property and artistic works; Section 328 punishes offences related to infringement of patents; Section 329 addresses offences related to exploitation or use of unregistered industrial designs. Section 330 punishes forgery of Trademarks. Under section 316 of the Penal Code, anyone who counterfeits, imitates or uses a trade name, trademark, sign, invention, or patent belonging to another is liable to punishment.

*Section 316(1): "Whoever counterfeits or fraudulently uses a trade name, a trademark, a sign or patent belonging to another should be punished with imprisonment for from six months to three years, and with a fine of from one hundred thousand to two million FCFA or with one of such penalties only"*<sup>35</sup>.

This provision is regularly invoked in criminal proceedings against counterfeit traders selling fake electronics, cosmetics, branded clothing, and food products. Section 258 of the Penal Code addresses offences related to food safety, pharmaceuticals, and public health, providing that anyone who sells products dangerous to health is liable to punishment.

*Section 258 "Any person who offers for sale, sells or distributes foodstuffs, beverages or pharmaceutical products unfit for human consumption or prepared under unhygienic conditions, shall be punished with imprisonment for from five to ten years and with a fine of from one hundred thousand to ten million FCFA"*<sup>36</sup>.

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<sup>32</sup> Adopted in 1972 and substantially modified in 1996, the Constitution of Cameroon is the ultimate law of the Republic of Cameroon. Law No 96-6 of 18 January 1996 to amend the constitution of 2<sup>nd</sup> June 1972.

<sup>33</sup> Cameroon Penal Code, Law No. 2016/007 of 12 July 2016, ss 317–319.

<sup>34</sup> The current Penal Code of the Republic of Cameroon is governed by Law No. 2016/007 of July 12, 2016. Adopted on July 12, 2016, this law defines criminal acts and the associated penalties in Cameroon.

<sup>35</sup> Section 316, Penal code of Cameroon, Law No.2016/007 of 12 July 2016;

<sup>36</sup> Section 258? Penal Code of Cameroon

This provision is the key provision in prosecuting those selling counterfeit medicines, baby milk, and toxic cosmetics.

For instance, in the case of *Public Ministry v. Alhadji Souleymanou* (Bamenda High Court 2018),<sup>37</sup> the accused was convicted under section 330 of the Cameroonian Penal Code for selling fake “Nike” and footwear and received a sentence of three months to two years imprisonment, with a fine of from one million (1,000,000 FCFA) to six million (6,000,000 FCFA).

### **Law No. 2003/006 Of 21 April 2003 on Trademarks, Trade Names, and Marks**

This statute is Cameroon's main tool for trademark protection. It outlines trademark owners' rights, specifies acts of infringement, and lays forth enforcement protocols compliant with TRIPS and OAPI regulations.

### **Law No.2000/011 of 19 December 2000 on Copyrights and Neighbouring Rights in Cameroon.**

The main piece of legislation safeguarding copyright in Cameroon is the Copyright Law of 2000.<sup>38</sup> Copyright in Cameroon is defined as "the expression of ideas through description, explanation, and illustration. This law shall protect only expressions or original distinctive features resulting from a creation," according to Law No. 2000/011 of December 19, 2000, Sections 3(2), (3), and (4). Idea protection is not guaranteed under copyright. In addition to offering rights holders several exclusive rights for a certain time, this legislation safeguards copyright that exists in all literary and creative works, regardless of their manner, genre, or purpose of expression. This law was enacted to give effect to Cameroon's obligation under the Bangui Agreement, and governs the registration, protection, and enforcement of IP Rights in Cameroon. It provides detailed provisions on trademarks, patents, industrial designs and unfair competition. The key provisions relevant to counterfeiting include: Article 80: Penalises the infringement of registered trademarks and provides for seizure and destruction of counterfeit goods; Article 85: Grants right holders the ability to seek injunctive relief and damages through the courts; Article 90: Criminalises counterfeiting and stipulates imprisonment and fines as a penalty.

This law provides protection for creative works, including literary and artistic works, and industrial designs. It empowers rights holders to seek legal redress when their works are reproduced without authorisation<sup>39</sup>. Companies frequently initiate actions for counterfeit CDs, clothing brands, and phone accessories. For instance, MTN Cameroon successfully obtained a court injunction against traders selling fake SIM cards bearing its logo in Yaounde, under the Copyright and Trademark Law.<sup>44</sup> Also, in *Société TECNO v. Jumia Cameroon & others* (Court of First Instance, Yaoundé, 2020)<sup>40</sup>, the court ruled in favour of Tecno, affirming that the defendants' sale of fake TECNO phones constituted an infringement under the 2000 Law, and awarded damages along with an order for the destruction of the counterfeit device.

### **Law No 2011/012 of 6 May 2011 on Consumer Protection**

This law protects consumers from fraudulent, substandard or harmful goods, which include counterfeit goods. It prohibits the production, importation, sales and advertisement of counterfeit and fake products that may mislead or harm consumers. Article 10 prohibits deceptive labelling and misleading trade description; Article 28 penalises the importation and distribution of non-compliant goods; Article 36 empowers the regulatory agent to seize and destroy counterfeits or harmful products. For instance, in a joint operation with the national Agency for Standards and Quality (ANOR) in 2022, over 200 cartons of baby formula were confiscated after laboratory testing revealed hazardous ingredients.<sup>41</sup>

<sup>37</sup> Public Ministry V .Alhadji Souleymanou, Bamenda High Court, judgement No 342/2018, dated 20<sup>th</sup> June, 2018.

<sup>38</sup> Section 1 & 92 of 2000 Copyright Law.

<sup>39</sup> Law No.2008/001 of 23 April 2008 amending Law No. 2000/011 of 19 December 2000 on Copyright and Neighbouring rights <sup>44</sup> MTN Cameroon. v.Traders' Union, Court of First Instance Yaounde.

<sup>40</sup> Société TECNO v. Jumia Cameroon & others, court of First Instance Yaounde, Commercial Division, 2020(unpublished)

<sup>41</sup> ANOR bulletin on Consumers Safety 2022, vol. 4 .PP,17

Cameroon relies primarily on legislation, such as the Penal Code, Custom Code, and Commercial law under OHADA, as well as regional instruments like the Bangui Agreement of OAPI. However, these laws are either outdated or lack specific provisions for modern counterfeiting methods (e.g online sales, digital piracy). The penal code merely punishes counterfeiting under a section relating to fraud and deception without a comprehensive IP-focused framework. For example, Section 330 of the Penal Code of Cameroon criminalises the imitation or use of false trademarks but lacks details on procedural enforcement or damages. In *GUINNESS Cameroon v. the Brasseries of Cameroon*, the plaintiff sued for trade dress infringement under the general unfair competition principles because there was no specific statutory provision on trade dress protections<sup>42</sup>. The court hesitated to provide strong remedies due to the absence of clear legislative direction.

The Penal Code of Cameroon provides criminal penalties for counterfeiting ( e.g imprisonment and fines), but civil remedies such as damages, injunctions, and account of profit are not well defined in statutory law. This makes it difficult for rights holders to recover losses through the courts. Moreover, even where sanctions exist, they are often too lenient. Section 304 of the Penal Code, which pinches fraud, applies indirectly to counterfeiting but sets penalties that are not proportionate to the harm caused by industrial-scale counterfeiting. In *Pharmalex SARL v. Pharmacy Le Progrès*, a counterfeit drug dealer or seller received a fine of just 200,000FCFA and a suspended sentence, despite distributing fake antibiotics that endangered public health<sup>43</sup>. Thus, Cameroon should adopt a comprehensive anti-counterfeiting law, for example the South Africa's Counterfeit Act No. 37 of 1997 provides a model by creating clear sanctions and empowering enforcement officers to seize goods administratively even before court proceedings begin, strengthening civil remedies for Right Holders, and establishing special IP and commercial courts.

## Institutional Framework

The key institutions fighting against counterfeited goods in Cameroon include;

### The Ministry of Commerce (MINCOMMERCE)

The Ministry of Commerce was created by Decree No. 2011/2599/PM of August 2011, laying down the organisation of the Ministry of Commerce and governed by Law No. 2015/018 of 21 December 2015 on Commercial Activities in Cameroon. MINCOMMERCE play a pivotal role in regulating commercial practice and ensuring fair trade within Cameroon. In the fight against counterfeiting, their responsibility includes: Monitoring markets and commercial establishments to detect counterfeit goods; Controlling the quality and origin of goods sold in Cameroonian markets; Collaborating with customs and other regulatory bodies to trace counterfeit networks; Imposing administrative sanctions such as closure of shops and seizure of counterfeited goods or products. MINCOMMERCE regularly publishes reports on operations to track and destroy fake goods such as cosmetics, pharmaceuticals, and consumer electronics.<sup>44</sup>

### General Delegation for National Security (DGSN)

It was created by Decree No.2012/537 of 19 November 2012 on the general rules and regulations of the public services; governed by Law No.2011/020 of 14<sup>th</sup> December 2011 on the organisation and functioning of the Police Force. As part of the law enforcement, the Police (DGSN) have a crucial role; Investigating crimes related to the production and distribution of counterfeit goods; Conducting raids, seizures and arrests of individuals and groups that are involved in counterfeiting; working with INTERPOL and other international security services on cross-border counterfeit cases. For instance, the Cameroon police have been involved in major track-downs of counterfeit drugs and electronics in markets such as the Douala Central market and the Akwa markets.<sup>45</sup>

<sup>42</sup> *GUINNESS Cameroon v. The Brasseries of Cameroon*, High Court of Douala, Suit No.045/2018.

<sup>43</sup> *Pharmalex SARL v. Pharmacy Le Progrès*, Yaounde Court of First Instance, 2022, Suit No. PH/127/2022.

<sup>44</sup> Ministry of Commerce, Annual market Surveillance Report ,2023

<sup>45</sup> Cameroon Tribune," Police seize counterfeit electronics in Yaounde" ,March 2024. <sup>51</sup>

WHO and MINSANTE Join Report on Pharmaceutical Qualities,2022 .



## **The Ministry of Public Health (MINSANTE)**

The Ministry of Public Health is governed by Law No.90/035 of 10 August 1990 on the organisation of public health service and Law No.2018/012 of 11 June 2018 on the health system. The Ministry of Public Health focuses primarily on counterfeit pharmaceutical products and health-related goods. Its responsibilities include: Inspection of pharmacies and informal drug outlets; Working with the national drug control laboratory to identify counterfeit medicines; Coordinating public health campaigns to raise awareness of the danger of fake or counterfeited drugs. The Ministry has led several initiatives, often with World Health Organisation support, to confiscate and destroy counterfeit drugs in Cameroon.<sup>51</sup>

## **Ministry of Justice (MINJUSTICE)**

Governed by Law No. 90/059 of December 19 1990, on the Organisation of the Judiciary in Cameroon, the Penal Code (Law No. 2016/007 of 12 July 2016 and Law No. 2000/11 of 19 December 2000 on Copyrights and Related Rights. The rule of the Ministry of Justice in the fight against counterfeiting includes:

Drafting and interpreting laws relating to counterfeiting. The Ministry participate in the drafting and amendment of legal texts related to intellectual property rights and consumer protection to address evolving trends in counterfeiting; it prosecutes offenders who engage in the production or distribution of counterfeit goods. Through the Directorate of Judicial Affairs, the Ministry of Justice ensures that counterfeiters are prosecuted before competent courts. State counsels are under its control and play a direct role in initiating criminal action; Supervising the judiciary in ensuring that counterfeit-related crimes are fairly tried and sanctioned.

MINJUSTICE, through public prosecutors, has been instrumental in convicting counterfeiters, particularly in cases involving intellectual property theft<sup>46</sup>. In *The People v.NDI Samba &Others* (2020),<sup>53</sup> the Douala Court of First Instance sentenced a group of individuals for the illegal manufacturing and sale of counterfeit pharmaceutical products. The prosecution was conducted under the auspices of the Ministry of Public Health and security forces. This case signified a serious effort by the judiciary to curb the spread of counterfeit medicines and uphold public health standards<sup>47</sup>.

## **A Critical Examination of the Laws Governing the Sale of Counterfeited Goods in Cameroon**

Despite Cameroon's adoption of a comprehensive framework based on the Bangui Agreement, the Penal Code, and the Trademarks Law (2003), there is still a significant gap between the law and reality, as evidenced by the continued presence of counterfeit goods in the nation's markets. The study that follows looks at these gaps, pinpoints institutional issues, and assesses how well Cameroon's legal systems address domestic issues and adhere to international duties.

## **An Outline of Cameroon's Anti-Counterfeiting Legal Framework**

Cameroon has a multi-tiered strategy to tackle counterfeit goods, with three interconnected levels: International Level: The TRIPS Agreement, the Paris Convention, and the WIPO treaties are among the international agreements to which Cameroon is subject. These agreements offer universal guidelines for the protection of human rights and enforcement. Regional Level: Because Cameroon is a member of OAPI under the Bangui Agreement, it enjoys the benefits of uniform laws across its 17 member states, guaranteeing the validity of intellectual property rights filed with OAPI in Cameroon. National Level: The domestic legal system is composed of the Penal Code, the Trademarks and Trade Names Law (2003), the Customs Code (2018), and administrative actions taken by the Ministry of Commerce and ANOR. Enforcement has remained mainly dispersed, reactive, and ineffectual in stopping the sale of counterfeit goods despite this organised framework.

<sup>46</sup> Ministry of Justice Legal Opening Year Report, 2022 .

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<sup>47</sup> *The People v.NDI Samba & Others*, Douala Court of First Instance, Judgement of 10 June 2020.



## Substantive Weakness in the Legal Framework

The substantive weaknesses include;

### Lophole of the Cameroon Constitution

The Cameroonian Constitution, being the ground norm of all the laws in Cameroon, is void of express provisions that guarantee or condemn counterfeiting as a specific offence. This lack of an express provision on counterfeiting enables the government to escape responsibility to enforce, recognise and protect its citizens' right over intellectual property, thus making the fight against the sale of counterfeited goods a problem. The fact that Counterfeiting lacks Constitutional recognition and priority means that issues of counterfeited goods or products are not treated as a constitutional concern. It is a problem as it leads to lower policy visibility and reduced prioritisation in national development and security agendas. "Where the Constitution is silent on a key economic or social issue, that matter often falls low on the policy and institutional agenda". Mukam Mbaku, Institution and reforms in Africa.<sup>48</sup>

### Fragmentation and Overlap of Laws

Cameroon's anti-counterfeiting policies are inconsistent. Although the Penal Code makes the sale of counterfeit goods illegal,<sup>49</sup> it does not define counterfeiting in accordance with TRIPS or OAPI criteria. In contrast, the 2003 Trademark Law offers no guidance on criminal enforcement and instead concentrates on registration and civil remedies.<sup>50</sup> The scope of the Customs Code<sup>58</sup> and ANOR laws overlaps, which frequently leaves enforcement authorities unsure of their jurisdiction. Because of this fragmentation, it is challenging to develop a cohesive enforcement approach, which enables counterfeiters to take advantage of procedural flaws. Equally, Cameroon relies primarily on legislation such as the Penal Code, Custom Code, and Commercial law under OHADA, as well as regional instruments like the Bangui Agreement of OAPI. However, these laws are either outdated or lack specific provisions for modern counterfeiting methods (e.g online sales, digital piracy). The penal code merely punishes counterfeiting under a section relating to fraud and deception without a comprehensive IP-focused framework. For example, Section 146 of the Penal Code of Cameroon criminalises the imitation or use of false trademarks but lacks details on procedural enforcement or damage. In *GUINNESS Cameroon v the Brasseries of Cameroon*,<sup>51</sup> the plaintiff sued for trade dress infringement under the general unfair competition principles because there was no specific statutory provision on trade dress protection. The court hesitated to provide strong remedies due to the absence of clear legislative direction. Also, in the case of *Société Guinness Cameroon v. NDI Enterprises* (Douala Court of First Instance) 2019,<sup>52</sup> the accused was found guilty of Counterfeiting Guinness products. However, the court imposed only a suspended sentence and a fine of 250,000 CFA Francs, without any damages awarded to Guinness. This outcome failed to dissuade others from engaging in similar acts. Thus, it is recommended that IP laws should be amended to increase penalties, mandatory minimum sanctions and publication of judgments to serve as a warning to others and build judicial transparency.

### Drawbacks of Criminal Sanctions

Although the Penal Code stipulates fines and jail time for engaging in counterfeit operations,<sup>61</sup> the punishments are rather light, given the extent of the financial damage. Large-scale criminals, for example, cannot be deterred by fines between 500,000 and 5,000,000 FCFA and up to two years in jail.<sup>62</sup> Furthermore, the majority of prosecutions target small-scale vendors in unofficial marketplaces, but big importers and distributors who plan counterfeit networks sometimes escape punishment because of political protection or corruption. This makes it difficult for rights holders to recover losses through the courts. In *Pharmalex SARL v. Pharmacy Le Progrès*, a

<sup>48</sup> Mbaku, John Mukum. *Institution and Reform in Africa: The Public Choice Perspective*. Praeger, 2001. pp 88.

<sup>49</sup> Section 318 of the 2016 Penal Code of Cameroon.

<sup>50</sup> Law No. 2003/006 of 21 April 2003 to Lay Down Safety Regulations Governing Modern Biotechnology in Cameroon <sup>58</sup> The 2018 Cameroonian Custom Code.

<sup>51</sup> *GUINNESS Cameroon v. The Brasseries of Cameroon*, High Court of Douala, Suit No. 045/2018.

<sup>52</sup> *Société Guinness Cameroon v. NDI Enterprises*, Douala Court of First Instance, 2019 (Unpublished).

<sup>61</sup> Section 318 Cameroon Penal Code, Law No. 2016/007 of 12 July 2016 <sup>62</sup> *Ibid*, ss 317–319.

counterfeit drug dealer or seller received a fine of just 200,000FCFA and a suspended sentence, despite distributing fake antibiotics that endangered public health<sup>53</sup>. Thus, Cameroon should adopt a comprehensive anti-counterfeiting law, for example the South Africa's Counterfeit Act No. 37 of 1997 provides a model by creating clear sanctions and empowering enforcement officers to seize goods administratively even before court proceedings begin, strengthening civil remedies for Right Holders, and establishing special IP and commercial courts.

Both natural persons and corporate bodies can be punished with fines for violating IP rights.<sup>64</sup> The maximum amount of fine applicable to corporate bodies shall be five times that provided for natural persons, and where a corporate entity is guilty of an offence punishable with imprisonment only, the fine to be paid shall be from CFAF 1000,000 (one million) to CFAF 500,000,000 (five hundred million).<sup>54</sup> We also have Sections 327, 328, and 329 of the Penal Code, which also specify fines as a sanction for violators of IP rights.

### **Inadequate Civil Remedies**

The Penal Code of Cameroon provides criminal penalties for counterfeiting (imprisonment and fines), but civil remedies such as damages, injunctions, and account of profit are not well defined in statutory law. This makes it difficult for rights holders to recover losses through the courts. According to the Trademark Law (2003),<sup>55</sup> right-holders may sue for infringement, damages, and injunctions. However, both domestic and foreign trademark owners are discouraged from bringing legal action due to the drawn-out and costly process. The absence of specialised Intellectual Property Courts in Cameroon makes matters worse because generalist judges often lack IP adjudication expertise.

Civil sanctions are primarily pursued by aggrieved parties such as intellectual property holders, businessmen affected by the act of imitating genuine products and individuals affected by the act of counterfeiting. Defaulters or counterfeiters can be punished with civil sanctions. The current enforcement system often relies heavily on criminal sanctions, and this is often disproportionate. Fines, for instance, do not always cover the costs to society of harm for non-compliance and therefore do not always act as an appropriate deterrent, contributing to a shortcoming in compliance and civil sanctions are therefore tailored to respond proportionately to each case.

### **Enforcement Difficulties**

Enforcement of the law is equally a problem, as it runs across a number of institutions.

### **Institutional Weaknesses**

The judicial, police, ANOR, and customs departments in Cameroon are not well coordinated. Without the rights-holder's prior protest, customs agents at ports like Douala frequently lack the technical expertise to recognise counterfeit goods. Despite being in charge of quality control, ANOR has little enforcement power and depends on collaboration with law enforcement and the Ministry of Commerce. In actuality, this disarray results in redundant work, ineffective investigations, and corruption when it comes to the discharge of confiscated counterfeit items.

### **Porous Borders and Smuggling**

While the Cameroonian law does not give a universal definition of "smuggling", it is broadly governed under the CEMAC Customs Code, which is applicable in Cameroon as a member state of the Central African Economic and Monetary Community (CEMAC). According to Article 324 of the CEMAC Custom Code: "Smuggling constitutes any act of importation or exportation, circulation, or detention of goods contrary to the customs laws

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<sup>53</sup> Pharmalex SARL v. Pharmacy Le Progrès, Yaounde Court of First Instance, 2022, Suit No. PH/127/2022. <sup>64</sup>

Ibid Section 18( a and b).

<sup>54</sup> Ibid Section 25-1(2 and 3).

<sup>55</sup> Law No. 2003/006 of 21 April 2003 to Lay Down Safety Regulations Governing Modern Biotechnology in Cameroon.

and regulations”<sup>56</sup> Cameroon has not yet established a strong customs recordation system that enables intellectual property owners to pre-register their rights for border enforcement, despite TRIPS (Articles 51–60) requiring border measures. As a result, customs operations are typically reactionary, occurring only after counterfeit items have been introduced to the market. The unchecked flow of fake goods is made easier by Cameroon's porous borders, especially those with Nigeria, Chad, and the Central African Republic.

Many counterfeit goods, such as textiles, pharmaceuticals, beverages, and cosmetics, enter Cameroon via smuggling routes established by transnational criminal networks. These goods are often manufactured in or transited through neighbouring countries (particularly Nigeria and China ) through Nigerian ports. The Ministry of Public Health reported in 2022 that 27% of counterfeit medicines seized in Cameroon had entered through smuggling channels from Nigeria<sup>57</sup> and are then trafficked into Cameroon through unofficial border crossings like Ekok, Kousseri, Garoua-Boulai and Kyé-Ossi. In early 2023, customs officials in Garoua-Boulai intercepted several trucks transporting counterfeit soaps and body creams smuggled from Nigeria without proper documentation.<sup>58</sup>

### Corruption and Informal Economy

Enforcement is seriously compromised by corruption among law enforcement and customs officials. Counterfeit shipments can frequently evade border checks through bribery. The counterfeit trade is also sustained by the informal economy, which employs a significant number of Cameroonians, as both buyers and sellers are largely ignorant of the illegality of their operations. This is evident in customs and border officials who accept bribes to let counterfeited goods pass through the border without a glance at the effects on IP owners and the population. For example, a finding conducted by Baba Adou in 2023 showed that more than 62% think that most or all the police are corrupt.<sup>59</sup> Also, according to Dr Roland Njoya (University of Yaounde II) writes “The entrenchment of petty and grand corruption within IP enforcement agencies renders most anti-counterfeiting policies merely symbolic. Unless structural accountability is enforced, counterfeit trade will continue to thrive with institutional blessings.”<sup>60</sup> This, therefore, affects transparency and effectiveness in the fight against the sale of counterfeited goods, thereby causing more harm to society. It is recommended that an extensive monitoring mechanism be put in place to control cases of corruption exhibited by the law enforcement agents and apply Section 134 of the Penal Code.<sup>61</sup>

### Lack of Customer Awareness

Many consumers in Cameroon are not aware or informed, and cannot identify counterfeit products or are unaware of the legal and health implications of purchasing such goods. Surveys conducted in the major cities of Douala, Yaounde, Bamenda, etc, reveal that more than 60% of consumers could not differentiate between original and counterfeit pharmaceutical products. A survey by REMEFAC in Yaounde showed that over 60% of respondents had unknowingly purchased counterfeit medicines, and 72% were not aware of institutions responsible for the anti-counterfeiting enforcement.<sup>62</sup> In communities where there is no awareness or low awareness, counterfeiting becomes socially normalised. People tend to buy counterfeit clothes, electronics, or medicine without knowing or understanding the implications, treating them as a part of daily life. According to *Dr Mbuh Sylvester*, he argues that “ the bottom-up approach in fighting counterfeiting- starting with the sensitisation of consumers-is as important as top-down enforcement”. He notes that “Laws in books mean little without a population that knows, trusts, and uses them.”<sup>63</sup> It is recommended that national multi-sectoral

<sup>56</sup> Article 324 of the CEMAC Custom Code.

<sup>57</sup> The Ministry of Public Health, *Annual Report on Counterfeit Medicines in Cameroon*.

<sup>58</sup> Cameroon Tribune, “Custom Intercepts Smuggled Counterfeit Goods in Garoua-Boulai”, March 2023.

<sup>59</sup> AS733-Cameroonians-see-police-falling-short-of professionalism-Afrobarometer-12 November 2023.

<sup>60</sup> Roland Njoya” Institutional Corruption and the Counterfeit Economy in Francophone Arica” (2022) 7(1) Cameroon Journal of Public Law, 59;

<sup>61</sup> Section 134 of the Cameroon Penal Code

<sup>62</sup> REMEFAC,” Survey on Consumer Awareness of Counterfeit Goods in Yaounde” 2023.

<sup>63</sup> Mbud S., *Consumer Protection and the War against Counterfeiting in Cameroon*, University of Buea Law Review, 2021.

sensitisation campaigns should be organised, integration of anti-counterfeiting education into schools and vocational institutes, development of consumer-friendly educational materials, and use of mobile and digital platforms for awareness.

Consumer apathy is a significant non-legal obstacle to enforcement. Since counterfeit items are more affordable and easily accessible, many Cameroonians deliberately buy them. It is challenging to lower market demand for counterfeit goods in the absence of persistent consumer education campaigns, which restricts public involvement in enforcement initiatives.

### **The Role Of The Judiciary**

The judiciary plays a crucial role in shaping IP enforcement through interpretation and precedent. Unfortunately, in Cameroon, counterfeit-related litigation remains rare due to procedural delays, lack of expertise, and limited case reporting.

The lack of deterrent sanctions remains a fundamental judicial challenge that undermines the efforts to combat the sale of counterfeited goods in Cameroon. Sanctions serve as a critical tool in enforcing intellectual property rights and discouraging potential infringers. However, in the Cameroonian context, the legal and judicial response to counterfeiting often lacks the severity and consistency needed to discourage counterfeiters. Deterrent sanctions are legal penalties that are sufficiently severe, certain and prompt to discourage individuals, entities or the public from committing unlawful acts. Penalties for counterfeiting are too lenient to serve as deterrents. In some cases, fines are not proportionate to the economic harm suffered, and repeated offenders are not subjected to escalating penalties or sanctions. According to the WIPO, deterrent sanctions are essential for effective enforcement of Intellectual Property Rights in developing countries where informal markets are dominant.<sup>64</sup> However, they are rarely applied in practice, mild or outdated in terms of punishment severity, weakness in imposing sanctions, usually opting for suspended sentence or small fines, failure to award damages and compensation in civil proceedings, leaving IP right holders uncompensated. For instance, in the case of *Société Guinness Cameroon v. NDI Enterprises* (Douala Court of First Instance) 2019,<sup>65</sup> the accused was found guilty of Counterfeiting Guinness products. However, the court imposed only a suspended sentence and a fine of 250,000 CFA Francs, without any damages awarded to Guinness Cameroon. This outcome failed to dissuade others from engaging in similar acts. Thus, it is recommended that IP laws should be amended to increase penalties, mandatory minimum sanctions and publication of judgments to serve as a warning to others and build judicial transparency.

Judges are often reluctant to grant injunctions or order the destruction of goods due to uncertainty over valuation and ownership evidence. This judicial conservatism, combined with poor record-keeping, reduces the predictability and deterrent effect of IP litigation. To strengthen enforcement, Cameroon could establish specialised IP tribunals within major cities (e.g., Yaoundé, Douala, and Bamenda) to handle counterfeit-related disputes efficiently.

### **The Role of the Judicial Police Officer**

Some degree of effort was made by the judicial police officers in ensuring the fight against counterfeited goods, by investigating offenders and bringing them to courts for prosecution. In the case of *the People of Cameroon V. M.C. and A.N.*, 2022,<sup>66</sup> Court of First Instance Douala, the Nylon Gendarmerie Brigade in Douala, acting as the judicial police officer, arrested two female suspects, M.C. and A.N.A., for possession of 232 counterfeit £100 banknotes, amounting to £23,200 (approximately CFA 15million).<sup>67</sup> The arrest was made following routine surveillance and intelligence operations that suggested the circulation of fake euro currency in the Boko

<sup>64</sup> WIPO, TRIPS Agreement, Articles 41-61 (on enforcement mechanisms and sanctions)

<sup>65</sup> *Société Guinness Cameroun v. NDI Enterprises*, Douala Court of First Instance, 2019(Unpublished).

<sup>66</sup> Douala High Court suit No.2016/0033.

<sup>67</sup> Cameroon Intelligence Report, "Two Women Arrested in Douala for possession of 232 Counterfeit £100Notes CIR, January 2022.

<sup>79</sup> The Limbe Court of First instance suit No.2017/3400.LB.



neighbourhood. Upon the arrest, the suspects were found with the counterfeited note concealed in their personal belongings. The officers secured the evidence and immediately notified the State Counsel of the Douala court of First Instance. Acting under the supervision of the State Counsel, the officers submitted the initial inquiry reports and physical evidence for the judicial proceeding. The case of *The Republic of Cameroon V. Ngole Joh & Others*<sup>79</sup>. In 2017, Officers of the National Agency for Food and Drug Administration and Control, in collaboration with customs officials, conducted an operation in Limbe based on intelligence that fake drugs were being sold in large quantities.

However, notwithstanding the efforts made by the judicial police officer in ensuring the fight against counterfeiting, there is still continuous violation of these IP rights by the population. This is because in most cases, the officials turn to take bribes from these violators and then set them free without having due regard to the damage caused to the owners of these IP rights, businessmen and the populations at large. This, therefore, affects the fight against the sale of counterfeited goods in Cameroon, thus causing more harm to society. It is thus recommended that a monitoring mechanism be put in place to monitor the officials on their duty posts so as to eliminate issues of bribery and corruption amongst the officials.

### **The Socio-Economic Impact of Weak Enforcement**

The persistence of counterfeit goods has severe economic, health, and social consequences.

Domestically, counterfeit sales:

#### **Erode Legitimate Business Revenues and Reduce Tax Income**

One of the most significant impacts of the sale of counterfeited goods is the substantial loss in government tax revenue. Legitimate businesses that pay value-added tax (VAT)<sup>68</sup>, corporate tax, under declaration of income<sup>69</sup> and import duties are sidelined by the counterfeiters who operate largely in the informal or black market sectors. These counterfeiters do not register their activities with the tax authorities, such as the General Directorate for Taxes, thus escaping tax obligations altogether. According to reports by the Cameroon Employers' Association (GICAM), counterfeit and contraband goods cost the state billions of FCFA annually in unpaid duties and taxes, especially in sectors like the pharmaceuticals, textiles, and electronics.<sup>70</sup> These losses directly affect the national budget and limit government capacity to finance essential sectors like health, education, and security. In the case of *Douala v. Choufa Alain & Others*,<sup>71</sup> the defendants were caught distributing large quantities of counterfeit alcoholic beverages. Investigations revealed that these products had entered the country through an informal channel and were sold without any customs declaration or VAT registration. The Ministry of Finance reported a tax loss of approximately 150million FCFA in this case alone.

Counterfeit sellers often avoid registering their businesses and licenses or engaging in financial practices that are traceable by the tax authorities. This fosters a culture of tax evasion, further complicating the administration of tax laws in Cameroon. As more traders shift to the lucrative counterfeit markets to avoid licensing fees, taxes, and regulatory compliance costs, the formal economy shrinks. This structural imbalance increases the tax burden on the compliant businesses, potentially discouraging foreign investment and local entrepreneurship.

#### **Loss of Custom Revenue**

Most counterfeited goods that enter the country are smuggled into Cameroon without passing through customs clearance. This evasion deprives the state of revenue that would have been collected through import duties. For Example, in the people of *Cameroon v. Mba Emmanuel & Others* (Douala Court of First Instance, 2017), the accused were caught with a container of counterfeit electronics that bypassed customs control and checks. The court held them liable under Section 357 of the Cameroonian Penal Code for smuggling and customs fraud. The

<sup>68</sup> Section 22 of the General Tax Code

<sup>69</sup> Section 154 of the Custom Code

<sup>70</sup> GICAM Report on Informal Trade and Tax Losses in Cameroon, 2022.

<sup>71</sup> *Douala V. Choufa Alain & Others*, Douala Court of First Instance, Criminal Division, Judgement No.234/2021.



State lost over 48 million FCFA in import duties<sup>72</sup>. In the case of Kamto Import SARL v. Directorate of Customs (2018).<sup>85</sup> The Littoral Administrative Court upheld a custom decision to seize fake luxury watches imported into Cameroon. The importer challenged a seizure of goods declared counterfeit by Cameroon Customs. The goods (designer handbags and luxury watches) had been confiscated at the Douala port.

### Endanger public health

The rise in counterfeit goods poses an alarming global public health threat. While counterfeiting has serious legal and economic consequences, its health impact is especially profound. These products are often created and distributed with the intent to deceive consumers for financial gain. Substandard and falsified medical products pose a significant threat to public health globally. They can be ineffective at treating the illness, as they may contain incorrect dosages. They can even be directly harmful through increased risk of antimicrobial resistance. Both substandard and falsified medical products put patients' health at risk, undermine the effectiveness of health systems and erode trust in health and care providers. Sometimes, certain problem with health problems affect some countries more than others.

These problems occur in Cameroon, where everyone does not everyone has access to health care. When this happens, people tend to buy medicines from places that are not authorised or permitted to sell them. Counterfeit medicines pose a significant global health problem, impacting millions of people and compromising health systems worldwide. These types of products can be found in all countries, impacting all medical products, including life-saving treatments like vaccines, antibiotics and cancer therapies. In 2017, the WHO estimated 1 in 10 medicines in low- and middle-income countries failed quality control tests, suggesting the products are substandard or falsified, with over 100,000 deaths annually attributed to counterfeit drugs in Africa.<sup>73</sup>

Section 258 of the Penal Code addresses offences related to food safety, pharmaceuticals, and public health, providing that anyone who sells products dangerous to health is liable to punishment.<sup>74</sup> In more serious cases, especially in cases where counterfeiting results in substantial economic loss, affects public health, such as fake pharmaceuticals or involves organised networks. In *Société Anonyme des Brasserie du Cameroun (SABC) v. John Tita*,<sup>88</sup> the court of first instance of Yaounde tried a trader who was caught selling counterfeit beer bearing SABC logos and labels. The defendant was prosecuted under Article 322 of the Penal Code (use of false marks). He was sentenced to six months of imprisonment, a fine of 500,000 FCFA, and the counterfeit goods were ordered destroyed. Also, in the case of the Public Prosecutor & Ministry of Public Health v. Pascal Mbarga (2014).<sup>75</sup> The Centre Regional High Court heard this case involving an accused, charged with the importation of fake anti-biotics and malaria drugs. The seriousness of the offence posing a public health risk, elevated the matter to the High Court of the Centre Region. He was charged under the Penal Code, Law No.90/035 on Pharmaceutical Practice.<sup>76</sup> The court sentenced the accused to 3 years of imprisonment, a fine of 2 million FCFA, and a permanent business licence revocation due to the public health risk involved.

In 2022, a report from the Ministry of Public Health in Cameroon indicated or pointed out that over 30% of patients admitted to the district hospital in the East Region with complications of malaria had previously self-medicated using counterfeit antimalarial products purchased from the local markets<sup>91</sup>. Funds and personnel that could be dedicated to preventive health care, vaccination programs, and infrastructure upgrades are redirected to manage public health crises caused by counterfeit products or goods. Health ministries are forced to launch

<sup>72</sup> The People of Cameroon V.Mba Emmanuel & Others , Douala Court of First Instance, Case No.178/COR/2017. <sup>85</sup> Littoral Administrative Court 2018, Cameroon Custom Legal Bulletin.

<sup>73</sup> WHO "Public Health Impacts of Substandard and Falsified medicines"; 2017.

<sup>74</sup> Section 258 of the 2016 Cameroonian Penal Code provides that "Any person who offers for sale, sells or distribute foodstuffs, beverages or pharmaceutical products unfit for human consumption or prepared under unhygienic conditions, shall be punished with imprisonment for from five to ten years and with a fine of from one hundred thousand to ten million FCFA". <sup>88</sup> Yaounde Court of First Instance Court Judgement No.152/2015 .

<sup>75</sup> MINJUSTICE Judicial Report 2014.

<sup>76</sup> Law No. 90/035 of 10 August 1990 regulates the practice and organization of the pharmaceutical profession. <sup>91</sup> Cameroon, Ministry of Public Health, Annual Health Service Utilisation Report, 2020.

investigations and emergency health campaigns, allocate resources to intensive care units and respond to media and community backlash. This allocation hinders sustainable health system development.

### **Undermine industrial innovation and discourage foreign investment**

One of the major legal effects of the sale of counterfeited goods in Cameroon is the violation of intellectual property rights. Intellectual property rights refer to the legal protection granted to creators over their inventions, trademarks, and artistic works under the law, such as Law No.2000/011 on Copyright and Neighbouring Rights. In Cameroon, the Ministry of Trade and the national anti-counterfeit Committee are mandated to combat such violations, and offenders may be prosecuted under the Penal Code or specific intellectual property laws. In the case of *Société Anonyme des Brasseries du Cameroun v. Toko & Cie* (2013), the court held that the sale of fake branded beverages constituted trademark infringement and awarded damages to the plaintiff. However, enforcement remains weak due to corruption, limited technical capacity, and lack of public awareness, which hinders the deterrent effect of the laws. This demonstrates that while the legal frameworks exist, the continued sale of counterfeited goods undermines the effectiveness of intellectual Property in Cameroon.

### **Distortion of Fair Market Competition**

The sale of counterfeited goods undermines legitimate businesses, particularly local manufacturers and unauthorised distributors. By offering substandard and fake products at lower prices, counterfeiters attract consumers who prioritise cost over quality, making it difficult for genuine businesses to compete. This situation creates unfair competition, distorts pricing structures, and reduces the profitability of low-abiding companies. In the case of *Société Anonyme des Brasseries du Cameroon v. S.C.A. Distributor* (2015), the Douala Court of First Instance ruled in favour of the plaintiff, finding that counterfeit beer products sold under similar branding violated intellectual property rights and unfairly competed with the genuine company, causing economic harm.<sup>77</sup>

Similarly, in Nairobi, Kenya, the presence of counterfeited goods distorted the market competition of a minimum rate of 1.00 and a maximum of 5.00, with a mean of 3.2206 and a study deviation of 1.72000 market distortion rate. This study, which was conducted in Kenya, revealed significant insights into the impacts of counterfeit goods on the economy. The findings indicated that counterfeit products have a detrimental effect on the legitimate business, with respondents suggesting a negative impact on the revenue, disrupting trade and the supply chain.<sup>93</sup>

### **Loss in Foreign Direct Investment**

Foreign Companies in Cameroon, like the MTN Group Ltd(South Africa), the Brasseries of Cameroon owned by a Castle Group (France), Dangote Cement Cameroon(Nigeria), have invested a lot of funds in their businesses that are planted in Cameroon, boosting local production and employment. Higher levels of Counterfeiting have a clear detrimental effect on foreign direct investment. Companies operating in IPRsensitive industries, that is to say, sectors that are influenced greatly by the presence of counterfeiting, are especially deterred from investing in countries with poor IP enforcement. A paper published by the National Bureau of Economic Research measures the impact of counterfeiting on foreign investment by the dropping of exports, and a similar paper called “The impacts of counterfeiting on Corporate Investment” by Alexander Cuntz and Yi Qian found an overall negative effect of counterfeit goods on research and development across sectors.<sup>78</sup> The reasons for this are clear. What company wants to spend money on research and development, design, brands, etc, if they know that any new product they develop and manufacture is going to be ripped off by counterfeiters, with no response or protection from governing bodies? It will have a long-term effect on the economy as fewer multinational companies due to counterfeiting will lead to fewer job opportunities, preventing technological transfer, as knowledge-sharing platforms from the investors will be absent. Example: In Nigeria, the Business Software Alliance (BSA) estimated losses of over 100million annually due to software piracy, discouraging tech firms

<sup>77</sup> *Société Anonyme des Braserries of Cameroon v. S.C.A. Distributor*. Douala Court of First Instance. Judgement No .152/2015. <sup>93</sup> Micheal Njogu, Evaluation of the Impacts of Counterfeited Goods on the Economic Security in Nairobi County, Kenya(2024) available at <https://www.researchgate.net/publication/381780664> accessed on 6 July 2025.

<sup>78</sup> Cuntz,A.,& Qian, Y. (2021) “The Impacts of Counterfeiting on Corporate Investment”. WIPO Economic Research Working Paper No.67; also Journal of Economic Development, 46(2), 1-40; Available via SSRN/WIPO.

from investing in West Africa<sup>79</sup>. A similar climate exists in Cameroon, especially in the pharmaceutical and electronic sectors. A study by the Anti-Counterfeiting Authority (ACA) Kenya found that counterfeiting had an immediate negative effect on the FDI-with short-term investment dips and long-term investor reluctance to re-enter the Kenyan markets.<sup>80</sup> Thus, to reverse the loss in FDI due to counterfeiting, Cameroon and the globe should strengthen IP legislation enforcement, enhance judicial efficiency in prosecuting counterfeiters and build investors' confidence through transparent customs and regulatory bodies.

## SUMMARY, FINDINGS AND RECOMMENDATIONS

### Summary

The sale of counterfeit goods has become one of the most pervasive commercial and legal challenges facing Cameroon. From the inception of this research, the objective was to critically examine the laws regulating counterfeit goods, their adequacy, and the mechanisms available for enforcement.

The study introduced the background, problem statement, research questions, and objectives of the study, establishing the context for the growing prevalence of counterfeit goods in Cameroon. It reviewed the international, regional, and national legal frameworks, highlighting Cameroon's obligations under TRIPS, the Paris Convention, the Bangui Agreement, and domestic statutes such as the Penal Code and Customs Code. The paper equally offered a critical analysis of these laws, identifying fragmentation, weak sanctions, poor coordination among institutions, and limited consumer awareness as key enforcement barriers. It also examined case studies and enforcement experiences to reveal how corruption, inadequate institutional capacity, and lack of political will undermine effective regulation of counterfeit goods in Cameroon.

### Findings

According to the report, Cameroon's laws governing counterfeit goods are dispersed throughout several statutes, such as the Trademarks Law, Customs Code, and Penal Code. The numerous requirements impair the effectiveness of enforcement and lead to jurisdictional overlaps. There isn't a single national policy that addresses counterfeiting as a separate economic and criminal issue, nor is there a unified Counterfeit Goods Act.

A number of government agencies, including the Customs Department, Ministry of Commerce, ANOR, Police, and Judiciary, have overlapping mandates in the fight against counterfeit goods. Inadequate information sharing, redundant tasks, and occasionally conflicts of competence have been caused by the lack of a single coordinating authority. Counterfeiters are able to take advantage of bureaucratic inefficiencies because of this institutional fragmentation.

In Cameroon, the majority of the enforcement tools are reactive rather than proactive. As mandated by TRIPS Articles 51–60, customs personnel do not have a proactive mechanism for recording intellectual property rights. Rather than at entry points, enforcement operations usually take place after counterfeit items have entered local marketplaces. Furthermore, enforcement integrity is seriously jeopardised by corruption at borders and within law enforcement organisations.

In comparison to the financial losses caused, the Penal Code's penalties for counterfeiting are rather light. Particularly when it comes to organised counterfeit networks, jail sentences of up to two years and small fines (often less than five million FCFA) are ineffective deterrents. Investor trust in the nation's intellectual property system is weakened by this laxity, which promotes recurrent crimes.

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<sup>79</sup> Business Software Alliance, Global Software Piracy Study 2019.

<sup>80</sup> Elijah Ruttoh, Effects of Counterfeiting on Economic Growth and Foreign Direct Investment in Kenya, Anti-Counterfeiting Authority Kenya available at <http://www.aca.go.ke/downloads/research-paper-abstract/30-effect-of-counterfeiting-on-economic-growth-and-foreign-direct-investment-in-kenya-by-elijah-ruttoh-aca> accessed 6 July 2025.

Judges in the majority of Cameroonian courts lack specific training in intellectual property. This results in a lack of jurisprudence on situations involving counterfeit goods and conflicting decisions. Rightsholders are deterred from pursuing a lawsuit by the lack of specialised IP tribunals and case management delays.

There is very little public knowledge of the risks associated with fake goods. The demand for counterfeit goods is maintained because consumers frequently place a higher value on price than quality. Customers frequently intentionally buy fake goods without realising the wider implications for their health and finances. This result emphasises the necessity of raising consumer awareness as a component of an all-encompassing anti-counterfeit strategy.

Cameroon has formally committed to upholding international standards of intellectual property protection by its participation in the TRIPS Agreement, Paris Convention, and Bangui Agreement. But this study discovered that compliance is more formalistic than substantive. TRIPS criteria are violated by the inadequate implementation of border controls. Judicial remedies are erratic and slow. There are no deterrent sanctions as outlined in TRIPS Article 61. Despite ratifying pertinent treaties, Cameroon's anti-counterfeiting policy effectively continues to be in violation of important international enforcement norms.

Despite Cameroon's international obligations, anti-counterfeiting efforts are not given any political priority. Enforcement is irregular and frequently driven by outside pressure from international firms or trading partners. Legislative and institutional reforms are mostly cosmetic in the absence of persistent political will.

### **Implications of the Findings**

For Cameroon, the proliferation of counterfeit goods has significant negative effects on the country's economy, society, and health:

Customs and tax duties are lost, which lowers government revenue. Due to inadequate IP protection, it deters international investment. Customers' health is at risk, particularly when it comes to fake electronics, food, and medications.

It compromises industrial competitiveness and innovation; It undermines confidence in reputable markets and companies. Therefore, combating counterfeiting is both a legal requirement and a developmental imperative.

### **Recommendations**

In order to enhance effective public participation in environmental management in Cameroon, the following recommendations have been formulated.

#### **Legislative Reforms**

##### **Enact a Comprehensive Counterfeit Goods Act**

A single, harmonised law should consolidate all provisions on counterfeit regulation, including criminal, civil, and customs aspects. This Act should define “counterfeit goods” in accordance with TRIPS and OAPI standards and outline clear penalties for offenders. The Cameroon legislation should revisit its laws on intellectual property protection and enact a clear and more comprehensive law that will govern counterfeiting goods in Cameroon, and should also incorporate and harmonise with existing international statutes and provide a national framework that specifically deals with detection, investigation, prosecution and destruction of counterfeited goods. The constitution should be revised to incorporate a provision dealing specifically with aspects of counterfeited goods. The Cameroon Penal Code should be amended to draft and enact clearly what constitutes counterfeit goods across sectors like electronic, pharmaceutical and clothing.

##### **Boost Sanctions**

Penalties ought to be commensurate with the financial damage that counterfeiting causes. To discourage repeat offenders and organised counterfeit networks, fines should be raised and jail sentences should be lengthened.

## **Judicial Reforms**

### **Introduce Specialised IP Courts**

In important towns like Yaoundé, Douala, and Buea, the establishment of specialised intellectual property divisions will enhance judicial knowledge, cut down on delays, and guarantee uniform jurisprudence. It was discovered that proceedings are too long before the courts; the government should employ more magistrates to reduce this judicial delay of proceedings before the courts.

### **Trained Experts in IP Laws**

Also, it is noticed that there is a problem of a lack of expertise in IP law within the judiciary. Effective training should be given to the magistrate in charge of handling counterfeit issues. Also, IP specialised courts should be put in place for handling cases dealing specifically with environmental matters. Most of the law enforcement agents are corrupt. There effective monitoring mechanism should be put in place to control cases of corruption of these agents.

### **Technological and Digital Verification Tools**

In response to the increasing sophistication of counterfeiters, Cameroon should adopt technological solutions to enable the verification of genuine goods. These include: Mobile verification system using scratch codes or SMS codes (especially for pharmaceuticals); Barcode scanning for product authentication; Online platform for consumer reporting and product traceability.

## **Institutional Reforms**

### **Establish the National Anti-Counterfeiting Authority (NACA)**

This organisation should oversee all enforcement actions, keep an IP database, and collaborate closely with law enforcement, customs, and the courts. Like Kenya's Anti-Counterfeit Authority, it ought to operate independently.

### **Capacity Building for Enforcement Officers**

To properly identify counterfeit items and enforce intellectual property rights, police, magistrates, and customs officers must get ongoing training.

### **Enhanced Border Control and Customs Surveillance Mechanisms**

Given that most counterfeit goods enter Cameroon through ports and porous land borders, the Customs Administration under the Ministry of Finance should intensify its monitoring at points of entry. These measures include: Use of scanners and trained sniffer dogs at the Douala port; Establishment of anti-fraud squads within customs; Interception of suspicious consignments through profiling. Establish a customs recordation system that enables trademark owners to register their rights in order to proactively identify counterfeit imports.

### **Destruction of Seized Counterfeit Goods**

To deter future offences, Cameroonian authorities often engage in public destruction and exercises of confiscated counterfeit goods. This serves both as a punitive and educative mechanism. The Ministry of Environment, Customs, and local councils should always organise such events.

## **Policy and Public Awareness Measures Public**

### **Consumer Education Campaigns**

Government and civil society should collaborate to sensitise consumers on the dangers of counterfeit goods through mass media, community workshops, and school curricula. Counterfeit thrives in Cameroon, where



consumers lack awareness of the dangers and the indicators of fake products. To address this, government agencies, non-governmental organisations (NGOs), and the private sector should frequently conduct public awareness campaigns aimed at sensitising the population to the health and economic risks of counterfeit goods. Educating traders and retailers on the legal consequences of dealing in such products.

Informing consumers on how to identify genuine goods through packaging, labelling, and registration marks.

### **Strengthen International Cooperation and Technical Assistance**

Cameroon should participate in regional data-sharing programs, cooperative border patrols, and uniform sanctions among member nations through OAPI. Cameroon should strive to be committed to the global anti-counterfeiting efforts, as reflected in its cooperation with international organisations such as: World Customs Organisation(WCO), the World Intellectual Property Organisation(WIPO), Interpol and the African Union. This collaboration will provide access to: Training for Customs and judicial police officers; Tools and manuals for identifying counterfeit goods; Data sharing and coordinated enforcement operations. For example, WCO's IPM ( Interface Public-Members) tool has been deployed in Cameroon to assist customs agents in identifying counterfeit products in real time. These mechanisms would collectively strengthen Cameroon's fight against counterfeited goods beyond the courtroom. Their success, however, depends on continued public awareness and cooperation, resource allocation, political will, and international collaboration.

## **CONCLUSION**

Although Cameroon has built a rather complete legal and institutional framework to combat counterfeiting, the practical efficiency of these measures is still limited, according to a critical review of the laws governing the sale of counterfeit goods in the country. A strong normative foundation is provided by Cameroon's legislative framework, which includes laws like the Penal Code, the Law on Trademarks and Patents, and consumer protection laws, in addition to obligations under regional and international agreements like the Bangui Agreement, the TRIPS Agreement, and CEMAC regulations. Nonetheless, a substantial enforcement gap between legal principles and real results is highlighted by the ongoing spread of counterfeit items in marketplaces, on the streets, and even in official supply chains.

According to this analysis, Cameroon's anti-counterfeiting system's weakest point is still enforcement. Inadequate technical capability, a lack of specialised training, a lack of public awareness, and poor institutional coordination amongst enforcement agencies like customs, the police, and the judiciary have all contributed to the system's decreased effectiveness. Procedural delays and inconsistent rulings result from the judiciary's frequent lack of expertise in handling intellectual property cases. Furthermore, the legal penalties are frequently out of date or excessive, making them ineffective at discouraging counterfeiters.

From an economic standpoint, counterfeit items have seriously harmed reputable companies, damaged customer confidence, and cost the government a lot of tax money. Counterfeit electrical devices, cosmetics, and medications have put public health and safety at risk. The state occasionally conducts seizures and awareness campaigns, but these actions are reactive rather than preventive and do not address the underlying reasons of the counterfeit economy, such as poverty, unemployment, and the informal character of a large portion of Cameroon's trade.

By ratifying and executing agreements through OAPI and WIPO, Cameroon has shown a desire to comply with global norms both regionally and internationally. However, the translation of these pledges into legally binding national acts is still lacking. Strong institutional specialisation, digital enforcement tools, and public-private partnerships are critical components that Cameroon still needs to enhance in order to reduce the spread of counterfeit goods, according to comparative analysis with other jurisdictions, particularly Nigeria and South Africa.

In conclusion, Cameroon's battle against counterfeit goods necessitates both a strong legal framework and an effective and dynamic enforcement ecosystem. For intellectual property rights to be effectively deterred and protected, institutions, society, and the law must work together more effectively. Political will, sufficient

funding, and ongoing cooperation between all parties involved are necessary for anti-counterfeiting initiatives to be successful. The suggested changes have the potential to turn Cameroon's anti-counterfeiting laws from a mainly theoretical framework into a workable deterrent that protects economic integrity, consumer welfare, and innovation.