



Faculty of Legal Sciences
School of International Studies

**The Import of Counterfeit Merchandise in Ecuador:
Legal Implications for Customs and Intellectual
Property Rights**

**Project prior to obtaining a Bachelor's Degree in
International Studies**

Authors:

Karelys Estefania Cabrera Calle

Andrea Michelle Tigre Ochoa

Advisor:

Claudia Inés Campoverde Cárdenas

Cuenca – Ecuador

2026

I dedicate this degree project to my parents, Edison and Janneth, who have always supported and guided me throughout my life. Their unconditional love and sacrifice have taught me to believe in myself. To my sisters, Rashell and Kiara, for standing by me and encouraging me to keep going. Having you by my side has been one of the greatest gifts of my life. To each and every one of you, because you are my home, my inspiration and the reason I never gave up.

Karelys Estefania Cabrera Calle

I dedicate this degree project first and foremost to God, for being my guide and giving me the strength not to give up during difficult times. I also dedicate it to my parents, César and Edma, for their sacrifice, support and unconditional love throughout this journey. To my sisters, Fernanda and Sofía, for their trust in me and their encouragement; and to everyone who, in one way or another, has been part of this journey, making the achievement of this goal possible.

Andrea Michelle Tigre Ochoa

ACKNOWLEDGEMENTS

We thank God for guiding us along this path and enlightening us during our time at university. In particular, we would like to thank our parents, who, through their sacrifice, hard work and constant support, have been the cornerstone of our academic and personal development. We would like to express our gratitude to Dr Claudia Campoverde, who, as our thesis supervisor, guided us throughout this process with her extensive knowledge, commitment and dedication. We also extend our gratitude to Dr Paúl León, Dr Esteban Coello, Eng. Rolando Maza and Mgst. Patricio Moyano for their significant contributions, which made the completion of this degree project possible. To all of them, we express our deepest gratitude.

Table of Contents

ACKNOWLEDGEMENTS	ii
Table of Contents	iii
List of Tables and Appendices	iv
List of Tables	iv
List of Appendices	iv
ABSTRACT	v
RESUMEN	vi
1. Introduction	1
2. Theoretical Framework and State of Art	1
2.1 Theoretical Framework	1
2.2 State of the Art	4
3. Methods	7
4. Results and Discussion	9
4.1 Results	9
4.1.1 Ecuadorian Regulatory Framework	9
4.1.2 Comparative Legal Analysis: Ecuador and Peru	11
4.1.3 Interviews	13
Public Sector	16
4.2 Discussion	22
5. Conclusions	25
6. References	27
7. Appendices	31

List of Tables and Appendices

List of Tables

Table 1 Private Sector Comparison	16
Table 2 Public Sector Comparison	20
Table 3 Public vs. Private Sector Comparison	21

List of Appendices

Appendix A Informed Consent Form Mgtr. Patricio Moyano	31
Appendix B Informed Consent Form - Eng. Rolando Maza	32
Appendix C Informed Consent Form Dr. Paúl León	33
Appendix D Informed Consent Form Dr. Esteban Coello	34

The Import of Counterfeit Merchandise in Ecuador: Legal Implications for Customs and Intellectual Property Rights

ABSTRACT

The import of counterfeit goods in Ecuador represents a persistent problem in the country's economy, affecting competitiveness and trademark law. This research paper analyzes customs and intellectual property, with reference to the current Ecuadorian regulations. Through interviews, the perspectives of the existing problem between public and private sector coordination were contrasted, highlighting a weak inter-institutional coordination, lack of technology and deficiency in consumer culture. In addition, the Peruvian regime was compared with the Ecuadorian one, where the results showed that Ecuador has sufficient legislation; however, the problem lies in its deficient implementation, specifically in inter-institutional coordination, economic and technological resources and response times. By virtue of the above, this work of certification proposes possible recommendations, in which it is concluded that Ecuador needs to modernize its control tools, improve cooperation between its institutions SENA and SENADI and incorporate more efficient technological and preventive mechanisms. Considering the implementation of these actions, it will be achieved to reduce the entry of counterfeited goods into Ecuadorian territory, which will allow the consolidation of legal security of Ecuadorian foreign trade.

Keywords: intellectual property, product counterfeiting, customs administration, border security, public administration.

Importación de Mercancías Falsificadas en Ecuador: Implicaciones Aduaneras y de Propiedad Intelectual

RESUMEN

La importación de mercancías falsificadas en Ecuador representa un problema persistente en la economía del país, afectando a la competitividad y derecho marcario. Este trabajo de investigación analiza ejes aduaneros y propiedad intelectual, teniendo de referencia la normativa vigente ecuatoriana. A través de entrevistas, se contrastó las perspectivas de la problemática existente entre la coordinación del sector público y privado, evidenciando una débil coordinación interinstitucional, falta de tecnología y carencia en la cultura del consumidor. Además, se comparó el régimen peruano con el ecuatoriano, en donde, los resultados evidenciaron que Ecuador dispone de una normativa suficiente, sin embargo, el problema radica en su aplicación deficiente, específicamente en la coordinación interinstitucional, recursos económicos y tecnológicos y tiempos de respuesta. En virtud de lo expuesto, este trabajo de titulación propone posibles recomendaciones, en donde, se concluye que Ecuador necesita modernizar sus herramientas de control, mejorar la cooperación entre sus instituciones SENA E y SENADI e incorporar mecanismos tecnológicos y preventivos más eficientes. Considerando la implementación de estas acciones, se logrará reducir el ingreso de mercancías falsificadas a territorio ecuatoriano, lo cual permitirá la consolidación de seguridad jurídica del comercio exterior ecuatoriano.

Palabras clave: propiedad intelectual, mercancías falsificadas, control aduanero, medidas en frontera, administración pública

1. Introduction

This research examines the challenge Ecuador is currently facing regarding counterfeit goods, a phenomenon that has significantly affected the commercial, legal, social, and economic security spheres (León & Martillo, 2021). Consequently, there is a need for a comprehensive study to analyze public policies aimed at strengthening the fight against the illegal trade of counterfeit merchandise. Furthermore, this study seeks to propose recommendations through a comparative analysis with Peruvian legislation in order to promote a sound commercial environment in which intellectual property rights play a central role. Such an approach may foster regional integration and support Ecuador in adopting efficient global standards and strategies in trade and customs security.

Counterfeit goods import represents a critical challenge for Ecuador, both in terms of customs framework and the protection of intellectual property rights. Despite the country's regulatory advancements, weaknesses persist in the practical implementation of these norms. This has led to a discrepancy resulting in a gap between the legal framework and operational realities (Valverde et al., 2022). Therefore, Ecuador must bridge the divide between its legal provisions and the insufficient enforcement mechanisms designed to safeguard intellectual property, in order to effectively confront the increasing influx of counterfeit goods into its territory (Peña et al., 2023).

To achieve this, it is necessary to examine the customs and intellectual property implications related to the import of counterfeit goods in Ecuador. This analysis will review the regulatory framework and the competent institutions responsible for customs and intellectual property matters. Furthermore, drawing on interviews with experienced individuals, the study will compare perspectives from both the public and private sectors.

2. Theoretical Framework and State of Art

2.1 Theoretical Framework

The beginning of foreign trade led to the creation of the World Trade Organization (WTO), which seeks to promote free trade in a fair and transparent manner. WTO serves as a reference point for trade agreements linked to its framework, including the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) (Organización Mundial del Comercio, 2021). TRIPS establishes a regulatory baseline that requires Member States to

adopt effective enforcement mechanisms, including border measures, to ensure and regulate the protection of distinctive signs within global trade. In this context, TRIPS authorizes States to grant customs authorities the power to suspend the clearance of goods suspected of infringement, thereby preventing their entry into and circulation within international markets (Escobar & Moreno, 2023).

When referring to the concept of Intellectual Property (IP), it is essential to understand it as the set of rights that protect and regulate human creations. Intellectual property constitutes a fundamental pillar of economic and social development, as it both encourages and safeguards the creation of ideas, as well as industrial and technological innovation (Grijalva, 2007). Intellectual property is generally classified into three independent categories: copyright, protection of new plant varieties, and industrial property rights. The latter is particularly relevant to commercial progress, as it enables the identification of products and services through distinctive signs, ensuring fair competition and consumer protection (Secretaría General de la Comunidad Andina & Organización Mundial de la Propiedad Intelectual, 2023, p.13).

Within the field of industrial property, trademark law regulates the signs that distinguish products and services in the marketplace, forming a cornerstone of contemporary trade and national economic development. According to Forero & Duque (2014) the term trademark is polysemous and encompasses various definitions that include combinations of signs, designs, symbols, and names. However, the Organización Mundial de la Propiedad Intelectual (2019) defines a trademark as a name or symbol that differentiates goods or services across markets. Trademark registration is therefore essential, as it grants its holder exclusive rights of use and protects against unfair competition (Santamaría, 2022).

According to the Tribunal de Justicia de la Comunidad Andina(2013) for a sign to be recognized as a trademark, it must meet specific requirements: perceptibility, graphical representability, and distinctiveness. Perceptibility refers to the ability of a sign to be identified through the senses, allowing it to be easily recognized. Graphical representability is an essential requirement of trademark law, meaning that a sign must be clearly represented in graphic form to be registered, thereby enabling the State to prevent the monopolization of generic terms and to avoid confusion with previously filed or registered signs. Finally, distinctiveness, also known as the capacity to differentiate ensures that a sign is capable of

distinguishing one product or service from another in the market. Together, these characteristics allow trademarks to fulfill their identifying function.

Once these requirements are satisfied, compliance with the guidelines established by the Servicio Nacional de Derechos Intelectuales (SENADI; Servicio Nacional de Derechos Intelectuales; National Intellectual Property Rights) is necessary. SENADI is the technical authority responsible for regulating, overseeing, and managing intellectual property rights in Ecuador (Código Orgánico de la Economía Social de los Conocimientos, Creatividad e Innovación, 2016, p.8). Under its regulatory framework, trademark holders are granted exclusive rights of use and may prohibit the unauthorized distribution of identical or similar signs, thereby preventing the circulation of counterfeit goods (Secretaría General de la Comunidad Andina & Organización Mundial de la Propiedad Intelectual, 2023).

Counterfeit goods refer to products that constitute exact or substantially similar imitations of established or well-known brands (Organización Mundial del Comercio, 2025). Violations of intellectual property rights pose a threat to economic growth, creative development, and innovation, particularly in cases involving trademark counterfeiting, which creates significant challenges for enforcement authorities and rights holders (Pelagallo et al., 2024). The granting of exclusive rights promotes fair competition and is aligned with the Universal Declaration of Human Rights, specifically art. 27, which recognizes the right of individuals to benefit from the protection of their intellectual creations (Organización de las Naciones Unidas, 1948).

This issue transcends national borders, as it represents a complex and global phenomenon that affects not only legal systems but also economic, political, social, and cultural dimensions. Addressing it requires each country to establish comprehensive regulatory frameworks, encourage coordinated action, and promote international cooperation (World Intellectual Property Organization, 2024).

In Ecuador, the Servicio Nacional de Aduana del Ecuador (SENAE; Servicio Nacional de Aduana del Ecuador; Ecuadorian National Customs Service) acts as the trade facilitation authority responsible for enforcing customs regulations. According to Puente (2023) it constitutes the first line of defense against the import of counterfeit goods. SENAE monitors

incoming merchandise, notifies rights holders, and may suspend the nationalization process of goods suspected of infringement.

Border measures serve as early enforcement mechanisms in the field of intellectual property, designed to prevent infringing goods from reaching the market. These provisional actions enable customs authorities to suspend the clearance of goods suspected of being counterfeiting and, where appropriate, to destroy or remove such goods from circulation. The World Trade Organization acknowledges that enforcement at the source is not always sufficient and therefore provides for border enforcement procedures that allow rights holders to obtain customs cooperation to prevent the release of infringing goods. In Ecuador, border measures ordered by SENAЕ are provisional and require confirmation from SENADI to prevent the nationalization of goods allegedly infringing intellectual property rights (Organización para la Cooperación y el Desarrollo Económicos, 2019). These measures are essential, given the wide-ranging consequences of counterfeit imports.

Such consequences directly affect intellectual property rights, reduce tax revenues, compromise consumer safety, distort competitiveness, and jeopardize national industrial development. They also contribute to market irregularities such as informality and hinder innovation (Valverde et al., 2022). In Ecuador, the legal framework governing intellectual property protection includes the *Código Orgánico de Producción, Comercio e Inversiones (COPCI)*, which establishes the legal basis for safeguarding productive and economic development (Asamblea Nacional de la República del Ecuador, 2014); este se complementa con el *Código Orgánico de la Economía Social de los Conocimientos, Creatividad e Innovación (Código Ingenios)*, This code is complemented by the *Código Orgánico de la Economía Social de los Conocimientos, Creatividad e Innovación (Código Ingenios)*, which ensures the protection of names, trademarks, slogans, and other distinctive signs, thereby promoting balanced trade practices and preventing unfair competition (Pacheco, 2022).

2.2 State of the Art

The analysis of previous research on the import of counterfeit goods in Ecuador reveals a challenge that can be described as multidimensional, as it encompasses customs framework, foreign trade, and intellectual property (IP) protection. As Zúñiga (2022) argues, modern customs authorities must strike a balance between trade facilitation and the effectiveness of their control systems. The COVID-19 pandemic acted as a catalyst, compelling customs

framework worldwide to adopt new technologies capable of transforming logistics management and strengthening the fight against illicit practices, including counterfeiting.

According to an analysis by Núñez et al. (2021) examined the country's border measures, in the Ecuadorian context, and concluded that regulatory and control deficiencies have contributed to the significant flow of counterfeit goods. Within this framework, the Servicio Nacional de Aduana del Ecuador (SENAE) emerges as a key institutional entity in the protection of intellectual property rights and as the first line of defense against illicit trade.

From an institutional perspective, the implementation of border measures constitutes a fundamental preventive mechanism for detecting and suspending the clearance of goods that may infringe intellectual property rights. However, their enforcement has revealed shortcomings, including the absence of automated procedures, clear and specific rules, and established timeframes. These gaps generate legal uncertainty and hinder the balance between inspection and facilitation (Valle & Méndez, 2019). Additionally, prolonged clearance times sometimes extending to months or even years may result in the deterioration of goods and limit new commercial opportunities in international markets (Valle & Méndez, 2019).

Villa (2023) and Salgado (2024) agree that, despite the existence of the Andean Decision 486 for trademark protection, significant deficiencies remain in terms of technical training, technological capacity, and inter-institutional cooperation, highlighting persistent gaps within Ecuador's customs framework.

De La Cruz & Rosales (2016) further posit that Ecuador has initiated processes aimed at customs modernization, including regulatory reforms, and technological innovation. In this regard, on September 3, 2025, after a ten-year hiatus, SENAE reactivated the Customs Advisory Council. The Council's objective was to update customs regulations and propose action plans to combat smuggling and the import of counterfeit goods in Ecuador (Servicio Nacional de Aduana del Ecuador, 2025a). Through its Subcommittee for Process Optimization, fifty-five regulatory reform proposals were introduced, with implementation expected throughout 2026. These initiatives focus on simplifying and increasing transparency in procedures, removing bureaucratic barriers, and strengthening port efficiency and border controls (Servicio Nacional de Aduana del Ecuador, 2025b).

Previous studies have concentrated on customs control at Guayaquil's port, considered Ecuador's main commercial gateway, as it accounts for approximately 87.5% of the country's imported goods (Instituto Nacional de Estadísticas y Censos, 2025). Despite this high volume, logistical shortcomings, insufficient personnel, and limited technological resources continue to hinder efforts to combat the entry of infringing goods (Piza & Carbajal, 2023). Similar limitations were identified by Montenegro et al. (2019), in their study of Tulcán, a key northern border city adjacent to Colombia. This area, characterized by high commercial activity, has historically faced issues of smuggling and under invoicing. The findings reveal weaknesses in the seizure and control processes in high traffic zones, thereby undermining the effectiveness of public control policies.

In response to these identified limitations, the ecuadorian State has implemented a software platform known as Palantir. This tool analyzes and identifies smuggling networks, optimizes operational processes, and manages large real-time data sets. It was developed in the United States by Palantir Technologies and adopted under the administration of President Daniel Noboa on May 29, 2025 (Servicio Nacional de Aduana del Ecuador, 2025).

Over time, intellectual property has gained increasing relevance in the protection of trademark rights (Caballero, 2022). Initially, the Instituto Ecuatoriano de la Propiedad Intelectual (IEPI) functioned as the technical authority responsible for administering IP rights in Ecuador, overseeing trademark registration, processing, management, and protection. However, in the context of an increasingly globalized and competitive environment, institutional restructuring became necessary. Consequently, under Executive Decree No. 356 (2018), IEPI was transformed as the Servicio Nacional de Derechos Intelectuales (SENADI), granting it expanded powers to promote the defense and protection of intellectual rights and to ensure the acquisition and exercise of IP rights under the *Código Orgánico de la Economía Social de los Conocimientos, Creatividad e Innovación (Código Ingenios)* (Decreto N°356, 2018).

This transformation was not only institutional change but also greater autonomy, strategic organizational competence, and technological transfer, among other advancements (Mora & Veintimilla, 2025). The process was further reinforced by the reform of the *Código Ingenios* through the *Ley Orgánica que Reforma Diversos Cuerpos Legales para Reforzar la*

Prevención y el Combate al Comercio Ilícito, Fortalecer la Industria Nacional y Fomentar el Comercio Electrónico. This reform empowered customs authorities to suspend goods suspected of infringement, while SENADI became responsible for validating the legal basis of such suspensions (Casco, 2022, p.47) Notably, the 2021 reform marked the first direct linkage between the *Código Ingenios* and the *Código Orgánico de la Producción, Comercio e Inversiones (COPCI)*, formally designating customs offices as control points to prevent the entry of counterfeit goods. (Ley Orgánica que Reforma Diversos Cuerpos Legales para Reforzar la Prevención y el Combate al Comercio Ilícito, Fortalecer la Industria Nacional y Fomentar el Comercio Electrónico, 2021).

From a comparative perspective, Peru will be taken as a reference case, as this country has historically demonstrated the importance of focusing its regulatory framework to combat high levels of counterfeit goods. This approach is reflected in its efforts to reinforce trademark protection, train specialized personnel, and strengthen both administrative and judicial systems. One of the key factors that positioned Peru as a regional reference in IP protection was the strengthening of trade relations with the United States through the Acuerdo de Promoción Comercial, approved by Resolución Ejecutiva N.28766. Although the agreement proved successful, Peru was required to implement significant regulatory, technological, and institutional reforms within a three-month period (Decreto Legislativo No 1075, 2008).

In contrast, although Ecuador has prioritized intellectual property reform through the *Código Ingenios*, the country continues to face limitations in aligning its policies with productive development and innovation strategies. This misalignment generates legal uncertainty, particularly affecting trademark holders (Santamaría, 2022). Peru's experience provides a useful reference for Ecuador by demonstrating how intellectual property legislation can be effectively linked to operational and technical realities, as well as to international commitments that strengthen enforcement standards against counterfeit goods (Instituto Nacional de Defensa de la Competencia y de la Protección de Propiedad Intelectual, 2022).

3. Methods

This study adopted a qualitative research approach, aimed at achieving an in depth understanding of the principles guiding the investigation. The objective was to analyze the

perspectives of actors involved in customs control and intellectual property protection, thereby gaining insight into the functioning and underlying rationale of the legal structures governing counterfeit goods within regulatory and institutional frameworks (Quecedo & Castaño, 2002).

To develop this research, a documentary and descriptive research design was adopted in order to analyze the perspective of both the public and private sectors regarding the import of counterfeit goods and intellectual property protection in Ecuador. The documentary component involves a systematic review and analysis of the relevant legal and institutional framework, with particular attention to identifying limitations faced by regulatory authorities. For this purpose, all applicable regulations were examined, distinguishing the respective competencies of public entities responsible for controlling goods namely *SENAE* and *SENADI* and identifying weaknesses within the analyzed legal provisions.

Following the review of Ecuador's customs and intellectual property framework, a comparative analysis was conducted with Peruvian legislation, focusing specifically on trademark law. Decretos Legislativos 1044, 1075 and 1092 were identified as key regulatory instruments, analyzed in detail, and subsequently compared in order to formulate potential recommendations for strengthening intellectual property protection in Ecuador.

From a descriptive standpoint, the study also incorporates information obtained through semi structured interviews. According to Patton (2014), small samples can be highly valuable when selected participants possess extensive expertise and are capable of providing in depth analysis. Accordingly, interviewees were chosen based on specific criteria, including professional experience, technical knowledge, and sector affiliation. Once identified, the selected actors were contacted to do the interviews, which were organised around key themes such as intellectual property, constraints and challenges. The study relied on the collaboration of a Technical Operator from Cuenca's District Directorate, and a customs expert, representing the public sector. Additionally, within the private sector, intellectual property lawyers contributed with their expertise and support for the development of this research.

4. Results and Discussion

4.1 Results

4.1.1 Ecuadorian Regulatory Framework

This study analyzed the current legislation in Ecuador relating to customs and intellectual property, which has enabled the identification of legal loopholes, regulatory developments and administrative changes. For this study, the *Código Orgánico de la Producción, Comercio e Inversiones (COPCI)* was examined in comparison with the *Ley Orgánica que Reforma Diversos Cuerpos Legales para Reforzar la Prevención y el Combate al Comercio Ilícito, fortalecer la Industria Nacional y fomentar el Comercio Electrónico*, published in the *Registro Oficial Suplemento N° 525*, hereinafter referred to as the *Ley Reformatoria contra el Comercio Ilícito*. The findings indicate that this reform contributed to clarifying existing legal gaps within the *COPCI*, particularly by establishing specific deadlines, obligations, and procedures for the implementation of border measures. This is reflected in art. 116 of the *COPCI*, entitled *Time Limits for Payments: Foreign Trade Duties*, where the *Ley Reformatoria contra el Comercio Ilícito* contributed to strengthen customs oversight and modernize the control system. This reflects improvements to the system and oversight of international trade operations, always with the aim of ensuring transparency and traceability in the commercial environment.

The improvements introduced by the *Ley Reformatoria contra el Comercio Ilícito* are also evident in art. 120, entitled *Limitation period or stature of limitations*, which previously established a limitation period of just five years for customs authorities to collect outstanding amounts or for taxpayers to claim refunds for undue payments or payments made in error, effectively acting as a time limit for exercising these rights. With the reform, new tools such as tax rectification and post clearance control were introduced, enabling the *SENAE* to carry out more comprehensive checks after goods have been cleared. The reform helped to improve customs control and inspection, resulting in more efficient and transparent processes.

Regarding the improvement of notifications to the trademark owner, art. 219 of the *COPCI* stated that notifications could be made via its computer system (*ECUAPASS*); however, this was merely a formality, as in practice it hindered effective communication between the trademark owner and the official customs responsible for the operation. The *Ley*

Reformatoria contra el Comercio Ilícito promoted digitalization and data sharing between different institutions, ensuring that notifications are faster, traceable and more secure; this was complemented by tools such as Palantir, the integrated *Ventanilla Única Ecuatoriana* and the *ECUAPASS 4.0* system, helping to strengthen legal certainty and improve the efficiency of COMEX's administrative processes. Furthermore, regarding interinstitutional coordination between *SENAE* and *SENADI*, art. 576 of the *Ley Reformativa contra el Comercio Ilícito* provides that customs officials may not impose sanctions relating to intellectual property without the prior authorization of an expert in the field (*Ley Orgánica que Reforma Diversos Cuerpos Legales para Reforzar la Prevención y el Combate al Comercio Ilícito, Fortalecer la Industria Nacional y Fomentar el Comercio Electrónico*, 2021). However, there are points of conflict where friction arises between *Decisión 486 de la Comunidad Andina* y la *Ley Reformativa contra el Comercio Ilícito* regarding the time limits for the expiry of border measures; Decision 486 establishes a period of ten working days, whilst the Reform reduces this to five days, creating a conflict between domestic and supranational law. Similarly, there is a challenge relating to consumer education and the training of customs personnel, which are necessary for the reform to function efficiently.

Furthermore, the findings of the analysis comparing the *Código Ingenios* and the *Ley Reformativa contra el Comercio Ilícito*, with a focus on border control measures, are significant for trademark law as they enable the rectification of shortcomings in customs control before goods enter Ecuadorian territory. Consequently, arts. 575–583 were subsequently reformulated in order to clarify the obligations related to monitoring and surveillance, as well as to define the institutional competences of the authorities involved, assigning the intervention functions to the *SENAE* and the decision-making authority to the *SENADI*, and reducing response times and the submission of guarantees. These improvements aim to minimize the gap between theory and operational practice, as once counterfeit goods enter the market, the harm is irreparable and this leads to damage to the brand's reputation, a drop in revenue, and consumer confusion, amongst other consequences.

Furthermore, *Código Ingenios*, specifically in relation to border measures art. 577, states that where trademark infringement of goods is suspected, the applicant must provide the necessary information to identify the goods in question (*Código Orgánico de la Economía Social de los Conocimientos, Creatividad e Innovación*, art. 577, 2016). Similarly, there must be a balance in terms of procedures achieved through a bond or guarantee; this will prevent

abuse and protect both the exporter and the importer, whilst also recognizing the right of the trademark owner to inspect the goods, always in strict confidence.

4.1.2 Comparative Legal Analysis: Ecuador and Peru

After analyzing the intellectual property legislation in Ecuador (*Código Ingenios*) and Peru (*Decretos Legislativos 1044, 1075 and 1092*), it was found that Peru has a more comprehensive and coordinated regulatory framework for the monitoring and controlling the import of counterfeit goods. Both Ecuador and Peru recognize the possibility of suspending the release of goods suspected of infringement, thereby demonstrating their alignment with international standards, as detailed in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) part III, section 4, art. 51 Suspension of Release by Customs Authorities (Organización Mundial del Comercio, 2017).

However, each country has its own regulations; in Ecuador, intellectual property law is regulated by the COESCI (art. 577–581) and customs matters by the COPCI (art. 218), this institutional separation leads to a degree of procedural fragmentation. Furthermore, the suspension periods in Ecuador specified in the COPCI are five days, which represents a restriction compared to Peru, which maintains an efficient procedure for border measures as detailed in art. 8.1 of Decreto Legislativo N.o 1092 (2008), where the customs framework suspends goods for a maximum period of 3 working days, thereby facilitating the streamlining of customs processes and procedures.

Peru's legal framework is supplemented by *Decretos Legislativos 1092, 1075 and 1044*, of which *Decreto 1092* focuses on border measures and is reinforced by *Decreto 1075*, which sets out, in a structured manner, rules, precautionary measures and enforcement procedures in industrial property, ensuring legal certainty and a balance between the *Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (INDECOPI)* and the *Superintendencia Nacional de Aduanas y de Administración Tributaria (SUNAT)*. Furthermore, *Decreto 1044*, which relates to unfair competition, broadens the analysis to understand the mechanisms Peru uses to curb the import of counterfeit goods.

In this way, the Peruvian system promotes the strengthening of the technical capacities of public officials through training programs promoted by the *Escuela Nacional del INDECOPI*, which was established on 23 June 2009 with the purpose of complying with the

requirements established after the signing of the Free Trade Agreement (FTA) with the United States. This School offers training programs aimed at civil servants, technical operators and intellectual property specialists, with the aim of developing the skills required to identify and manage infringements relating to trade marks, patents and copyright (Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual, 2026). These training initiatives, together with international cooperation programs promoted by organizations such as the World Intellectual Property Organization (WIPO), strengthen officials' technical knowledge and facilitate the effective enforcement of border measures.

From the same perspective, Peru has broadened the scope of counterfeit trademarks to include confusingly similar signs, thereby enabling action to be taken at an early stage in cases of confusion. In contrast, Ecuador's legislation focuses on *counterfeit trademarks*, establishing an enforcement standard centred on identical reproduction of the trademark. This difference is significant in the contemporary world in which we live, where the counterfeiting of goods tends to use similar, but not identical, signs in order to evade customs controls. This represents a certain advantage of Peru's system over Ecuador's, as its broader preventive scope allows the competent authorities to intervene on time, even if there is no identical copy of the trademark.

At the international level, Peru has distinguished itself through the strengthening of its enforcement mechanisms, as it has entered into several trade agreements with major global economies such as the United States and the European Union. Consequently, these agreements require Peru to comply with specific regulatory frameworks regarding the protection of intellectual property rights and the control of illicit trade. These agreements promote the development of policies for the enforcement of intellectual property regulations, which include improved customs controls and inter-agency cooperation (Cámara de Comercio de los Estados Unidos, 2025).

In this context, studies carried out by Cámara de Comercio de los Estados Unidos (2025) show that Peru features in the International Intellectual Property Index, ranking 31st out of 55 countries assessed worldwide, and within Latin America, it ranks fourth out of ten, indicating that it has high levels of protection and enforcement of intellectual property rights compared to neighboring countries, such as Ecuador, which ranks 51st out of 55 and 9th out of 10, respectively. This means that Peru has made greater progress in institutional

cooperation, the implementation of border measures and the fight against counterfeiting. These indices demonstrate the country's institutional performance and confirm why Peru has greater institutional capacity and coordination to prevent the entry of counterfeit goods.

4.1.3 Interviews

Private Sector

Following consultations with private sector lawyers specializing in intellectual property, who contributed their expertise to the analysis of our research, we were able to identify the key findings, which are set out below.

Intellectual Property Law Specialist Practicing in Cuenca

Our interviewee took an interesting stance, speaking from his direct business experience, where he stated that the sector in which he operates is *extremely formal*; however, he added that he has worked on cases where authorized users have been affected by counterfeit goods circulating in the market.

This demonstrates that the issue of counterfeit goods affects not only those operating strictly within the formal economy, but also has an indirect impact on competitiveness, specifically on the holders of duly registered rights. That is why it explains that this problem has two main aspects:

- Counterfeit products.
- Genuine products that are smuggled in.

From the perspective of competitiveness and legal certainty, we concluded that counterfeiting is a global phenomenon that will not disappear, but it can be minimized through the coordinated efforts of governments, businesses and experts in the field. However, focusing on Ecuador, he noted that the country is *under the world's attention* because it is being affected by shortcomings in customs controls and trademark protection, with the result that the country's international reputation is being damaged.

The interviewee makes a technical distinction, noting that trade agreements should not be understood as *unrestricted commercial activity*, but rather that they must ensure that goods entering Ecuadorian territory are properly registered, legal and legitimate; failure to do so

entails risks such as counterfeiting (an infringement of intellectual property rights) or the smuggling of genuine products (a tax and customs offence). This shows that customs control must be comprehensive and extend beyond the realm of trademarks alone.

From the interview, the most relevant and critical point we highlight is that he mentioned the lack of practical efficiency in coordination between SENAE and SENADI, describing this situation as a *back and forth dynamic* between the aforementioned institutions, highlighting that although the deadlines for legal procedures are short, in practice they are perceived as lengthy, and that by the time counterfeit goods are detected and enter the country, the damage has already been done, revealing a discrepancy between operational practice and the regulations.

Furthermore, it is worth highlighting the structural issue with the *Código Ingenios*, which he describes as a body of legislation containing *too much political ideology* in a field that he believes should be essentially technical. That is why he proposes that a *structural reform* should be carried out, as the legislation is not adequately protecting private investment and certain articles, such as art. 277, create legal uncertainty and deter foreign investment.

Finally, from this interview we can conclude that counterfeiting will not disappear; however, some solutions to reduce it would be to target the major producers of counterfeit goods, not to focus solely on the retailer, and above all to strengthen brand protection as a preventive measure.

Lawyer specialized in Intellectual Property from Cuenca

Our interviewee takes a broad view and contextualizes the issue of counterfeit goods as a secondary problem compared to other challenges in foreign trade, such as exports contaminated with illicit substances. For this reason, as state resources are limited, strategic decisions must be made, which implies that intellectual property, although of vital importance for innovation and economic development, is not always an operational priority for the State.

Regarding the provisions of the *Código Ingenios*, he notes that the legal framework is clear, as it precisely defines trademark rights; however, the problem lies in enforcement and excessive ideologization, which is why he underscores the need to promote a reform of the

Código Ingenios in order to strengthen its operational effectiveness and ensure efficient enforcement. Furthermore, he added a sociological perspective by noting that *Ecuador is a price driven market*, referring to the fact that within the population there is a *lack of education* and a limited culture of respect regarding the understanding of intellectual property, as Ecuadorian consumer culture is oriented towards low cost, which triggers the proliferation of counterfeit goods, thus placing the consumer at the centre of this issue.

He also highlights institutional inefficiency and the lack of interagency coordination between *SENADI*, *SENAE* and *Fiscalía General del Estado*, where, in his view, the problem lies not primarily in regulatory shortcomings, but in a lack of leadership, limited state resources and weak institutional frameworks. Finally, he noted that to bring about change in the future, adequate investment of resources is required, alongside the promotion of sustained public policies and the strengthening of institutional leadership to enable strategic and efficient management of counterfeit goods.

Table 1
Private Sector Comparison

Analytical Dimensions	Intellectual Property Law Specialist Practicing in Cuenca	Lawyer specialized in Intellectual Property from Cuenca
Implications for Competitiveness and Foreign Trade	Those interviewed agree that counterfeit goods have a negative impact on the competitiveness of trade in Ecuador, with properly registered legitimate businesses being the hardest hit.	
Business Awareness of Trademark Registration	Both believe that companies need to be aware of the importance of protecting their trademarks by registering them. It is also noted that there is still a clear lack of awareness regarding trademark protection in some sectors.	
SENADI and SENA's Roles	Those interviewed agree that there is a lack of inter-agency coordination between SENA and SENADI, as well as a disconnect between public bodies and the private sector, which hinders the effective enforcement of counterfeit goods.	
Legislation and Regulatory Framework	He points out that the existing regulations are heavily influenced by political ideology, which slows down their implementation. This requires a “complete overhaul” of the regulatory framework (<i>Código Ingenios</i>).	He believes that the regulations are clear, but that a lack of state resources and bureaucracy are slowing down administrative processes. Furthermore, he points out that, beyond simply updating the regulations, it is necessary to improve how they are implemented in practice.
Impact of Smuggling and Counterfeiting	They acknowledge that smuggling and counterfeiting are a major problem that has negative consequences, not only for competitiveness but also for consumers. They also point out that most of these counterfeit products come from countries with low levels of regulation.	
Business Education and Intellectual Property Protection	They believe that there are legitimate companies that do have adequate protection; the problem lies with small businesses which, due to a lack of resources, information or awareness, do not invest in IP protection, thereby facilitating the circulation of counterfeit goods.	
Practical Enforcement of Regulations	They acknowledge that, despite the existence of regulations and laws, the processes are inefficient; they also criticise the lack of responsiveness in institutional responses and shortcomings in enforcement mechanisms, which creates uncertainty for businesses.	
Consumer Education and Awareness	Those interviewed emphasise the importance of consumer awareness, stating that Ecuadorians lack education on the significance of intellectual property, which makes it easier for counterfeit goods to remain on the market.	
Deficiencies in Trademark Registration	They point out that the shortcomings of the current, technically inadequate system at SENADI undermine trademark protection, as it causes delays in processing and makes it difficult to defend registered trademarks.	

Public Sector

Within the public sector, we benefited from the valuable participation of a SENA Technical Operator from the Cuenca District and a customs expert, whose contributions were fundamental to understanding the functioning of Ecuador’s customs system and to analyze the results with a focus on operational practice.

Technical Operator from Cuenca's District Directorate

The issue of counterfeit goods imports is understood as a structural risk within the clearance process (a form of control within the customs system). Our interviewee mentions that, in their daily operations, risk factors have been identified, including brand, quantity, price and even the type of stowage. This demonstrates that the customs framework adopts a preventive approach based on risk analysis, where public management prioritizes operational efficiency; however, the system relies more on the experience of technical operators than on databases or technology.

Regarding the institutional aspect, he highlights that there is a limitation in technology. The technical operator mentions that there is no program or database containing information on registered trademarks that would allow for immediate verification of whether a trademark is registered and whether its use constitutes an infringement. This is a critical point because it reflects the gap between the public responsibility to protect IP rights and the capacity and means to do so. In the realm of public policy, this means that customs controls rely more on human judgement than on integrated information systems, thereby undermining standardization during inspections and increasing the margin for error.

In coordination between institutions, the interviewee revealed that there is a duality in the way the system operates. Furthermore, it was mentioned that when there are prior complaints from rights holders, coordination between SENA and SENADI is described as *adequate*, even when capacity is at 100% and selection processes are in place. However, it is stated that, during normal or standard capacity, coordination between the institutions is non-existent.

From a regulatory perspective, the interviewee indicates that the *COPCI* allows for control over the entry of goods into Ecuadorian territory; however, he adds that this could be improved by incorporating new legal tools in line with current forms of evasion. He also explains that customs merely notify the sanctioning authority, in accordance with the provisions of section II on border measures under the IP regime; this demonstrates that the role of Customs is solely one of control and prevention, whilst SENADI has the power to impose sanctions. This division is correct in regulatory and legal terms, but may lead to

delays or gaps in practice, particularly when brand representatives fail to respond in a timely manner.

Another key issue he highlighted was operational overload. He pointed out that when a physical inspection of the goods must be carried out in full to identify specific models and quantities, limited time and human resources mean that inventories are conducted quickly and inaccurately; in public administration, this creates a tension between efficient control and the facilitation of trade. Furthermore, he mentioned that automatic inspections predominate due to the policy of streamlining clearance; however, this is problematic as it reduces the probability of detecting counterfeit goods.

Regarding entry patterns, our interviewee mentioned that the majority of counterfeit goods come from seizures conducted in secondary customs areas, generally entering via illegal crossings or land borders. This helps to broaden the view that the problem lies not only in documentary control, but also includes territorial surveillance and physical border control. Therefore, the fight against the import of counterfeit goods is not solely the responsibility of customs, but requires inter-agency coordination with border control and enforcement authorities.

In based on institutional impacts, the interviewee highlighted risks such as a shortfall in revenue and the need for subsequent checks when infringements are not detected in time, since, from a public perspective, this affects both state revenue and the legitimacy of institutions. Failure to detect infringements in a timely manner can lead to economic losses and distortions in the domestic market, which affects fair competition and confidence in the foreign trade system. From this interview, it is understood that the issue of import of counterfeit goods into Ecuador has a regulatory framework in place, but one that is limited in operational terms.

Customs expert

One of the most significant insights from the interview is the observation that the problem of counterfeit goods being brought into Ecuador is not solely due to regulatory loopholes, but also to structural and operational limitations within the customs control system. The expert maintains that, given the shortage of staff, comprehensive control of the border territory is impossible, highlighting that, in practice, the length of the land border and the

lack of resources and personnel turn border areas into informal crossing points for the entry of counterfeit goods.

From an operational perspective, the interviewee noted that there are three main methods by which these goods enter the country: unauthorised or clandestine routes; through official border crossings such as Rumichaca or Huaquillas; and petty smuggling, which refers to the entry of illegal goods in small quantities, which are then taken to collection centres and distributed throughout the country. Another aspect he mentioned is the socio-economic and cultural dimension that the expert attributes to the problem in border areas, where, he indicated, many people engaged in this activity consider it an acquired right and their way of life, which is passed down from generation to generation. Therefore, this issue must be understood from different perspectives, not only in terms of legal non-compliance, but also from the social perspective that is normalised in certain geographical contexts.

The interview reveals that there are differences in the types of counterfeit goods entering Ecuador. The interviewee gave the example that there is a significant influx of clothing and footwear from Colombia, where imitations such as type A, AA and AAA are in circulation; the latter reflects the level of sophistication achieved in contemporary counterfeiting, which can only be distinguished through technical expertise or subsequent verification of the quality of materials and durability.

On the subject of institutional coordination, the interviewee mentions that there is significant coordination between the technical-administrative and operational staff, particularly in response to national and international alerts, complaints and border measures requested by representatives of the affected brands. He adds that computer systems allow alerts to be issued at a national level, which enables coordination to prevent the clearance of goods suspected of being counterfeit.

Regarding the issue of importers and trademark owners, most importers are unaware of the legal and administrative risks, whilst others are aware of the problem but limit themselves to protecting their own sector; for this reason, the customs expert emphasizes the need for awareness campaigns and for importers to come together, share knowledge and file timely complaints; furthermore, he recommends publicising the legal risks set out in the COIP and ensuring the involvement of institutions such as SENADI.

Table 2
Public Sector Comparison

Analytical Dimensions	Technical Operator from Cuenca's District Directorate	Customs expert
Operational Aspects of the Customs System	It considers that operational staff and technological resources are insufficient, resulting in inaccurate and rushed checks.	It agrees that there is a shortage of staff and constraints in terms of coordination and logistics, particularly in border areas (land crossings).
Technological resources and support systems	It highlights the lack of a database containing a register of trademarks and of advanced technological systems to help staff verify the authenticity of goods.	It suggests that despite technological advances such as Palantir, this is still not enough to stop the import of counterfeit goods.
Coordination between competent institutions	Both agree that coordination between SENA and SENADI is effective only when complaints are made; however, when goods suspected of being in breach of the regulations are detected during daily inspections, coordination is weak or virtually non-existent.	
Structural control and issues	It highlights a lack of response from brand representatives, procedural constraints and shortcomings when it comes to inspecting goods suspected of infringing intellectual property rights.	He points out that there are structural problems, such as the length of the border, illegal crossings and organised smuggling
Current regulations	Both interviewees agree that Ecuador does not lack legislation on customs and intellectual property matters; rather, the problem lies in the lack of effective enforcement. Furthermore, although the legal framework provides for penalties for counterfeiting, there are delays in day-to-day procedures, which leads to repeat offences. Consequently, the main challenge is to strengthen enforcement of the laws more effectively.	
Staff training	Both agree that training should not be provided solely by brands affected by counterfeiting, but that ongoing training should be provided not only to operational staff but also to administrative staff at SENA and SENADI.	
Importers' role	Those interviewed believe that importers are either unaware of the regulations or indifferent to them; this is evident when they use logos or references that may infringe intellectual property rights. They also add that some importers seek training and actively cooperate; however, this is not enough, as a genuine commitment from the sector is needed to strengthen enforcement.	
Recommendations	Among the proposals they highlight are the need to increase staffing levels, introduce shared database systems between SENA and SENADI, develop more specialised software, and so on. In addition, they recommend running awareness campaigns targeting importers and consumers, with the aim of preventing infringements and ensuring compliance with the regulations.	

A Contrast from the Public and Private Sectors' Perspectives

In order to provide a clear overview of the findings from the interviews, Table 3 is presented below, comparing the perspectives of the public and private sectors. The table highlights the

key areas, along with the respective points of agreement and disagreement within each sector, illustrating the overall situation facing Ecuador regarding the import of counterfeit goods and the understanding of intellectual property.

Table 3
Public vs. Private Sector Comparison

Analytical dimensions	Areas of convergence	Areas of divergence
Overall view	Both sectors agree that this issue is an obvious reality that has always existed. Formal trade, rights protection and competitiveness are the most affected axes.	Public sector: categorizes it as a threat of surveillance and operational control. Private sector: understood as a governance problem, and inter-institutional weakness.
Causes	Multicausal problem, which is not attributed solely to a normative, institutional or operational deficiency.	Public sector: identifies the problem from "border control" (lack of staff and technologies). Private sector: links the problem to consumer culture and institutional deficiencies.
Technology, logistics and operations personnel	Sectors agree that Ecuador has limited resources, resulting in ineffective control and reduced IP protection.	Public sector: internally focused perspective (lack of staff, operational overload). Private sector: emphasizes the length of processes and administrative inefficiency.
Coordination between SENA and SENADI	Sectors share that there is a lack of coordination between institutions and that this has limited adequate detection and sanctioning processes.	Public sector: clarifies that in certain scenarios (previous complaints) there is partial coordination to improve processes. Private sector: states that there are a weak structure and fragmentation in institutions.
Current Legislation	Sectors claim that the intellectual property regulation (COESCI) must be changed or restructured as it does not respond to real needs in the field of action	Public sector: proposes improvements and adjustments to existing regulations. Private sector: proposes a "total re-engineering" of customs and IP rules.
Private sector role	Private-sector involvement to prevent, detect and report counterfeit goods is essential.	Public sector: highlights the importance of private sector training and alerts. Private sector: points out that a two-way cooperation is needed where both sectors provide training.
Trade and competitiveness implications	It is an issue that negatively affects formal trade and harms the consumer.	Public sector: focuses more on tax collection. Private sector: highlights the reputation of companies, legal

		certainty and economic effect for formal firms.
Consumer conduct	In Ecuador, consumer culture is weak with respect to intellectual property and even the consumption of these products generates a growing influx of counterfeit goods.	Public sector: see this issue from the point of lack of consumer education. Private sector: relates this problem to the economic sphere and with the lack of financial education, which causes high consumption of counterfeit goods.
Border control and goods detection processes	They recognize that detecting counterfeit goods requires experience and the ability to detect risk factors (brand, price, quality).	Public sector: They rely more on the experience of the public server, which, in a database system, however, functionality is still limited. Private sector: It mentions that the functionality is insufficient to detect counterfeit goods, due to the magnitude of the existing problem.
Sanctioning procedures	They agree that the body it is in charge of enacting is not being or functioning in the best way.	Public sector: Enforcement needs to be more effective and severe in case of recidivism. Private sector: Processes need to be quick, timely and not time-consuming.
Knowledge on IP issues a (companies and importers)	They agree that there is a lack of knowledge in intellectual property management.	Public sector: It is emphasized that the problem lies in the lack of knowledge and interest on the part of importers. Private sector: Emphasizes that the economic aspect and inequality in entrepreneurial capacity are axes influencing investment in brand protection
Technology and control	They agree that an investment in technology must be made to have better control and thus reduce the number of counterfeit goods entering Ecuadorian territory.	Public sector: It focuses on the acquisition of database systems for better registration, consultation and control of trademarks. Private sector: It must include technologies, but the problem is also inter-institutional gaps.

4.2 Discussion

The findings of this study confirm that goods counterfeiting of goods has a significant impact on foreign trade as well as the protection of intellectual property, not only in Ecuador but globally, leading to a negative impact on the competitiveness of legitimate businesses, price instability in the market, and a reduction in tax revenue, amongst other consequences. Both the public and private sectors agree that duly registered businesses compete with low-cost counterfeit goods, which triggers unfair competition, driving away investment and forcing

companies out of the market. On the other hand, the role played by the customs and intellectual property regulations currently in force in Ecuador, together with the relevant institutions, is fundamental; however, it is inefficient in practice, as there is a lack of inter-institutional coordination, regulatory weaknesses and an operational overload on customs staff.

Zuñiga's position can be reaffirmed, as he asserts that current customs authorities require a balance between trade facilitation and control; given this, the interviews clarify the situation by highlighting that there is no inter-institutional balance and that operational, technological and human conditions are inefficient, as evidenced in Table 3. With regard to customs and IP regulations, the findings indicate that in Ecuador the problem of a high influx of counterfeit goods does not lie in the absence of laws, but rather in their ineffective enforcement, characterised by factors such as poor inter-institutional coordination, slow response times and operational delays, which highlight weaknesses in the Ecuadorian system, not only in the legal sphere but also in its operations and structure.

Consequently, Valle and Méndez indicate that the main problems facing Ecuador are related to the lack of automation in processes and the length of time taken to impose sanctions. Furthermore, they mention that the lack of institutional agility facilitates the faster entry of goods suspected of being counterfeit. This issue is consistent with the findings of Núñez et al., who point out that deficiencies in laws and controls are one of the main triggers for the entry of counterfeit goods into Ecuadorian territory. However, the interviews conducted agreed that the deficient interinstitutional coordination between SENA and SENADI, lack of resources and limited response capacity result in problems for foreign trade in terms of operational efficiency.

These findings are supported by De La Cruz and Rosales, who noted that technological advances are not sufficient to combat the influx of counterfeit goods. In Ecuador, despite having tools such as Palantir, the interviewees agree that these are insufficient in the face of the economic and logistical capabilities of the offenders; they highlight that the absence of a coordinated register or database between SENA and SENADI institutions is one of the main problems in detecting counterfeit goods, thus demonstrating that without technology and with weak coordination between institutions, control is difficult.

Regarding the evolution of the legislation, with the *Ley Reformatoria contra el Comercio Ilícito*, Mora and Veintimilla mention that it grants greater autonomy to the SENA and SENADI institutions; however, in contrast to the results obtained, it is evident that this autonomy does not equate to efficiency, as there is a problem of interinstitutional coordination, which results in limited effectiveness within the system. Similarly, the findings align with Santamaría, who presents the *Código Ingenios* as a regulatory framework with limitations, legal uncertainty, and a need for comprehensive reengineering and partial adjustments.

From a comparative perspective, the findings show that Peru has a more efficient and developed model for IP protection at the border. This progress is evident in the optimisation of the institutional framework, driven by the Trade Promotion Agreement (TPAs) with the United States, which promoted improvements in operational procedures and regulations to better address the entry of counterfeit goods into Peruvian territory. Unlike Ecuador, Peru has more streamlined systems, where response times are three days, significantly reducing the impact on the rights holder.

Similarly, Peru has strengthened its institutional framework through the creation of the INDECOPI National School, which serves as a permanent centre for specialisation and training for officials involved in IP matters. This demonstrates that Peru has a public policy geared towards coordination, international cooperation and inter-institutional training. In contrast to Ecuador, the results show that SENA and SENADI staff receive insufficient training, which is sporadic and, in most cases, provided only by the affected brands, thereby restricting the entities' operational capacity to effectively control goods entering Ecuador.

Despite the similarities between the public and private sectors regarding the issue, each sector interprets it differently based on its day-to-day operations. The public sector approaches this issue from an operational perspective linked to a lack of staff, resources and border controls, whilst the private sector views it as a structural flaw in the system, where weak interagency coordination leads to delays in processes, as well as legal uncertainty. This disparity shows that the solution is not limited to strengthening customs controls, but goes much further: a transformation of the IP protection system is needed, based on better interinstitutional coordination, the application of specialised technologies and ongoing training.

Consequently, the situation in Ecuador, when compared with the Peruvian model, shows that it has much to learn, as its limitations result in an environment of legal uncertainty that deters economic actors. For its part, Peru has also demonstrated that intellectual property does not depend solely on the existence of regulations, but that specialised institutions are necessary to coordinate and enforce them effectively.

5. Conclusions

Based on the above, this research project successfully achieved its overall objective, demonstrating that the issue of counterfeit goods imports in Ecuador has various consequences and implications for customs and intellectual property. From a customs perspective, it was evident that this issue affects the operational workload of customs staff, the State's capacity for control, and a reduction in tax revenue, amongst other things. On the other hand, from an IP perspective, the consequences directly affect trademark owners, creating legal uncertainty and fostering unfair competition that impacts legitimate businesses that are duly registered. Furthermore, both the private and public sectors agree that the issue of counterfeit goods is a persistent problem with various causes, and that it is linked to institutional weakness and the State's limited capacity to respond.

Based on an analysis of customs and intellectual property regulations (COPCI, COESCI) as well as the relevant institutions in Ecuador, it was concluded that Ecuador has an adequate legal framework; however, the problem lies in the current shortcomings in its implementation. This was supplemented by information obtained from interviewees, who indicated that response processes are slow, highly bureaucratic and ineffective given the speed at which counterfeit goods are distributed and enter the country. Furthermore, it was evident that coordination between SENA and SENADI is limited and functions best when there are formal, prior complaints from trademark holders.

When comparing the public and private sectors, certain differences were found, but there were also points of agreement. Both sectors agree that counterfeiting affects competitiveness and formal trade, and that it highlights Ecuador's weak culture of respect for intellectual property. They also agree that the problem lies in the enforcement of the law and that this enforcement is overly influenced by ideology. For its part, the public sector states that this

problem is due to a lack of resources, operational overload, technology and border controls. Conversely, the private sector places greater emphasis on the weakness and lack of coordination between institutions, as well as the slowness of processes, which creates legal uncertainty for businesses. These differences demonstrate that the fight against counterfeiting requires a comprehensive response, involving the strengthening of border controls as well as institutional reform.

A comparative analysis of the regulations in Ecuador and Peru leads us to conclude that the Ecuadorian State faces significant limitations, as Peru has succeeded in establishing more streamlined response procedures, interagency coordination, well-coordinated regulatory and institutional frameworks, coupled with continuous capacity-building initiatives such as the establishment of the INDECOPI National School, have proven to be key instruments for fostering international cooperation.international cooperation.

In conclusion, this research demonstrates that the import of counterfeit goods is a crosscutting phenomenon, which cannot be addressed through a single approach as merely a customs or intellectual property issue, but must be tackled at its root, as it affects various aspects such as competitiveness, the country's legal certainty, market confidence and investment. Viewing the problem from different perspectives is essential for Ecuador to achieving progress; therefore, the following recommendations are presented in order to strengthen the Ecuadorian system.

- It is proposed to improve coordination between SENA and SENADI by establishing a mandatory protocol for joint action, under which immediate, real-time action is taken upon suspicion of goods that may be in breach of regulations, even in the absence of a prior complaint.
- It is recommended that a shared national database be created, containing registered trademarks, distinctive signs and alerts issued, which should be accessible to customs operational staff during inspections.
- Implement specialised software and AI to identify whether goods are counterfeit or not. This software should include tools capable of recognizing images, comparing logos and identifying the profiles of importers who repeatedly bring counterfeit goods into the country.

- Strengthen SENA E’s human resources and logistics, particularly in ports, secondary areas and land borders; this involves recruiting specialised staff.
- Establish shorter, mandatory timeframes for the application of border measures, taking Peru as a reference, with the aim of preventing harm to trademark owners before the authorities take action.
- Create technical training programmes or an institution for SENA E and SENADI officials, modelled on INDECOPI’s National School, where they receive ongoing training in intellectual property and the implementation of technologies.
- Amend the Intellectual Property Code in Ecuador, *Código Ingenios*, to reduce bureaucracy within the system and establish streamlined procedures for the benefit of all.
- Promote and develop awareness campaigns to encourage more active participation from the private sector, incentivising cooperation with the private sector so that companies register their trademarks and provide training to SENA E and SENADI staff to enable the early detection of counterfeit goods.

6. References

- Caballero, O. (2022). Sustainability and Brands: Peru’s Progress in the Fashion Industry. Notebooks of the Center for Design and Communication Studies, (154).
<https://doi.org/10.18682/cdc.vi154.6753>
- United States Chamber of Commerce. (2025). *2025 International Intellectual Property Index*.
https://www.uschamber.com/assets/documents/GIPC_IPIndex2025_Combined_final.pdf
- Casco, K. (2022). Ecuador’s Border Measures: Intellectual Property in Foreign Trade. *Yuracomplexus*, 34-55. <https://yura.website/wp-content/uploads/2022/02/19.3-Las-medidas-en-frontera-del-Ecuador-Propiedad-Intelectual-en-el-Comercio-Exterior.pdf>
- Organic Code of the Social Economy of Knowledge, Creativity and Innovation, Legislation No. 899, Official Registry (Supplement) 1 (2016).
<https://www.lexis.com.ec/biblioteca/coescci>
- Comprehensive Organic Criminal Code, Legislation 180, Supplement to Official Registry N°. 180 (2024). <http://biblioteca.defensoria.gob.ec/handle/37000/3817>
- De La Cruz, L., & Rosales, D. (2016). *Customs Control in Ecuador: A Perspective on the 2013–2016 Period*. <https://dialnet.unirioja.es/servlet/articulo?codigo=8489585>
- Legislative Decree N°. 1075, Legislation 1075, Indecopi (2008).
<https://www.wipo.int/wipolex/es/legislation/details/5753>

- Legislative Decree N°. 1092, Government of Peru (2008).
<https://cdn.www.gob.pe/uploads/document/file/1669707/DL%201092.pdf.pdf?v=1613083067>
- Decree N°356, 1 (2018). https://www.propiedadintelectual.gob.ec/wp-content/uploads/downloads/2018/abril/decreto_no_356.pdf
- Escobar, A., & Moreno, M. (2023). Intellectual Property and the Transfer of Environmentally Sound Technologies: Notes on the Preamble, Objectives, and Principles of the TRIPS Agreement. *Chilean Journal of Law and Political Science*, 14(1). <https://doi.org/10.7770/rchdcp-v14n1-art40>
- Forero, M. F., & Duque, E. J. (2014). Evolution and Characterization of Brand Equity Models. *Business Sum*, 5(12), 158. [https://doi.org/10.1016/S2215-910X\(14\)70038-2](https://doi.org/10.1016/S2215-910X(14)70038-2)
- Grijalva, A. (2007). Introduction to Intellectual Property: Copyright, Related Rights and Patents. In *Topics in Intellectual Property* (Vol. 28, pp. 9-12). National Publishing Corporation. <https://biblioteca.corteidh.or.cr/documento/45127>
- National Institute for the Defense of Competition and the Protection of Intellectual Property. (2026). *INDECOPI National School*.
<https://escuela.indecopi.gob.pe/index.php/quienes-somos/historia.html>
- National Institute for the Defense of Competition and the Protection of Intellectual Property. (2022). *Indecopi Promotes the Protection of Industrial Property in Andean Community Countries as Part of the Sixth Peru–Colombia Binational Cabinet*. Government of Peru. <https://www.gob.pe/institucion/indecopi/noticias/594278-indecopi-promueve-la-proteccion-de-la-propiedad-industrial-en-paises-de-la-can>
- National Institute of Statistics and Census. (2025). *Transport Statistics Yearbook, 2024*.
https://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Economicas/Estadistica%20de%20Transporte/ESTRA/2024/Principales_Resultados_ESTRA_2024.pdf
- León, P., & Martillo, Í. (2021). Trademark Counterfeiting, Unfair Competition and Sanctions of the World Trade Organization. *E-IDEA Journal of Business Sciences*, 3(13), 12-26. <https://doi.org/10.53734/eidea.vol3.id141>
- Organic Law Reforming Various Legal Bodies to Strengthen the Prevention and Combat of Illicit Trade, Strengthen National Industry and Promote Electronic Commerce, Legislation 525, Official Registry of Ecuador 17 (2021).
<https://www.asambleanacional.gob.ec/es/leyes-aprobadas?leyes-aprobadas=All&title=&fecha=&page=2>
- Montenegro, D., Caza, J., & Ruiz, G. (2019). *Customs Control and the Destination of Goods Seized by the Tulcán District Customs Office During the 2015–2018 Period*.
<https://doi.org/10.32645/13906852.885>
- Mora, F., & Veintimilla, S. (2025). The Impact of the Lack of Effective Intellectual Property Rights Protection on Innovation: The Case of Ecuador. *Research, Technology and Innovation*, 17(23), 01-18. <https://doi.org/10.53591/iti.v17i23.1880>

- Núñez, J., Núñez, M., & Geraci, M. (2021). Comparative Analysis of Border Measures in Force in Ecuador and the European Union Regarding the Illicit Trade of Goods Bearing Counterfeit Trademarks and Pirated Works. *Court of Justice of the Andean Community*.
- United Nations. (1948). *Universal Declaration of Human Rights*.
<https://www.un.org/es/about-us/universal-declaration-of-human-rights>
- World Intellectual Property Organization. (2019). *Trade in Counterfeit and Pirated Goods: Value, Scope and Trends. Organization for Economic Co-operation and Development*. <https://doi.org/10.1787/g2g9f533-en>
- World Intellectual Property Organization. (2024). *The WIPO Academy and Peru Prepare to Strengthen Cooperation in Intellectual Property Education and Training*. World Intellectual Property Organization. https://www.wipo.int/es/web/wipo-academy/w/news/2024/news_0029
- World Trade Organization. (2017). *Agreement on Trade-Related Aspects of Intellectual Property Rights*.
https://www.wto.org/english/docs_e/legal_e/downloads_e/TRIPS05_en.pdf
- World Trade Organization. (2021). *Module I: Introduction to the TRIPS Agreement*.
https://www.wto.org/spanish/tratop_s/trips_s/ta_docs_s/modules1_s.pdf
- World Trade Organization. (2025). *TRIPS Agreement: Overview*.
- Organization for Economic Co-operation and Development. (2019). *Trends in Trade in Counterfeit and Pirated Goods (Illicit Trade)*. Organization for Economic Co-operation and Development. <https://doi.org/10.1787/g2g9f533-en>
- Pacheco, E. (2022). *Criminal Offences Against Intellectual Property Rights in Ecuador*. *34(2)*, 1–10.
<https://studiahumanitatis.eu/ojs/index.php/analysis/article/view/2022pachecom/532>
- Patton, M. (2014). *Qualitative Research & Evaluation Methods*. SAGE Publications.
- Pelagallo, C., Sangoquiza, E., & Paredes, L. (2024). Crimes Against Intellectual Property in Ecuador: A Forensic and Criminalistic Perspective. *Innovation & Knowledge*, (Núm. 9), 22-31.
<https://innovacionysaber.isupol.edu.ec/index.php/innovacion/article/view/278>
- Peña, P., Alberto, O., Quishpi, C., & Sisa, S. (2023). Challenges in the Protection of Traditional Knowledge Through Intellectual Property in Ecuador. *Journal of Social Sciences*, XXIX (1), 262-276.
- Piza, H., & Carbajal, C. (2023) New Strategies in Customs Controls to Combat Organized Crime at the Port of Guayaquil – Ecuador, 2023. *Latin Science Multidisciplinary Scientific Journal*, 7(4), 5831-5855. https://doi.org/10.37811/cl_rcm.v7i4.7382
- Puente, Á., & Tulcanaza, E. (2023). *The Importance of Border Measures*. Falconi Puig Law Firm.
- Quecedo, R., & Castaño, C. (2002). *Introduction to Qualitative Research Methodology*.
<http://www.redalyc.org/articulo.oa?id=17501402>

- Salgado, A. (2024) Toward an Effective Border Measures Regime to Combat Illicit Trade in Ecuador. *Iuris Dictio*, (33), 18. <https://doi.org/10.18272/iu.i33.3007>
- Santamaría, E. (2022). Intellectual Property Rights and Public Policies for the Creative Economy. *Inter-American Development Bank*. <https://doi.org/10.18235/0004447>
- General Secretariat of the Andean Community, & World Intellectual Property Organization. (2023). *Manual for Trademark Examination in the Andean Countries*. <https://www.derechosintelectuales.gob.ec/wp-content/uploads/downloads/2023/manual/manual-para-el-examen-de-marcas.pdf>
- National Customs Service of Ecuador. (2025a). *Customs Advisory Council*. <https://www.aduana.gob.ec/consejo-consultivo-aduanero-2025-2/>
- National Customs Service of Ecuador. (2025b). *Advisory Council Presented 55 Proposals for Reforms to Customs Regulations*. National Customs Service of Ecuador.
- National Customs Service of Ecuador. (2025). *PALANTIR, a Key Actor in Software and Artificial Intelligence for U.S. Defense, Is Now in Noboa's Government to Combat Customs Offences*.
- Court of Justice of the Andean Community. (2013). *Case 68-IP-2013*. <https://www.tribunalandino.org.ec/ips/Pr68ip2013.pdf>
- Valle, P., & Méndez, R. (2019) Institutional Framework: Intellectual Property and the Impact on Import and Export Operations in Ecuador. *Ius Humani*, 8, 9-42. <https://doi.org/10.31207/ih.v8i0.202>
- Valverde, N., Robles, G., & Moreno, P. (2022). History and Current Situation of Intellectual Property in Ecuador. *IUSTITIA SOCIALIS*, 7(12), 16. <https://doi.org/10.35381/racji.v7i12.1570>
- Villa, M. (2023). Current and Future Mechanisms for Requesting the Declaration of Well-Known Status of a Distinctive Sign in the Andean Community of Nations. *Intangible Property Review*, (36), 177-238. <https://doi.org/10.18601/16571959.n36.08>
- World Intellectual Property Organization. (2024). *World Intellectual Property Report: Making Innovation Policy Work for Development*. <https://doi.org/10.34667/tind.49284>
- Zúñiga, J. (2022). Virtual Customs Inspection: Technology at the Service of Customs Control and Trade Facilitation. *Logos*, 3(2). <https://catradeconsulting.com/wp-content/uploads/2022/07/REVISTA-LOGOS.-JL-ZUNIGA.1-1.pdf>

7. Appendices

Appendix A

Informed Consent Form Mgtr. Patricio Moyano



CONSENTIMIENTO INFORMADO PARA ENTREVISTAS

Proyecto académico – Tesis de grado

Título del proyecto: Importación de mercancías falsificadas en Ecuador: Implicaciones Aduaneras y Propiedad Intelectual

Yo, Patricio Efraín Moyano Alvaro, en pleno ejercicio de mis facultades, declaro que:

1. He sido informado de que esta entrevista se realizará exclusivamente con fines académicos y formará parte de la tesis titulada “Importación de mercancías falsificadas en Ecuador: implicaciones aduaneras y propiedad intelectual”, desarrollada por las investigadoras Andrea Michelle Tigre Ochoa y Karelys Estefanía Cabrera Calle.
2. Comprendo que mi participación es voluntaria y que puedo negarme a responder cualquier pregunta, suspender la entrevista en cualquier momento, revocar mi consentimiento posteriormente o solicitar la eliminación parcial o total de la información proporcionada, sin que esto genere perjuicio o consecuencia alguna.
3. Autorizo la grabación en audio y/o video de la entrevista únicamente para fines de análisis académico, transcripción y verificación de la información.
4. Entiendo que la información que proporcione será tratada con estricta confidencialidad. Mi nombre será mantenido en anonimato si así lo solicito expresamente.
5. Se me ha informado que no recibiré compensación económica o material por mi participación, y que tampoco asumiré costo o riesgo alguno.
6. He podido realizar todas las preguntas necesarias sobre el propósito del estudio, el uso de la información y las medidas de protección de datos, recibiendo respuestas claras y satisfactorias.
7. Los datos recopilados serán almacenados de manera segura, utilizados únicamente para la tesis mencionada y no se compartirán con terceros sin mi autorización expresa.
8. Para cualquier consulta adicional, puedo contactar a las investigadoras responsables:

Nombres: Michelle Tigre / Karelys Cabrera



Firma del participante: _____

Nombre completo: Patricio Efraín Moyano Alvaro

Fecha: 06/03/2026

Firma de la entrevistadora:

Firma de la entrevistadora:

Nombre completo:

Andrea Michelle Tigre Ochoa

Fecha: 06/03/2026

Nombre completo:

Karelys Estefanía Cabrera Calle

Fecha: 06/03/2026

Appendix B

Informed Consent Form - Eng. Rolando Maza



CONSENTIMIENTO INFORMADO PARA ENTREVISTAS

Proyecto académico – Tesis de grado

Título del proyecto: Importación de mercancías falsificadas en Ecuador: Implicaciones Aduaneras y Propiedad Intelectual

Yo, Edgar Rolando Maza Londa, en pleno ejercicio de mis facultades, declaro que:

1. He sido informado de que esta entrevista se realizará exclusivamente con fines académicos y formará parte de la tesis titulada “Importación de mercancías falsificadas en Ecuador: implicaciones aduaneras y propiedad intelectual”, desarrollada por las investigadoras Andrea Michelle Tigre Ochoa y Karelys Estefanía Cabrera Calle.

2. Comprendo que mi participación es voluntaria y que puedo negarme a responder cualquier pregunta, suspender la entrevista en cualquier momento, revocar mi consentimiento posteriormente o solicitar la eliminación parcial o total de la información proporcionada, sin que esto genere perjuicio o consecuencia alguna.

3. Autorizo la grabación en audio y/o video de la entrevista únicamente para fines de análisis académico, transcripción y verificación de la información.

4. Entiendo que la información que proporcione será tratada con estricta confidencialidad. Mi nombre será mantenido en anonimato si así lo solicito expresamente.

5. Se me ha informado que no recibiré compensación económica o material por mi participación, y que tampoco asumiré costo o riesgo alguno.

6. He podido realizar todas las preguntas necesarias sobre el propósito del estudio, el uso de la información y las medidas de protección de datos, recibiendo respuestas claras y satisfactorias.

7. Los datos recopilados serán almacenados de manera segura, utilizados únicamente para la tesis mencionada y no se compartirán con terceros sin mi autorización expresa.

8. Para cualquier consulta adicional, puedo contactar a las investigadoras responsables:

Nombres: Michelle Tigre / Karelys Cabrera



Firma del participante: _____

Nombre completo: Edgar Rolando Maza Londa.

Fecha: 05 / 03 / 2026

Firma de la entrevistadora:

Nombre completo:

Andrea Michelle Tigre Ochoa

Fecha: 05 / 03 / 2026

Firma de la entrevistadora:

Nombre completo:

Karelys Estefanía Cabrera Calle

Fecha: 05 / 03 / 2026

Appendix C

Informed Consent Form Dr. Paúl León



CONSENTIMIENTO INFORMADO PARA ENTREVISTAS

Proyecto académico – Tesis de grado

Título del proyecto: Importación de mercancías falsificadas en Ecuador: Implicaciones Aduaneras y Propiedad Intelectual

Yo, PAUL LEON ALTPMIMNO, en pleno ejercicio de mis facultades, declaro que:

1. He sido informado de que esta entrevista se realizará exclusivamente con fines académicos y formará parte de la tesis titulada “Importación de mercancías falsificadas en Ecuador: implicaciones aduaneras y propiedad intelectual”, desarrollada por las investigadoras Andrea Michelle Tigre Ochoa y Karelys Estefanía Cabrera Calle.
2. Comprendo que mi participación es voluntaria y que puedo negarme a responder cualquier pregunta, suspender la entrevista en cualquier momento, revocar mi consentimiento posteriormente o solicitar la eliminación parcial o total de la información proporcionada, sin que esto genere perjuicio o consecuencia alguna.
3. Autorizo la grabación en audio y/o video de la entrevista únicamente para fines de análisis académico, transcripción y verificación de la información.
4. Entiendo que la información que proporcione será tratada con estricta confidencialidad. Mi nombre será mantenido en anonimato si así lo solicito expresamente.
5. Se me ha informado que no recibiré compensación económica o material por mi participación, y que tampoco asumiré costo o riesgo alguno.
6. He podido realizar todas las preguntas necesarias sobre el propósito del estudio, el uso de la información y las medidas de protección de datos, recibiendo respuestas claras y satisfactorias.
7. Los datos recopilados serán almacenados de manera segura, utilizados únicamente para la tesis mencionada y no se compartirán con terceros sin mi autorización expresa.
8. Para cualquier consulta adicional, puedo contactar a las investigadoras responsables:

Nombres: Michelle Tigre / Karelys Cabrera

Firma del participante: _____

Nombre completo: _____

Fecha: 09 / 12 / 22

Firma de la entrevistadora: _____

Nombre completo: _____

Andrea Michelle Tigre Ochoa

Fecha: 09 / 12 / 2025

Firma de la entrevistadora: _____

Nombre completo: _____

Karelys Estefanía Cabrera Calle

Fecha: 09 / 12 / 2025

Appendix D

Informed Consent Form Dr. Esteban Coello



CONSENTIMIENTO INFORMADO PARA ENTREVISTAS

Proyecto académico – Tesis de grado

Título del proyecto: Importación de mercancías falsificadas en Ecuador: Implicaciones Aduaneras y Propiedad Intelectual

Yo, Esteban Coello Muñoz, en pleno ejercicio de mis facultades, declaro que:

1. He sido informado de que esta entrevista se realizará exclusivamente con fines académicos y formará parte de la tesis titulada “Importación de mercancías falsificadas en Ecuador: implicaciones aduaneras y propiedad intelectual”, desarrollada por las investigadoras Andrea Michelle Tigre Ochoa y Karelys Estefanía Cabrera Calle.
2. Comprendo que mi participación es voluntaria y que puedo negarme a responder cualquier pregunta, suspender la entrevista en cualquier momento, revocar mi consentimiento posteriormente o solicitar la eliminación parcial o total de la información proporcionada, sin que esto genere perjuicio o consecuencia alguna.
3. Autorizo la grabación en audio y/o video de la entrevista únicamente para fines de análisis académico, transcripción y verificación de la información.
4. Entiendo que la información que proporcione será tratada con estricta confidencialidad. Mi nombre será mantenido en anonimato si así lo solicito expresamente.
5. Se me ha informado que no recibiré compensación económica o material por mi participación, y que tampoco asumiré costo o riesgo alguno.
6. He podido realizar todas las preguntas necesarias sobre el propósito del estudio, el uso de la información y las medidas de protección de datos, recibiendo respuestas claras y satisfactorias.
7. Los datos recopilados serán almacenados de manera segura, utilizados únicamente para la tesis mencionada y no se compartirán con terceros sin mi autorización expresa.
8. Para cualquier consulta adicional, puedo contactar a las investigadoras responsables:

Nombres: Michelle Tigre / Karelys Cabrera

Firma del participante: [Firma]
Nombre completo: Esteban Coello Muñoz
Fecha: 9 / 11 / 2026

Firma de la entrevistadora: [Firma]
Nombre completo: Andrea Michelle Tigre Ochoa
Fecha: 9 / 11 / 2026

Firma de la entrevistadora: [Firma]
Nombre completo: Karelys Estefanía Cabrera Calle
Fecha: 9 / 11 / 2026