

**CHALLENGES FACING KENYA BUREAU OF STANDARDS IN
COMBATING COUNTERFEIT TRADE**

By

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DECLARATION

This research project is my original work and has not been presented for examination in any other university.

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This research project has been submitted for examination with my approval as University supervisor.

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DEDICATION

This research project is dedicated to my husband Hon. Justice Said Juma Chitembwe for his unconditional love and support in all my endeavors.

ABSTRACT

The globalization of the international economy has led to the deepening integration of international economic and financial activity. This phenomenon has been fostered by electronic networks, liberalization of cross-border markets and the emergence of several new countries on the global market. The emergence of the global market, regional and intra-triad business has prevailed like never before and with this trade, counterfeit products have at the same time thrived. Firms engaged in the counterfeit trade upon finding success in one market, undertake further initiatives to expand the same counterfeit market and with this drive, there has been an increase in counterfeit products over the last two decades. The extent of the counterfeit trade is such that in 2009, the International Chamber of Commerce Research, estimated that annual losses to business as a result of counterfeiting was in the range of \$750 billion and the figure keeps on increasing. The purpose of this study was to examine the challenges facing Kenya Bureau of Standards in combating counterfeit trade.

The research design for the study was a case study of Kenya Bureau of Standards on challenges faced in combating counterfeit trade. The sample comprised of four (4) senior managers in the organization who were interviewed separately to facilitate collection of the data. The data was specifically collected from the four managers who were selected. The data collection tool was an interview guide. Content analysis was used to analyze the qualitative primary data which had been collected by conducting interviews and secondary information from the organization.

The key findings from the study were that in the course of carrying out its duties, KEBS encounters administration, counterfeit intelligence, legal and supply chain challenges. Specific challenges being encountered were resources (both human and financial), lack of latest

equipment for testing the products, lack of well trained staff to the international standards, weak laws governing counterfeits, long legal process before cases relating to counterfeits products are disposed, lack of complain by the consumers of the ineffectiveness of the products, lack of international support in combating counterfeiting, high level of poverty and ignorance, porous borders and the prevalence of transit corridors as it facilitates the entry of counterfeits into the country, Kenya.

Among its key recommendations, the study proposed that the government ought to assert her full role in the protection of consumers, producers, importers, exporters and manufactures against the counterfeit traders. This could be through increased financial and human resources in the organizations like KEBS that were charged with the mitigative responsibilities. In addition these organizations should adopt new internationally approved technologies that fast-track counterfeit goods/products and engage in collaborative ventures with other countries in the globe that are fighting counterfeit trade.

TABLE OF CONTENTS

Declaration.....	ii
Acknowledgements.....	iii
Dedication.....	iv
Abstract.....	v
Abbreviations.....	ix

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study.....	1
1.1.1 International Business Environment.....	2
1.1.2 Counterfeiting in International Business.....	4
1.1.3 Kenya Bureau of Standards.....	5
1.2 Research Problem.....	6
1.3 Research Objective.....	8
1.4 Value of the Study.....	9

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction.....	10
2.2 The Concept of International Business.....	10
2.3 The Concept of Counterfeiting in International Business.....	12
2.4 Challenges in Combating Counterfeit Trade.....	13
2.4.1 International Mechanisms used in Counterfeit Prevention.....	17
2.4.2 Product Authentication Technologies.....	17
2.4.3 Automatic Information sharing Network.....	18
2.4.4 Counterfeit Network Analyser (CAN).....	19

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction 20

3.2 Research Design 20

3.3 Sampling and Sample 21

3.4 Data Collection 21

3.5 Data Analysis 21

CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION

4.1 Introduction 23

4.2 Respondents' Profile 23

4.3 Challenges facing KEBS in Mitigating Counterfeits 24

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 Introduction 30

5.2 Summary and Findings 30

5.3 Conclusion 33

5.4 Recommendations 35

5.4 Recommendations for further Research 35

5.5 Limitations of the Study 36

References 37

Appendix

I-Cover Letter

II- Interview Guide

LIST OF ABBREVIATIONS

IO	- Industrial Organization Theory
MNE	- Multinational Enterprises
OECD	- Organization for Economic Cooperation and Development
US	United States of America
MNC	Multinational Cooperation
KEBS	- Kenya Bureau of Standards
SGS	- Societe Generale Surveillance
LAS	- Local Authentication Service
CCK	- Communication Commission of Kenya
EAC	- East African Community
RFID	- Radio Frequency Identification
EPC	- Electronic Pedigree Concept
CAN	- Counterfeit Network Analyser
INT	- Internationalization Theory
TC	- Transaction Cost Theory
IP	- Internalization Process Model
WIPO	- World International Property Rights Organization
USAID	- United States Agency for International Development
MCSK	- Music Copyright Society of Kenya
KRA	- Kenya Revenue Authority
NSIS	- National Security Intelligence Service
ACA	- Anti-Counterfeit Act

CHAPTER ONE: INTRODUCTION

1.1 Background to the Study

The dominant change in the world economy over recent decades is the globalization of markets; a phenomenon that has resulted into a convergence of numerous other changes that individually might not have been potent as they are collectively (Barlett and Ghosal, 2000). From the domain of technology a number of milestones have been gained such as advances in telecommunication that is speedier and more effective; advances in transport that has facilitated speedier and more efficient movement of goods and people within continents and advances in production that has resulted in cost effective product adaptation. This process of globalization has resulted in movement of goods across borders in a measure never witnessed before in recent years. With the growth of businesses across national boundaries, the challenge of trade in counterfeit products has also become a major issue in the international trade. This internationalization of trade has given rise to production and exporting of counterfeit products which has led to tough competition to the local industries especially in countries where there is inadequate controls to check on the entry of counterfeit products (Kay, 1990).

According to the Industrial organization (10) theory (Agmon and Lessard, 1977) operating overseas is more costly than doing business at home and as such foreign enterprises (MNEs) must create offsetting advantages in order to be profitable and such behaviour can explain the imperfections in factor and product markets. These imperfections in factor and product markets

as explained by Kay (1990) include exporting of counterfeit trade that will be cheaper to produce in order to reduce the cost of production.

Law enforcement agencies in many jurisdictions have been unable to respond effectively to the problem of counterfeiting and even in the most advanced nations the challenge has continued unabated. The role of public and private law enforcement is crucial in fighting the counterfeiting problem. Indeed many counterfeit products pass through many jurisdictional boundaries with offenders passing the counterfeit products through various jurisdictions which can only be countered by a cross-border and international policing response. As was noted by Kwok et al (2008), the various anti-counterfeit measures will be more effective when the movement of the product can be tracked and monitored. When the distribution channels (or so-called supply chain) are authorized by the manufacturers, it is claimed that the product is authenticated when it is moved and delivered in a verified flow (Rochester Electronics, 2007). Thus, a system is needed to enhance the visibility and transparency of the product movement.

1.1.1 International Business Environment

International business came into being through International Trade, which is the exchanging of goods and services between countries or nations and dates back to many centuries ago. Due to developments in the technological industry and networking through globalization, international business was born. Yabs (2007) defines international business as commercial activities between countries and between firms. There are many factors contributing to the stabilization of an international business environment of a country and amongst them include, balance of payment, diplomatic relations, globalization phenomena, operations of MNCs, electronic commerce, technology transfer and the list continues.

Several theories have been developed to explain the international business phenomena over time. In his book, "An enquiry into the nature and the origin of the Wealth of Nations", Adam Smith, proposed the absolute advantage theory which purports that some countries have absolute advantage in the production of certain goods that is not limited to nature, acquired or comparative advantages. This means that countries can produce goods they have absolute advantage and import those they lack advantage in producing. The theory concurs with that of factor endowment, which is of the view that countries with advantage of producing certain goods cheaply and efficiently have also an advantage in exporting their surplus goods to other countries that are not factor endowed, this way international business develops for these countries.

Yabs (2000) expounds on the theory of acquired advantage and suggests that countries can increase their advantages by developing their resource sectors like education, culture and taking advantage of their geographical position. Globalization, defined as the interconnectedness or interdependence of economies of the countries of the world is another theory that has changed the international business environment. It has eased communication between countries; movement of people across the worlds; movement of goods and exchange of information between countries. This ease also enhanced by science and technology developments has created the so called global village where all countries of the world are internetworked.

There are several factors that define the international business environment in Kenya. These include; historical facts, geographical position, politics and national culture and the state of economic development. KEBS as an organization is forced to operate within this volatile environment in a bid to counter the problem of counterfeiting in the country.

1.1.2 Counterfeiting in International Business

According to Kay (1990), counterfeiting is the production of copies that are identically packaged, including trademarks and labeling, copied so as to seem to a consumer to be the genuine article. On their part, Organization for Economic Cooperation and Development (1998), (OECD) defined product counterfeiting as unauthorized manufacturing of articles which mimic certain characteristics of genuine goods and which may pass themselves off as registered products of licit companies. Counterfeiting not only lead to compromises in public safety, but also cause economic loss to manufacturers, and pose a threat to the supplier's brand name and reputation. Inexpensive copying, lack of traditional packaging and the unusual distribution channels make the counterfeits easier to be launched in the global market (Berman, 2008). Further, Nash (1989) pointed out that the vice not only affect products whose brand name is synonymous with its quality or flavour, but also products which require a high level of research and development, and marketing. He further observed that the sale of counterfeit products undermines company and brand reputations, hitting profits, devaluing research and development costs, and incurring legal fees. According to US estimates, the global loss from counterfeiting amounts to some \$80 billion a year, but what is almost impossible to value is the damage inflicted on a company by the dilution of its brands (Kay, 1990). Substandard counterfeit goods not only ruin goodwill and destroy credibility; they can also be hazardous to the innocent end-purchaser, especially with regard to pharmaceutical products (Nash, 1989).

The implications for manufacturers and brand owners are multifaceted. On the one hand, companies are likely to face a loss of revenue owing to substitution effects by illicit goods and constraints on product pricing (Montoro-Pons and Cuadrado-Garcia, 2006) and also a large

number of low-cost counterfeits can reduce the perceived exclusiveness of luxury goods (Wilke and Zaichkowsky, 1999). The seriousness of this counterfeiting problem has prompted some marketers either to take independent legal actions, or depend on anti-counterfeiting firms which employ international investigators to carry out surveillance and raids against counterfeiters. Many countries have also tightened their laws and regulations against counterfeiting. Inadequate penalties for commerce in counterfeits and weak enforcement of the respective laws and regulations have also been blamed for the growth in counterfeit trade. Better organization of counterfeit activities and the removal of trade barriers also make it likely that counterfeiting will continue to abound (Kwok et al, 2008).

1.1.3 Kenya Bureau of Standards

The Kenya Bureau of Standards (KEBS) is a government agency responsible for governing and maintaining the standards and practices of metrology in Kenya. It was established by an Act of Parliament of Kenya's National Assembly, The Standard Act, Chapter 496 of the Laws of Kenya. The Bureau started its operations in July 1974 and since then it has opened regional offices throughout Kenya with its main Headquarters in Nairobi.

The aims and objectives of KEBS include preparation of standards relating to products, measurements, materials, processes, etc. and their promotion at national, regional and international levels; certification of industrial products; assistance in the production of quality goods; quality inspection of imports at ports of entry; improvement of measurement accuracies and dissemination of information relating to standards. The Kenya Bureau of Standards (KEBS) acts as a trade facilitator through the provision services in Metrology, Standards, Testing and Quality Management including certification and accreditation. KEBS ensures that no technical

barriers to trade are created while providing services in standardization and conformity assessment.

In achievement of its mandate, KEBS collaborates with several national agencies in the country such as KEPHIS, Kenya revenue authority, security apparatus and a number of ministries that are engaged in importation of public products. In addition, KEBS acts as inspection firm for various international companies that import goods from the country as well as collaboration with international testing companies such as *Societe Generate Surveillance* (SGS) and Local Authentication Service (LAS).

1.2 Research Problem

The globalization of the international economy has led to the deepening integration of international economic and financial activity. This phenomenon has been fostered by electronic networks, liberalization of cross-border markets and the emergence of several new countries on the global market (Dunning, 2000). Further, Rugman (2001) observes that with the emergence of the global market, regional and intra-triad business has prevailed like never before and with this trade, counterfeit products have at the same time thrived. Firms engaged in the counterfeit trade upon finding success in one market, undertake further initiatives to expand the same counterfeit market and with this drive, there has been an increase in counterfeit products over the last two decades (Rugman, 2001). The extent of the counterfeit trade is such that in 2009, the International Chamber of Commerce Research, estimated that annual losses to business as a result of counterfeiting was in the range of \$750 billion and the figure keeps on increasing. According to Hobday et al (2004), the vice has been compounded by some multinational partnered companies producing and distributing similar quality products without payment of due

royalty payments (but using trademarks) and even in producing and distributing products of inferior quality but with original trademark that can create significant harm to the reputation of their joint venture partners and patent holders.

The international policy makers and individual countries have a key role in developing policies and coming up with institutions that complement each other in reducing the counterfeit and illicit trade problem. This is vital because counterfeit is an international business, run by international people, with international financing - the battle is truly cross-border and therefore the role of the international organizations like Interpol and local agencies is so critical in checking the counterfeit trade and its impact to the local industries and the job market. In Kenya, the government has continuously highlighted the impact that the counterfeit products have on the local industries and its negative role in the creation of employment locally. It is on this strength that local institutions such as Kenya Bureau of Standards, Kenya Revenue Authority, the Kenya Police and other Agencies have been undertaking joint and supportive exercises to prevent the entry of counterfeit products in the country. However, despite this concerted effort local manufacturers have complained of the effect counterfeit products has had on their performance and sustainability of their businesses. A case in point is the Nakuru based Eveready Company limited which for the last five years has registered negative growth in performance and even shut down some of its production lines due to the influence of counterfeit battery products from the Asian continent. This problem points to the fact that local agencies concerned with controlling of the counterfeit have not been successful in preventing the vice. This therefore points to the need to investigate the challenges these agencies, especially the Kenya Bureau of Standards face in combating the counterfeit problem.

Several studies have been undertaken locally on the issue of counterfeiting products. Waka (2007) undertook a research on the Response strategies of Haco Industries to the challenges of counterfeit products in E.A. In her study she concluded that the trade in counterfeits is a growing menace in the developing world due to a combination of factors which include lax in local laws and low purchasing power of the region citizens. Further, counterfeit goods were noted to cause a great loss in sales to the local manufacturers of the branded products and causing millions in lost revenue to the government as importers of counterfeit products usually evade paying taxes. On his part Walufu (2008) researched on the Factors that influence the extent of counterfeiting of goods in the East African Community (EAC). In his study, rampant corruption, inadequate resources-both financial and human resources to various agencies dealing with the counterfeiting vice as well as porous Kenya borders were identified as key factors which exacerbate the trade in counterfeit products. From the above studies, it is evident that there does not exist a study on the challenges that agencies concerned with combating the counterfeit problem face in their business. This therefore begs the question, what challenges do Kenya Bureau of Standards face fighting the counterfeit trade in the country?

1.3 Research Objective

The research objective was to determine the challenges of counterfeiting in international business and the way KEBS attempts to mitigate them.

1.4 Value of the Study

The aim of the study will be to undertake an assessment of the challenges that Kenya Bureau of Standards face in combating counterfeit products. As a result, the Management of various companies, the regulators, other oversight bodies, and the academicians will find the research an invaluable source of reference as follows:

Management of various local companies will be guided on the ways used by counterfeit products companies and therefore ways of reducing their effects on the local firms will be identified. In addition, the study will identify ways in which counterfeits products can be identified and as such help these companies in differentiating them from the genuine ones. Such deeper understanding will enable these companies in gaining the benefits of countering the counterfeit products and by so doing accumulate intellectual capital.

The findings of this study will be used by the policy makers especially the Ministry of Finance and Trade in formulation of regulation to guide various agencies in drafting a regulatory framework for combating the threat of counterfeit products to local companies. In addition, the results of the study will serve as a point of departure for further investigation into the challenges facing anti-counterfeit organization in developing countries while coming up and implementing measures towards reduction or elimination of counterfeit products and the material will form a source of reference by other scholars in the area of corporate governance.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

This chapter highlights the major issues relating to counterfeit products and covers the theoretical framework, challenges faced in combating counterfeit products and the general international mechanisms used in overcoming them and will review various literatures on the subject

2.2 The Concept of International Business

Today, firms are internationalizing in greater numbers and faster than ever before. However, companies are internationalizing in more different ways, often using combinations of entry and exit strategies (Dunning, 2000). In most cases smaller firms, especially high tech companies, practice advanced entry modes from their outset, services and know-how that are traded across the globe. According to Crawford and Mathews (2001), Companies are increasingly forced to generate value for customers and shareholders alike. They observe that buyers in today's economy, especially organizational buyers, are expecting "value packages" from their suppliers, while at the same time scrutinizing world markets for a cheaper offer. In addition, consumers are expecting a better match in values with the companies to which they give their business while also claiming superior value for less money. Meeting these evolving challenges puts new stress on firms as they expand internationally, and may require new kinds of solutions and strategies that may comprise of rights infringement in some cases (Dunning, 2000).

Several key theories have been applied to the internationalization process primarily to explain the international production operations of Multinational Corporation. These theories include the Industrial organization theory (Agmon and Lessard, 1977), internalization theory (Rugman, 1981) and transaction cost theory (Hennart, 1982). Going a step further, Dunning's eclectic theory expanded its scope to incorporate consideration of trade as an alternative to investment in reaching foreign markets (Dunning, 1988).

Industrial organization (IO) theory is based on the assumption that operating overseas is more costly than doing business at home. To be successful, multinational enterprises (MNEs) must create offsetting advantages, partially explained by imperfections in factor and product markets (Weisfelder, 2001). Internalization (INT) theory argues that MNEs represent an alternative mechanism for arranging value-added activities across national borders. This is necessary due to market imperfections such as government intervention or buyer uncertainty. The theory shares some roots with transaction cost (TC) theory, which shifted attention to predicting whether using spot markets (contracts) is more efficient (or not) than using hierarchy (firms) to organize economic activity in foreign markets (Weisfelder, 2001).

The internationalization process (IP) model of Johanson and Vahlne (1990) rests on the resource-based view that is rooted in the classical theory of the firm (Penrose, 1959). The model, which considers entry mode decisions as a time-dependent process, considers a state as a consequence of a firm's prior experience knowledge. The theory consists of the chain of establishment and the internationalization process model. It has been challenged for being too deterministic and too limited by focusing only on one explanatory variable (Andersen, 1997). Network theory considers investments in relationships as assets that determine future strategic development. This approach blurs the "market-versus-firm" distinction central to transaction cost-based theories (Weisfelder, 2001).

In the stages approach theory contained in the Uppsala model of internationalization, it is argued that MNCs grow from infancy in the country of their origin and develop to maturity (Yabs, 2007). This growth saturates the local and regional markets and eventually such businesses venture into the international arena as MNCs because they gain confidence of the target market and are assured of success. Based on these developments MNCs end up facing many challenges in the export/import business across the borders and this creates a fertile ground for counterfeiting business to flourish.

2.3 The Concept of Counterfeiting in International Business

Manufacturing enterprises face tough competition in an increasingly globalized market, with increased regulatory scrutiny and requirements. To provide responsive, meet conflicting demands and competitiveness, it is important for manufacturers to deliver a safe product with the right part in the right place at the right time (Harrison, 1992). However, such a concept is getting more and more difficult to satisfy as counterfeiting problems have impacted on the manufacturing industry significantly in recent years. A counterfeit product is any product bearing an unauthorized representation of the original manufacturer of the products (Rochester, 2007). The production and sale of counterfeit products is big business in the international economy. According to Hung (2003) the value of counterfeit products marketed annually in the world is estimated to be over US\$1 Trillion and nowhere is this more evident than in China. The extent of product counterfeiting operations in China is estimated to range from 10 to 20 per cent of all consumer goods manufactured in the country. These trends make the counterfeit trade a global issue.

The problem of counterfeiting cuts across various theories, but mostly marketing and moralist theories. Moralists view the problem of counterfeiting as an ethical dilemma upon individuals. Kohlberg (2006) identifies six stages a person goes through in the process of purchasing a counterfeit product. He grouped the stages into three, as: pre-conventional (1&2), conventional (3&4), and post conventional (5&6). The outcomes perceived by the individual at every stage determine whether the purchase of the counterfeit will occur. He pegged the first stage to reward against punishment, the second on societal values and third on individuals' moral principles. This results into a blame game situation between producers and purchasers with each absolving themselves of the liability (Cordell et al, (1996).

Marketing theorists argue that authentic manufacturers have contributed to the problem of counterfeiting due to their unyielding self-interest of pursuing lowest possible manufacturing cost (Tom et al., 1998), and that even in the face of increased counterfeiting these firms continue to seek production opportunities in developing countries. It may be that given the short-term gains of lower production costs, firms may be either lacking in risk management or even willing

to risk the loss of intellectual property with its potential long-term damage of loss of competitive advantage for the sake of short-term gains.

According to Kim et al., (2006), the onus to counter counterfeits is in the hands of the corporate. He argues that this is because the extent of likely damage due to counterfeiting is more severe in case of corporate than to either government or consumers. In addition, governments may find this issue to be of less importance when compared to other serious issues. On the other hand, consumers are either unaware most of the time or lack proper forums / mechanisms to voice their opinion. However, civil society organizations can play a key role either independently or in collaboration with government and corporate. Corporate organizations can use both reactive and proactive strategies to counter counterfeits. Some of the generic proactive strategies are government lobbying, proactive changes in marketing mix and labeling. Reactive strategies include warning, reactive changes in marketing mix, and legal action. This however generates several challenges as analyzed below.

2.4 Challenges in Combating Counterfeits Trade

Law enforcement agencies in many jurisdictions have been unable to respond effectively to the counterfeit problem and even in the most advanced nations, "play catch-up" with cyber savvy criminals (SussMann 1999). Furthermore, the effectiveness of the current approaches towards counterfeiting is questionable. Indeed, in fast moving technology intensive industries legal remedies tend to be too slow and too costly for regulating complex technological developments and their associated intellectual property and ownership rights (Deakin and Wilkinson, 2008). According to Sachs (2009), a number of challenges face anti-counterfeiting institutions in effectively facing the problem. He attributed these to lack of adequate intelligence, legal, administrative mechanism and supply chain factors.

The first challenge is *Lack of adequate Intelligence Mechanism*; generally the transnational nature of counterfeits reflects the process of globalization, which has intensified over the past two decades. The emergence of e-commerce, as well as the social dimension of the internet and associated crimes, is a striking example of the challenges to the independent capability of nation-states to regulate social and economic order within their territories (Sheptycki, 2000). Thus

according to Lezie (2001), this will call for a more advanced intelligence mechanism that will involve collaborative enforcement and ongoing monitoring of distribution streams of counterfeits and illegal operations. Radical versions of globalization go further and suggest that the nation-state system of international relations no longer provides an effective methodology for regulating either domestic or transnational activity, especially international trade. In either version of globalization, "sub-state" actors, such as large regulating institutions, play a crucial role in the emergence of what Sheptycki (2000) terms a transnational-state-system.

According to Hopkins et al (2003), controlling counterfeits trade involving digital technology and computer networks will also require a variety of new networks: networks between police and other agencies within government, networks between police and private institutions, and networks of police across national borders. These they argue will boost inter agency intelligence that will help in reducing the trading of counterfeit goods. Over the past decade, considerable progress has been made within and between nations to develop the capacity of police to respond to counterfeits and there is now growing awareness amongst producers of the need for basic product security (Newman and Clark, 2003). In addition, the quickening of transnational law enforcement cooperation in response to cyber-crime and other global threats has radically altered expectations about what may be achieved at the international level.

Another notable challenge is contained within the *Administration Factors*; this entails operationalizing policies and laws of given countries. Kim et al (2006) elaborated in their seminal paper the need of anti-counterfeit agencies to put together appropriate organizational structures and dedicate resources - and likewise governments need to do the same in adequately managing the counterfeit products. In addition, they observe that while there is deep appreciation of the expertise and attention to counterfeiting on the part of governments and inter-governmental organisations, it is a fact of life that policy-making and enforcement work in most countries is spread out among different departments, in most cases without coordinated leadership (Kim et al, 2006). Further, it is clearly time for both industry and governments to work seamlessly together to provide frank and constructive advice and support for changing the ways in which we go about our anti-counterfeiting work.

According to Hopkins et al (2003) creating a global brand protection function to manage anti-counterfeiting program for the company will in addition help in reducing the counterfeit menace. However, he noted that it was impossible to achieve due to bureaucratic controls, lack of adequate resources especially during operation and lack of testing capacity. In addition, Kitsos and Zhang (2008) noted that with regulating institutions partnering with international law enforcement and custom agencies, updating of technologies and coordination with other organizations, they will be able to overcome some of these administrative bottlenecks. Further, they note that for these institutions to effectively deal with the problem of counterfeits, they need to create internal anti-counterfeit departments and taskforces in their respective institutions.

Another challenge envisaged is *Inadequate Legal Framework'*, the laws of most countries seem evasive on the counterfeit subject especially trade products. Newman and Clark (2003) observed that the laws in most countries distinguish between faking public property like banknotes and faking private property like brands. They noted that whilst the penalties for copying banknotes are tough, almost nobody goes to jail for counterfeiting products. Counterfeit products cause injury, defraud both governments and the general public and national legislation should reflect this and embark on the need to review their laws to ensure they provide strong deterrence.

In addition, Semple (2004) noted that, strong legislation should be complemented by effective enforcement. This requires Government investment in people, systems, equipment and training—something that is lacking in many parts of the world. Counterfeiting should be declared as an international crime since its effects are devastating to licit companies. These include; unemployment of staff in these companies' whose products are copied; reduction in market share and destruction of their reputation. Further, Mollin (2003) posit that most national agencies have been found to have a limitation of the Standards Act; the prosecution process is slow and they have problems in enforcing some of the laws if no gazettelement has been done. Instances were also identified by Hopkins et al (2003) where standards do not give descriptive characteristics of products which would be useful in the fight against counterfeit trade. As is the case with KEBS, it is not clear whether new technology has overtaken the established laws and if it is necessary to have the Act amended to incorporate modern techniques.

The last challenge cited is contained within *Supply Chain Factors*; According to Cox (2007), the extent that a consumer cannot always be certain that all of his or her buying goals will be achieved; risk is perceived in most purchase decisions. To some consumers, buying counterfeit products may be considered as a risky venture, given that they may lose money (financial risk) in buying a faulty or unreliable product. As a result, if the social group, to which a person belongs or aspires to belong, does not approve of counterfeit purchases, the person runs the risk of being ostracized or sanctioned for buying such products. For example, it has been suggested that higher income consumers associate socially more with people who are apt to be able to detect counterfeit products; hence these consumers are unlikely to purchase counterfeit products. This therefore means that consumers that are averse to financial, product, and social risks are less likely to purchase counterfeit products.

Further according to Martineau (2008) an individual's consumption pattern symbolizes his or her social class position, and is a more significant determinant of his or her buying behaviour than just income. Given that people tend to associate themselves with the current social class position they are in or the class above them, they will more likely buy branded products which can convey brand status of affluence, wealth and social class. If brand status is important to a person but he or she is unable to afford the expensive originals, he or she is likely to turn to counterfeit products as cheap substitutes for the originals.

Nia and Zaichkowsky (2000) observe that if a person holds an unfavorable attitude towards the high-profile operations of branded goods manufacturers and the snob appeal of their products, he or she is less likely to purchase the branded originals. Rather, these people are more likely to purchase the counterfeit version of branded goods. Indeed, it has been suggested that most people who buy counterfeit products think of themselves as penny-wise shoppers who have not succumbed to the snobbery and exorbitance of which businesses selling branded originals are guilty.

Haley (1998) recognizes the importance of product attributes in the persuasion process. He claims that a consumer associates many attributes with a particular product or brand. His or her overall attitude towards a brand is a function of the importance he or she attaches to each attribute as well as his/her belief about the probability that those attributes exist in that brand. It

follows that attributes perceived to be present in a product influence one's purchase decision. Bush et al, (1989) identified the following attributes to be critical in any particular product; durability, image, perceived fashion content, physical appearance, purpose, and quality. These image attributes reflect how consumers feel product use associates them with a desired group, role, or self-image (Lefkoff-Hagius and Mason, 1993). Status-conscious consumers often purchase branded products which can convey image of affluence, wealth and social class. Hence, whether the counterfeit product is able to project the same "image" as the original product is important for branded products such as leather wallets/purses and watches used in this study.

2.4.1 International Mechanisms used in Counterfeit Prevention

The conventional approaches for counterfeiting prevention can be divided into two types, namely product authentication technologies automatic information sharing networks and/or combination of both.

2.4.2 Product Authentication Technologies

Product authentication technologies are important to combat counterfeiting in a physical manner. At present, a range of product authentication tools are available to allow manufacturing enterprises to ensure that the end party can ascertain the genuineness of their products. As stated by Hopkins et al. (2003), these technologies can be categorized into three groups which include: overt technologies, covert technologies and machine-readable technologies. The overt technologies are technologies that are visible to the naked eye and can be easily authenticated by human inspection without the need for using any reading devices, such as a lens and reader. On the other hand, the covert technologies are not readily visible to the naked eye but sometimes require special reading devices or equipment for identification and verification. Machine readable technologies are either overt or covert technologies where authentication can be performed by machines at high speeds, and human intervention may not be required.

All these existing technologies have common attributes, the difficulty of replication and good product identification in package design. The product is authenticated when the attached label can be recognized based on the decoding instruction given by the label manufacturers. In contrast, it is reported as counterfeit when the label cannot, be recognized. As a result,

counterfeiting can be deterred. However, these solutions do have their limitations, such as being expensive and lacking in the automatic visualization of the product transactions (i.e. from manufacturer to end parties). Since these technologies only enable end product authentication, it is impossible to collect information of the product flow as well as to detect the source of the counterfeit distribution. Kitsos and Zhang (2008) suggested that checks may need to be considered at each intermediate point, in addition to the checking at the end points. However, there is lack of automatic data acquisition that can be done in current product authentication technologies, and it requires considerable human intervention to contact various parties for the collection of immediate point information and the discovering of discrepancies in such transactions.

2.4.3 Automatic information sharing Network

Radio frequency identification (RFID) technology is a form of automatic identification technology which is reported to have been used in counterfeit prevention due to its higher degree of automation and level of security (Kwok et al, 2007). RFID is a technology that uses radio frequency waves to communicate between a reading device and a tag without the need for human intervention (Bhatt and Glover, 2006). Communication takes place when the tags fall within the interrogation zone of fixed or portable RFID readers. With the use of RFID technology, unique tagged-object information encoded in a microchip integrated with an antenna can be captured and transmitted automatically.

Integrating the RFID and Electronic Pedigree concept (EPC) networks creates an "internet of things" that enables automatic acquisition and effective sharing of information in a supply chain (Thiesse and Condea, 2009). EPC is a collection of interrelated standards for hardware, software and data interfaces, together with core services operated by the EPC global (2006). Compared with other authentication technologies, RFID and EPC-enabled solutions offer extended data capacity with global standards to provide a unique ID for any item in the world.

Furthermore, the product's information can be identified and determined by recording all the transactions within the supply chain network automatically. As a result, it forms a pedigree of the product that represents data about each move that a product makes through the supply chain. By

leveraging the EPC network, the pedigree serves as a means for bundling all the EPC events together in a secure and auditable manner. According to the Federal Drug Administration, RFID technology, coupled with the EPC and pedigree concept (so-called ePedigree) are key elements in a multi-layered approach to combat the growing problem of counterfeit drugs affecting patient safety in the USA (Clara, 2004).

2.4.4 Counterfeit Network Analyser (CNA)

The CNA integrates the automatic data capture technology (i.e. RFID), information sharing network (i.e. EPC network), higher security measure, and social network analysis concept. It is designed to perform three functions which include automatic product identification, encryption and decryption, and intelligent detection of the counterfeit source. The automatic product identification function refers to continuous monitoring of the condition of pedigree information. For the encryption and decryption function, the information shared and uploaded in the EPC network can be enhanced to a higher level of security. On the other hand, the intelligent counterfeit source detector is used to discover a potential counterfeiter within the authorized supply chain by computing the emission level of the counterfeits.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This section highlights the research design applied, the methods used in data collection and analysis and the sample used in arriving at the results.

3.2 Research Design

The research design adopted was a case study. A case study is an in-depth investigation of an individual, institution or phenomenon (Mugenda and Mugenda, 2003). The primary purpose of a case study is to determine factors and relationships among the variables that have resulted in the behavior under study. The research study was adopted in this particular study since not all the target population of the study were knowledgeable of the challenges facing the Kenya Bureau of Standards in mitigating the counterfeiting of products. In light of this therefore, a case study design is deemed the best design to fulfill the objective of the study as the results were expected to provide an insight in understanding how the organization combats the counterfeit trade. It is through an interview with some selected persons concerned the challenge that the researcher was able to identify the challenges that the organization faces. As a result of this, a case study research design was deemed an appropriate design.

3.3 Sampling and Sample

The sampling method used was purposive sampling; in that five senior managers that handle key roles in the organization regarding anti-counterfeit trade were selected for the interview. The sample comprised of four (4) out of the five (5) targeted by the researcher for the face to face interview. This was a representation of eighty percent (80%) of the target that was adequate for the objectivity of the results

3.4 Data Collection

The study used primary data which was collected through a face to face interview with the researcher. An interview guide was used to collect data on challenges facing KBS in mitigating the counterfeit trade. An interview guide is a set of questions that the interviewer asks when interviewing. The researcher believes that this made it possible to obtain data required to meet the specific objectives of the study. The interviewees were the top managers and functional heads in charge of, risk management, business development, human resources, compliance and the executive wing of the organization. Five people were chosen from a list of senior managers in the organization. These are considered to be key informants for this research. In addition the departments in which the intended respondents work in are the key sections that are involved with the process of mitigating the counterfeit trade business in the organization.

3.5 Data Analysis

The data obtained from the interview guide was analyzed using content analysis. The content analysis was adopted in this study because the researcher was able to describe, interpret and at the same time criticize the subject matter of the research since it was difficult to do so numerically. Content analysis is the systematic qualitative description of the composition of the

objects or materials of the study (Kotter, 2002). It involves observation and detailed description of objects, items or things that comprise the object of study. The themes (variables) that were used in the analysis were broadly classified into two: challenges facing the organization in combating counterfeits and the mechanism put in place in overcoming the challenges.

CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION

4.1: Introduction

The research objective was to establish the challenges facing Kenya Bureau of Standards in combating products counterfeiting. This chapter presents the analysis and findings with regard to the objective and discussion of the same.

4.2: Respondents Profile

The respondents comprised the top managers of Kenya Bureau of Standards based at the head office in Nairobi. In total; the researcher interviewed four managers out of the intended five managers. This represented 80% response rate and was considered a good result. All the respondents interviewed had university degrees with two of them having a Master in Business administration degree as well. In addition, all the respondents' had worked in the organization for a period of between one year and eight years. With this solid background, it was felt that the respondents were knowledgeable enough on the research subject matter and thus of help in the realization of the research objective.

On being asked whether they are satisfied with the extent to which KBS has achieved in combating counterfeits products, majority of the respondents answered in affirmative that indeed they are satisfied though the challenges are still many. They pointed out that over the last few years, with the cooperation of other law enforcement agencies they have been able to respond to the problem of counterfeiting, however they have encountered many challenges stemming from weak laws governing counterfeits and also long legal process before cases relating to counterfeits

products are disposed, lack of complain by the consumers of the ineffectiveness of the products and lack of international support in combating counterfeiting. As a result of these challenges, they observed that KEBS faces an uphill task in combating counterfeiting and therefore it needs concerted efforts from all quotas especially the enactment of legislation which deals with counterfeits in order to combat the challenge.

4.3 Challenges faced by KEBS in Mitigating Counterfeits

This part of the interview guide aimed at establishing from the respondents, the challenges which KEBS faces in combating counterfeits. The respondents acknowledged that the resources (both human and financial) was not sufficient to counter the challenges posed by counterfeiting as the anti counterfeiting agency only has thirteen inspectors when at least fifty would be needed to begin making real difference and ensure that the counterfeits products do not enter the country from any of the borders. In addition the organization is not allocated sufficient financial resources which will enable the organization to recruit enough staff to secure all the border points and to acquire the latest equipment for testing the products. All these require additional investment from the Ministry of Finance and wider recognition from the Kenya's legislators that a problem of this magnitude requires a firm, unified response. Discouragingly also, there are signs that some legislators don't see the risks as some lobbyists working on behalf of the counterfeiters have already succeeded in having penalties for counterfeiting in the 2010 anti-counterfeit regulations substantially reduced from those foreseen in the original 2008 Anti-Counterfeit Act. These penalties make it too easy for unscrupulous business interests to get away with illegal and dangerous activities.

The respondents indicated that KEBS partners with both local and international agencies in dealing with counterfeit products. The organization partners with the commissioner of customs who receives applications from intellectual property rights holders who register them and at the same time the commissioner also detains and seizes counterfeit goods which enter or exit the country. On the international front, the organization partners with world intellectual property rights organization (WIPO) in verification of imports into Kenya and also assist in joint awareness operations on the need to counter counterfeiting. This is vital because counterfeit is an international business, run by international people, with international financing and therefore the role being played by international organizations and local agencies is so critical in checking the counterfeit trade and its impact to the local industries and the job market.

The respondents further indicated that the organization lacks the latest technology for combating counterfeits as the agency which is tasked with fighting the menace is still putting its house in order having been inaugurated after the enactment of the legislation guiding the agency in carrying out its mandate. In order to ascertain whether the products are genuine or not, the agency has to test the various goods and therefore they need to have the testing tools which according to the respondents; the agency lacks some testing equipment which needs therefore collaboration with other agencies so that they can be able to fulfill their mandate. The respondents indicated that the tests which are evasive and need close monitoring are drugs, music and software.

On the existence of an internal anti-counterfeit taskforce and staff, the response from the respondents was unanimous that there exists an internal agency that is tasked with coordination across the various government law enforcement agencies. The agency will deal in a co-ordinated way with training and other matters which are brought to its attention, including complaints of

counterfeiting. The agency has its own staff however they cannot accomplish the task of ensuring that there is no entry of counterfeits into the country without liaison with other government departments like the Kenya Revenue Authority staff, immigration department and the police. The respondents indicated that the organization staff who are tasked with dealing with counterfeits are not well trained to the international standards as the agency is still strategizing on how to manage the vice, though they were all in agreement that the organization needs to move at a faster speed to ensure that the staff are trained so that the influx of counterfeit goods can be reduced. At the same time, measures should be put in place by the organization to ensure that there is continuous training of staff in order that they keep abreast with the changing trends being adopted by individuals and organizations dealing with counterfeit goods.

The respondents did note that the state of the ongoing monitoring of distribution streams was being handled by copyright and trademark organizations themselves. The anti counterfeit agency monitors at the points of entry and exits of such products but not at the consumer level. It was noted that most goods by-pass these agencies through other entries as the country's borders are porous and as a result find their way to the consumers through black markets. The safety of the organization employees when carrying out their duties is paramount and this has been ensured by the management as the employees undertake their duties with police officers accompanying them. This ensures that the employees are not intimidated or their lives put in danger by those dealing with counterfeits as it is a highly profitable business which if not curtailed would continue to prosper at the expense of the lives of ordinary people. The fight against counterfeits products cannot succeed without collaboration by different countries and Kenya has not been left behind as it collaborates with United States of America, European Union and other African states particularly in the East Africa region. There are also agencies working in collaboration with anti-

counterfeits agency like WIPO, USAID, Glaxo Smithkline and Music Copyright society of Kenya (MCSK).

The porous borders and the prevalence of transit corridors has hampered the fight against counterfeits products in that these borders facilitate the entry of counterfeits into the country and also exit into other countries and these results to evasion of tax which affects a country's economy and to compound more challenges, it reduces employment opportunities for Kenyans and also weakens the increasingly interconnected economies and societies. The standards body does not have the means and resources to carry out their own investigations and thus receives intelligence report from KRA, NSIS, Police and the Immigration department officials whom they work together at the points of entry in verification, certification and also prosecution of offenders once identified. The organization does not have sufficient staff in the section dealing with counterfeits and also other sections and these therefore hampers the organization prospects in fighting counterfeit products in the country.

Regarding the adequacy of the national standards act in controlling counterfeit trade, the respondents indicated that the act which existed prior to the enactment of the anti counterfeit agency Act (ACA) of 2009 was not adequate, however the enactment of the ACA sealed the loopholes which existed in the earlier Act and these have given rise to the current fight against counterfeits with zeal by the government as it protects copyright, trademarks, designs, patents and plant breeders' rights. The Act also simplifies the procedure for enforcing ones' rights as the state must institute criminal proceedings within three months of the seizure of the goods, failing which the goods are returned to the person from whom they were seized. Though the time frame is more reasonable, it does not make specific provision for civil remedies. The prosecution process is still under debate as some organizations have gone to court to challenge the Act

especially on the penalties imposed on the counterfeiters. More so, the respondents reported zero success in the prosecution of counterfeit offenders.

The level of satisfaction on the penalties levied on those found dealing with counterfeit products was indicated as being lenient because the parliament altered the original penalties which were stringent prior to passing the bill and as a result the penalties are not that effective to deter future dealings with counterfeits. At the same time lobbyists too are ensuring that these penalties remain weak as they know that they are direct beneficiaries of weak penalties. The laws which are supposed to prevent counterfeit products from entering or leaving the country are weak and therefore those dealing with the products understand the laws and weaknesses and they engage in the practice being aware that they cannot lose much in case they are found dealing with the counterfeits. There are also unforeseen circumstances like consumer ignorance, lack of consumer bodies to champion consumer interest, political interference, porous borders and lack of anti counterfeits forums which leads to lack of adequacy of the laws.

The respondents intimated that the level of poverty and ignorance has had an effect on the purchase of counterfeits products by consumers as most of them are not aware of the differences between the genuine and counterfeit items thus leading to the availability of market for the items. The poverty level in the country which currently stands at sixty percent gives a safe haven to those dealing with counterfeits as the consumers purchase items being sold at a cheaper price but of low quality at the expense of high quality items and expensive. Consumers also are exploited due to ignorance as they do not heed to pleas from the government on the need to avoid the purchase and usage of counterfeit products. Although most manufacturers have registered their trademarks with commissioner of customs and certificate issued to them by KEBS, this collaboration is limited since there is no tracking devices to ensure that the genuine items reach

the consumers and that enables those dealing with counterfeit goods to use similar channels to access the market as it is difficult even for the end user to ascertain the genuine goods. At the same time the Kenya association of manufacturers' works closely with KEBS in identification of the counterfeited products of their members which in turn triggers enforcement action once reported to KEBS.

In order to ensure that the consumers are aware of their rights and obligations with regard to quality of products and dangers of counterfeits, aggressive campaign needs to be undertaken by all relevant institutions and this was achieved as WIPO and KEBS in collaboration with USA government has been carrying out such awareness to the general public and specifically in the pharmaceutical industry where the standard body is encountering the challenges emanating from the reluctance by pharmaceutical companies to come out and protest that their products are being counterfeited all because they fear that if they come out and announce that their product is being counterfeited, the consumers will not only stop buying the product, but they will go ahead and shun even the genuine products. At the same time also production of counterfeit drugs does not require building infrastructure or facilities rather it can be produced in a small cottage. Nokia too has joined the fray of those who are raising the red flag regarding the influx of counterfeited mobile phones and they have gone to the extent of training the KEBS staff so that they can be able to tackle the challenges posed by counterfeit products. The effects of counterfeit products has been felt both within and outside government and these have resulted to all stakeholders teaming up to come with strategies of how to counter the challenge and these include quarterly meetings to review the progress of the strategies.

CHAPTER FIVE:

SUMMARY, CONCLUSION AND RECOMMENDATION

5.1 Introduction

This section explores the research findings and summarizes the results as analysed and affirmed by the researcher. It gives recommendations for use by implementation agencies and scores out the need for further research in similar areas. The scope of the study is also given in this chapter.

5.2 Summary and Findings

The study shows that the respondents have sufficient knowledge regarding the challenges facing KEBS in dealing with counterfeiting.. The knowledge about the operations of the standards body was exhibited by virtue of all the respondents having worked in the organization for a period of one to eight years and also due to the fact that all of the interviewees were engaged in the day-to-day management and operations of KEBS. In addition, the respondents were found to be well versed with the subject matter of the study and had all solid academic background having attained at least a first degree. As a result of the above, the researcher felt that the results obtained from the respondents reflects the true position as it is in the organization.

The respondents did appreciate that counterfeiting has had negative effect in all sectors of the economy in the country. They noted that although counterfeiting has provided them with a challenge, there is need of concerted effort from all quarters on how to deal with the challenge. The respondents observed that with counterfeiting, there is need of developing countries such as Kenya to develop adequate legal oversight since the country can end up being dependant on the counterfeit products. Counterfeiting has been in the rise as a result of globalization phenomenon

such that the porous borders have become the transit point for the goods. The respondents acknowledged that KEBS faces varied challenges in combating counterfeit products which ranges from weak laws governing counterfeits and also long legal process before cases relating to counterfeits products are disposed, lack of complain by the consumers of the ineffectiveness of the products to lack of international support in combating counterfeiting.

The fight against counterfeits cannot be won without tackling the challenges facing the organization tasked with fighting the menace in complete redress. The resources (both human and financial) were indicated as affecting KEBS in that the agency has only thirteen inspectors when at least fifty would be needed to begin making real difference; and at the same time the organization is not allocated sufficient financial resources which will enable the organization to recruit enough staff to secure all the border points and also enable the organization to acquire the latest equipment for testing the products. Counterfeiting has become an international challenge and in order to win the fight against counterfeiting, the standards body has partnered with the commissioner of customs who receives applications from intellectual property rights holders who register them and at the same time the commissioner also detains and seizes counterfeit goods which enter or exit the country while on the international front, the organization has partnered with world international property rights organization in verification of imports into Kenya and also assist in joint awareness operations on the need to counter counterfeiting, as is the case with United States of America, European Union and other African states particularly in the East Africa region. There are also agencies working in collaboration with anti-counterfeits agency like WIPO, USAID, Glaxo Smithkline and Music Copyright society of Kenya (MCSK). The organization staff are not well trained to the international standards and therefore they are not in a position to undertake their duties sufficiently.

The state of the ongoing monitoring of distribution streams was being handled by copyright and trademark organizations themselves. The anti counterfeit agency monitors at the points of entry and exits of such products but not at the consumer level. The standard body emphasizes the safety of their employees and they have put in place measures to ensure that the employees are not intimidated or their lives put in danger by those dealing with counterfeits as it is a highly profitable business which if not curtailed would continue to prosper at the expense of the lives of ordinary people. The porous borders and the prevalence of transit corridors has hampered the fight against counterfeits products in that these borders have facilitated the entry of counterfeits into the country and also exit into other countries and these results to evasion of tax which affects a country's economy and to compound more challenges, it reduces employment opportunities for Kenyans and also weakens the increasingly interconnected economies and societies. The standards body does not have the means and resources to carry out their own investigations and thus receives intelligence report from KRA, NSIS, Police and the Immigration department officials whom they work together at the points of entry in verification, certification and also prosecution of offenders once identified.

The enactment of the anti counterfeit agency act of 2009 sealed the loopholes which existed and this has given rise to the current fight against counterfeits with zeal by the government as it protects copyright, trademarks, designs, patents and plant breeders' rights. The act also simplifies the procedure for enforcing ones' rights as the state must institute criminal proceedings within three months of the seizure of the goods, failing which the goods are returned to the person from whom they were seized. The penalties levied on those found dealing with counterfeits are lenient since parliament altered the original penalties which were stringent prior to passing the bill and as a result the penalties are not that effective to deter future dealings with

counterfeits. There are also unforeseen circumstances like consumer ignorance, lack of consumer bodies to champion consumer interest, political interference, porous borders and lack of anti counterfeits forums which leads to lack of adequacy of the laws.

The level of poverty and ignorance has had an effect on the purchase of counterfeits products by consumers as most of them are not aware of the differences between the genuine and counterfeit items while at the same time they are exploited due to ignorance as they do not heed to pleas from the government on the need to avoid the purchase and usage of counterfeit products. Although most manufacturers have registered their trademarks with commissioner of customs and certificate issued to them by KEBS, this collaboration is limited since there is no tracking devices to ensure that the genuine items reach the consumers and that enables those dealing with counterfeit goods to use similar channels to access the market as it is difficult even for the end user to ascertain the genuine goods. The effects of counterfeit products has been felt both within and outside government and this has resulted to all stakeholders teaming up to come with strategies of how to counter the challenge and these includes quarterly meetings to review the progress of the strategies.

5.3 Conclusion

From the research findings and the answers to the research questions, some conclusions can be made about the study:

The globalization phenomenon is an irreversible trend that has both its challenges and opportunities. No single organization can manage to fight alone the challenges that come with globalization and therefore, there is need for a concerted effort from all organizations to come up with ways on how to fight counterfeiting which is brought about by globalization.

Counterfeiting has infiltrated all sectors of the economy in the country thus making the manufacturers of goods, importers, exporters and producers of the goods not reap adequately the rewards of their hard work. Therefore to protect the consumers, manufacturers, importers, exporters and producers, there is need for all the stakeholders, especially the government, to participate fully in coming up with stringent legislation and enforce the same to control the vice. Combating counterfeiting should not be left to one agency or institution alone. Instead all the government agencies and organization should pull together their resources in order for the effect to be felt by those dealing with counterfeit goods.

Another important conclusion to be made from the study is that for effective implementation of measures to fight counterfeiting, adequate funding needs to be accorded to the institutions such as KEBS, KRA and Immigration department in order to ensure that they have recruited enough staff, train them, update its technologies and seal all the border points. The methods used in combating counterfeiting problem will also need to be adapted to the changing business environment and technological advancement. In addition, consumers of these counterfeited products will need to be educated on the effect that such products has in the economy and also their livelihood. This can also be realized if the locally produced products and imported ones are made affordable through adoption of much cheaper production without compromising on the quality.

5.4 Recommendations

The government must fully take its rightful role in protecting the consumers, producers, manufacturers, importers and exporters from counterfeit products which have increased unabatedly in the recent past. This can only be realized with the allocation of adequate resources to fight the problem and also enacting stringent laws that will be a deterrent to will be counterfeiters. In addition the enforcement process should be continuous and predictable such that the whole supply chain can be assured of the protection from the government, all other stakeholders and law enforcement agencies.

The changing technological world necessitates the adoption of latest technology by the institutions tasked with fighting counterfeiting. The counterfeiters have infiltrated the supply chain and also keep on changing their production and distribution system and for the agencies dealing with the problem to be successful in their mandates they will need to adapt their ways to match the changes being adopted by the counterfeiters. In addition, the agencies should ensure that their staff are protected always when carrying out their duties since they are dealing with multi billion business and these may not go down well with the counterfeiters who view the staff as a stabling block to their riches.

5.5 Recommendations for Further Research

The study confined itself to the challenges facing Kenya Bureau of Standards in mitigating counterfeiting. This research should therefore be replicated in other agencies working with the standard body in fighting counterfeiting to establish the nature of challenges which they face. In addition, a study should be conducted in other regional countries to establish whether the organizations tasked with counterfeiting face the same challenges.

5.5 Limitations of the Study

This study depended on interviews and discussions with the management of KEBS. It would have been of value to obtain the views of those affected by counterfeit products like the manufacturers, producers, importers, exporters, retailers and consumers. The scope and depth of study was also limited by the time factor and financial resource constraints. This put the researcher under immense time pressure. The researcher also encountered immense problems with the respondents' unwillingness to give the researcher interview time promptly.

REFERENCE

- Ajzen, I., Fishbein, M. (1980), "*Understanding Attitudes and Predicting Social Behaviour*", Prentice-Hall, Englewood Cliffs, NJ,
- Ajzen, I. (2002), "Perceived behavioural control, self-efficacy, locus of control, and the theory of planned behaviour", *Journal of Applied Social Psychology*, Vol. 32 No.4, pp.665-83
- Armitage, C.J., Christian, J. (2003), "From attitudes to behaviour: basic and applied research on the theory of planned behaviour", *Current Psychology: Development, Learning, Personality, Social*, Vol. 22 No.3, pp.187-95.
- Agmon, T. and Lessard, D.R. (1977), "Investor recognition of corporate international diversification", *Journal of Finance*, Vol. 32 pp. 1049-55
- Andersen P (1997), "The effect of Multinationality measures upon Risk Return Performance of US firms", *Business and Economics Review*, Vol.5, No. 3, pgs 247-265.
- Bach, D. (2004), "The double punch of law and technology: fighting music piracy or re-making copyright in a digital age?," *Business and Politics*, Vol. 6 No.2, pp.1-35.
- Bartlett, C. A. & Ghoshal, S. (2000) Changing the Role of Top Management: Beyond Strategy to Purpose, *Harvard Business Review*, No. 72 (6) 79-88
- Berman, B. (2008), "Strategies to detect and reduce counterfeiting activity", *Business Horizons*, Vol. 51 No.3, pp.191-9
- Bhatt, H. Glover B (2006), "*RFID Essentials in Business and Economics*," O'Reilly Media Inc, USA.
- Clara, S. (2004), "An Intellegent RFID-based Electronic Anti-counterfeit System (in RECS) for the manufacturing Industry", *The proceedings of the 17th world congress, the International federation of Automatic Control*, Seoul, Korea, July.

- Chaudhry, P.E. (2006), "Managing intellectual property rights: government tactics to curtail counterfeit trade", *European Business Law Review*, Vol. 17 No.4, pp.939-58.
- Cordell, V.V., Wongtada, N., Kieschnick, R.L. Jr (1996), "Counterfeit purchase intentions: role of lawfulness attitudes and product traits as determinants", *Journal of Business Research*, Vol. 35 pp.41-53.
- Cox, D.F. (2007), *"Risk Taking and Information Handling in Consumer Behavior"*, Harvard University Press, Boston, MA.
- Crawford. F., Mathews, R. (2001), *"The Myth of Excellence"*, Crown, New York, USA.
- Deakin D. & Wilkinson S. J. (2008), *"Dynamics and Dilemmas of globalization: Border Protection Policy"*, Social Science Press, New Delhi, India
- Dunning, J.H. (2000), "The eclectic paradigm as an envelope for economic and business theories of MNE activity", *International Business Review*, Vol. 9 pp. 163-90.
- Dunning J. H. (1988), "The eclectic paradigm of International trade: A Restatement and some possible extensions", *Journal of International Business*, Spring.
- Fishbein, M. (1970), "The relationship between beliefs, attitudes and behavior", in Kollat, D., Blackwell, R.D., Engel, J.F. (Eds), *Research in Consumer Behavior*, Holt & Winston, Chicago, IL, .
- Furnham, A., Valgeirsson, H. (2007), "The effect of life values and materialism on buying counterfeit products", *Journal of Socio-Economics*, Vol. 36 No.5, pp.677-85
- Gentry, J.W., Putrevu, S., Shultz, C.J. (2006), "The effects of counterfeiting on consumer search", *Journal of Consumer Behaviour*, Vol. 5 No.3, pp.245-56
- Green, R.T., Smith, T. (2002), "Executive insights: countering brand counterfeiters", *Journal of International Marketing*, Vol. 10 No.4, pp.89-106.

- Greenberg, C.J., Sherman, E., Schiffman, L.G. (1993), "The measurement of fashion image as a determinant of store patronage", in Darden, W.R., Lusch, R.F. (Eds), *Patronage Behavior & Retail Management*, North Holland, New York, NY, pp.151-63.
- Gupta, P.B., Gould, S.J., Pola, B. (2004), "To pirate or not to pirate: a comparative study of the ethical versus other influences on the consumer's software acquisition-mode decision", *Journal of Business Ethics*, Vol. 55 pp.255-74.
- Hennart, J.F. (1982), *"A Theory of Multinational Enterprise"*, University of Michigan Press, Ann Arbor, MI.
- Hung, C.L. (2003), "The business of product counterfeiting in China and the post-WTO membership environment", *Asia Pacific Business Review*, Vol. 10 No.1, pp.58-77.
- Haley, R.J. (1998), "Benefit segmentation: a decision-oriented research tool", *Journal of Marketing*, July, pp.30-5.
- Harrison, A. (1992), *Just-in-Time Manufacturing Perspective*, Prentice-Hall, London,
- Harvey, M.G., Ronkainen, I.A. (1985), "International Counterfeiters: Marketing success without the cost and the risk", *Columbia Journal of World Business*, Vol. 20 No.3, Fall, pp.37-45.
- Hawkins, D.I., Coney, K.A., Best, R.J. (2000), *Consumer Behavior: Implications for Marketing Strategy*, *Business Publications*, Dallas, TX.
- Hemart, P. (1982), "the management of innovation", *Quarterly Journal of Economics*, Vol. 109-pp.1185-1209
- Hobday, M. (2004), *"The Business of Systems Integration"*, Oxford University Press. London, UK.
- Hopkins, M. (2003), *"The Planetary Bargain: corporate social Responsibility"*, Earthscan Publications Corporation, London UK.

- Howard, J.A., Sheth, J.N. (1999), *"The Theory of Buyer Behavior"*, John Wiley & Sons, New York, USA.
- ICC Counterfeiting Intelligence Bureau (2005), *ICCHandbook, ICC Commercial Crime Services*, London.
- Johanson J. & Vahlne J. (1990), "The Mechanism of Internationalization", *International Marketing Review*, Vol. 7. Issue 4.
- Kay, H. (1990), "Fake's progress", *Management Today*, No.July, pp.54-9.
- Kim, J., Choi, D., Kim, I., Kim, H. (2006), "Product authentication service of consumer's mobile RFID device", *Proceedings of the 2006 IEEE Tenth International Symposium on Consumer Electronics (ISCE 2006), St Petersburg*, pp. 1-6
- Kirkpatrick, D. (2007), "How Microsoft conquered China - Or is it the other way around? Fortune's David Kirkpatrick goes on the road to Beijing with Bill Gates, who threw his business model out the window", available at: [Http://money.cnn.com/magazines/fortune/fortune_archive/2007/07/23/100134488/index.htm](http://money.cnn.com/magazines/fortune/fortune_archive/2007/07/23/100134488/index.htm).
- Kitsos, P. & Zhang, Y. (2008), "RFID Security Techniques Protocols and System on Chip Design, Springer Science + Business Media, LLC.
- Kohlberg, L. (2006), "Moral stages and moralization: the cognitive development approach, in moral development and behaviour: theory", in Lickona, T. (Eds)*Research and Social Issues*, Holt, Rinehart, and Winston, New York, NY, pp.31-53.
- Kwok, S.K., Tsang, A.H.C., Ting, J.S.L., Lee, W.B., Cheung, B.C.F. (2008), "An intelligent RFID-based electronic anti-counterfeit system (InRECS) for the manufacturing industry", *Proceedings of the 17th World Congress, The International Federation of Automatic Control, Seoul, Korea, July 6-11*, pp.5482-7.

- Kwong, K. K., Yau, O. H. M. (2003), "The effects of attitudinal and demographic factors on intention to buy pirated CDs: the case of Chinese consumers", *Journal of Business Ethics*, Vol. 47 No.3, pp.223-35.
- Lefkoff-Hagius, R., Mason, C. (1993), "Characteristics, beneficial, and image attributes in consumer judgements of similarity and preference", *Journal of Consumer Research*, Vol. 20 No.1, pp.100-10.
- Lezie M. (2001), "Emerging Markets Spreads: Then vs Now, IMF working papers", *International Marketing Review*, Vol. 7. Issue 4.
- Martineau, P. (1968), "Social class and spending behavior", *Journal of Marketing*, Vol. 23 pp.274-8.
- Mollin, R.A. (2003), *RSA and Public-key Cryptography*, Chapman & Hall/C, Boca Raton, FL.
- Mollin R. P. (2003), Contours of Descent: US Economic fractures and the Landscape of global Austerity", *A Political Economy Reserarch Institute Publication*, University of Massachusetts, USA.
- Montoro-Pons, J.D., Cuadrado-Garcia, M. (2006), "Digital goods and the effects of copying: an empirical study of the music market", paper presented at the *14th International Conference on Cultural Economics*, Vienna.
- Moore, T.T., Chang, J.C.-J. (2006), "Ethical decision making in software piracy: initial development and test of a four-component model", *MIS Quarterly*, Vol. 30 No.1, pp.167-80.
- Mugenda O. & Mugenda A (2003), *Research Methods, Quantitative and Qualitative Approaches*, Acts Nairobi.
- Nash, T. (1989), "Only imitation? The rising cost of counterfeiting", *Director*, No. 3. May, pp.64-9.

- Nia C Zaichkosky J. L. (2000), "Do Counterfeits devalue the ownership of Luxury Brands", *Journal of Product and Brand Management*, Vol. 9 No. 7.
- Notani, A.S. (1998), "Moderators of perceived Behavioural Control's Predictiveness in the theory of planned behaviour: a meta-analysis", *Journal of Consumer Psychology*, Vol. 7 No.3, pp.247-71.
- OECD (1998), Organization for Economic Cooperation and Development at www.oecd.org.
- Olsen, J.E., Granzin, K.L. (1993), "Using channels constructs to explain dealers' willingness to help manufacturers combat counterfeiting", *Journal of Business Research*, Vol. 27 pp. 147-70.
- Penrose E. (1959), *"Theory of the growth of the Firms"*, Oxford university Press, London, UK.
- Penz, E., Stottinger, B. (2005), "Forget the 'real' thing - take the copy! An explanatory model for the volitional purchase of counterfeit products", *Advances in Consumer Research*, Vol.32 No.1, pp.568-75.
- Rochester Electronics (2007), *Defending Against Counterfeit Electronic Parts and Gray Market Practices*, Rochester Electronics, Newburyport, MA.
- Rugman, A.M. (1981), *Inside the Multinationals: The Economics of Internal Markets*, Columbia University Press, New York, NY,
- Rugman, A.M. (2001), "The myth of global strategy", *International Marketing Review*, Vol. 18 No.6, pp.583-8
- Rugman A. M. & Lessard D R (2001), "Theory of Multinational Enterprises" *Journal of Business and Economics*, Vol. 6 No. 3 pgs. 127-54.
- Sachs K (2009), "Anti Counterfeit Packaging in Pharmaceutical industry", *International Journal of Pharmacy and Pharmaceutical Sciences*, Vol. 3. July.

- Semple A (2004), "*A Nation of Counterfeiters: capitalists, con-men and the making of the United States*," University of North Carolina Press, USA.
- Sheptcki B. B. (2000), "Sovereignty Vs Security: Transnational Policing on the Contemporary Caribbean", *Journal of Criminology and Social Psychology*, December, 2006.
- Solomon, S.L., O'Brien, J.A. (1991), "The effect of demographic factors on attitudes toward software piracy", in Dejoie, R., Fowler, G., Paradice, D. (Eds), *Ethical Issues in Information Systems*, Boyd & Fraser, Boston, MA, .
- Sussmann, M.A. (1999), "The critical challenges from international high-tech and computer-related crime at the millennium", *Duke Journal, of Computer. & International Law*, Vol. 9 pp.451
- Swinyard, W.R., Heikki, R., Kau, A.K. (1990), "The morality of software piracy: a cross-cultural analysis", *Journal of Business Ethics*, Vol. 9 No.8, pp.655-64.
- Thiesse F. Condea C (2009), "Data Sharing in Supply Chains: What is the Value of EPC", *International Journal of Electronic Business*, Vol. 7. No.1. March.
- Tom B. Et al (1998), "Politics of Culture and Globalization: Approaching the Innovation Frontier in Korea", *Transitional and leadership Journal*, Summer.
- Vitell, S.J., Singhapakdi, A., Thomas, J. (2001), "Consumer ethics: an application and empirical testing of the Hunt-Vitell theory of ethics", *The Journal of Consumer Marketing*, Vol. 18 No.2, pp.153-78.
- Walufu, W.R (2008/, "*Factors that Influence the Extent of Counterfeiting goods in East African Community*", Unpublished MBA Project: University of Nairobi.
- Waka, B. (2009) "*Response Strategies of Haco Industries to the Challenges of Counterfeit products in East Africa* ", Unpublished MBA Project: University of Nairobi.

Wee, C.H., Ta, S.-J., Cheok, K.-H. (1995), "Non-price determinants of intention to purchase counterfeit goods - an exploratory study", *International Marketing Review*, Vol. 12 No.6, pp.19-46.

Weisfelder C. J. (2001), 'International and the Multi-national Enterprise: Development of a Research Tradition," in Axinn C. Matthyssens P. (Eds), *Advances in International Marketing : Reassessing the Internationalization of the firm*, Vol. 11 pp 13-46.

Wilke, R., & Zaichkowsky, J.L. (1999), "Brand imitation and its effects on innovation, competition, and brand equity", *Business Horizons*, Vol. 42 No.6, pp.9-18.

Yabs J (2007), "*International Business Operations in Kenya* ", Lelax Global Ltd, Nairobi Kenya.

Yao, J.T. (2005a), "Counterfeiting and an optimal monitoring policy", *European Journal of Law and Economics*, Vol. 19 No.1, pp.95-114

APPENDIX I: COVER LETTER

Chitembwe F. Shauri

School of Business, University of Nairobi

P.O BOX 30197, Nairobi

August, 2011

Dear Respondent,

I am a postgraduate student at the University of Nairobi, School of Business. I am carrying out research on "Challenges facing Kenya Bureau of Standards in Combating Counterfeit Trade". This is in partial fulfillment of the requirement for the degree of Master in Business Administration, (International Business option) Degree program at the University of Nairobi.

This study uses Kenya Bureau of Standards as a Case of Study from which you have been selected as one of the respondent. The success of this research substantially depends on your help and co-operation.

I hereby request you to respond to questioner as honestly as possible and to the best of your knowledge. The information provided will exclusively be treated with utmost confidence; neither your name nor any other details shall appear in my report.

Thank you in advance,

Yours sincerely,

Chitembwe F. Shauri

(Student)

Dr John Yabs

(Supervisor)

UNIVERSITY OF **NAIROBI**

SCHOOL OF BUSINESS .

PROGRAM - LOKER KABETE CAMPUS

Telephone: 020-2059162
Telegrams: "Varsity", Nairobi
Telex: 22095 Varsity

P.O. Box 30197
Nairobi, Kenya

DATE

TO WHOM IT MAY CONCERN

The bearer of this letter k J

Registration No:

is a Master of Business Administration (MBA) student of the University of Nairobi.

He/she is required to submit as part of his/her coursework assessment a research project report on a management problem. We would like the students to do their projects on real problems affecting firms in Kenya. We would, therefore, appreciate if you assist him/her by allowing him/her to collect data in your organization for the research.

The results of the report will be used solely for academic purposes and a copy of the same will be availed to the interviewed organizations on request.

Thank you.



DR. W.N. IRAKI
CO-ORDINATOR, MBA PROGRAM

APPENDIX II: INTERVIEW GUIDE

Interview Questions

The following sections provide sample questions to be used in evaluating the challenges facing Kenya Bureau of Standards in mitigating the counterfeiting of products problem.

Background Information on the interviewees

- What current position in the organization do you hold?
- For how long have you been holding the current position?
- Would you change your current duties if given a chance?
- Are you satisfied with the extent to which your organization has achieved in combating counterfeit products?

Challenges facing KEBS in Combating Counterfeit Trade

a) Administration Challenges

- How is the structure and resources availed to the staff engaged with combating counterfeit products. Is it to your opinion adequately equipped to counter the challenge?
- Please expound on the state of partnering with international law enforcement and custom agencies
- Has the organization updated its technologies for combating counterfeit products?
- Has there been adequate provision of resources during operations?

- Are there adequate testing machine to undertake the tests? Which form of tests are you not adequately prepared?
- Does the organization have an internal anti-counterfeit taskforce and staff?
- Are the staffs involved trained adequately to undertake the exercise and undergo continuous training and development?

b) Counterfeit Intelligence mechanism

- What is the state of the ongoing monitoring of distribution streams of counterfeit and illegal operations?
- Are the personnel safety upheld when enforcing product standards?
- Has there been a case of collaborative enforcement of counterfeit measures between different state agencies?
- To what extent has the porous borders and prevalence of transit corridors hampered the fight of the counterfeit products?
- Has the organization continued to receive support from other National security agencies in combating the counterfeit problem? If yes which form of support?
- Is the counterfeit section in the organization adequately staffed?

Legal Framework

- Is the national standards Act adequate in controlling the trade in counterfeit?
- How is the prosecution process of the counterfeit offence?
- Are you satisfied with the penalties levied to the offence?
- Are the local laws adequate in preventing the counterfeit products?

c) Supply chain Factors

- Has the level of poverty and ignorance had any effect among the consumers in their purchase of counterfeit products? Please expound.
- What level of collaboration do you have with manufacturers in the supply chain?
- Has there been aggressive campaign especially in the media to educate consumers on their rights and obligations with regard to quality of products and dangers of counterfeits?
- How frequent has the organization held consultation with other stakeholders?

THANK YOU

**CHALLENGES FACING KENYA BUREAU OF STANDARDS IN
COMBATING COUNTERFEIT TRADE**

By

CHITEMBWE FAUZIA SHAURI SULEIMAN

D61/8882/2006

SUPERVISED BY

DR. JOHN YABS

**A RESEARCH PROJECT PROPOSAL SUBMITTED IN PARTIAL
FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF BUSINESS ADMINISTRATION (MBA)**

**SCHOOL OF BUSINESS,
UNIVERSITY OF NAIROBI**

AUGUST, 2011

*the
copy.
Candidate has gone
for
revision.
29/09/2011*

UNIVERSITY OF NAIROBI
DEPARTMENT OF BUSINESS ADMINISTRATION
MBA PROJECT SUPERVISION ALLOCATION FORM

SECTION A: (To be completed by the student)

Name of student: _____ }
 Reg.No. _____ Mobile Phone No. ^ ^ **O I E S Z Z "**
 Proposed Title of the Study:.....^V^^.^V.'rl^V.. _____ .1
 jLVkkfeJE^^5^ ^ C L K u ^ W<2i pv^cCucK

Specialization (Tick as appropriate):

- Marketing [j]
- Human Resources Management []
- Strategic Management []
- International Business [v""]
- Insurance/Risk Management []

Other (specify)_____

Preferred Supervisors (in order of Preference):
 !...h-r _____ OOvAdc^.....r3...Mr I = , j
 _____ ^OJ

Signature of student _____ Dat

SECTION B: (To be completed by Allocation Committee),-

Name of Supervisor Allocated _____ JSZHrW. Mobile No. ^ X ^ : . ^ . ' ' ^ "

Name of Co-Supervisory, if any _____ Mobile No

Total number of students allocated to the supervisor within the year to date_

Name of Person who will Moderate the Proposal. _____ m . :


Committee Secretary:

Name.....Signature.....Date

Thematic Coordinator:

Name.....Signature.....Date

Chairman of Committee:

Name.. - J -.....Signature.  Date 14-03-2011

Chairman of Department:

Name.....Signature.....Date

Note:

This form is available in the department Students get their copies later from the department after allocation is done.
 Original to be filed in the Department
 Copy 1 (photocopy) to be filed by Thematic Coordinator
 Copy 2 (photocopy) to be filed by Supervisor
 Copy 3 (photocopy) to be filed by the student