

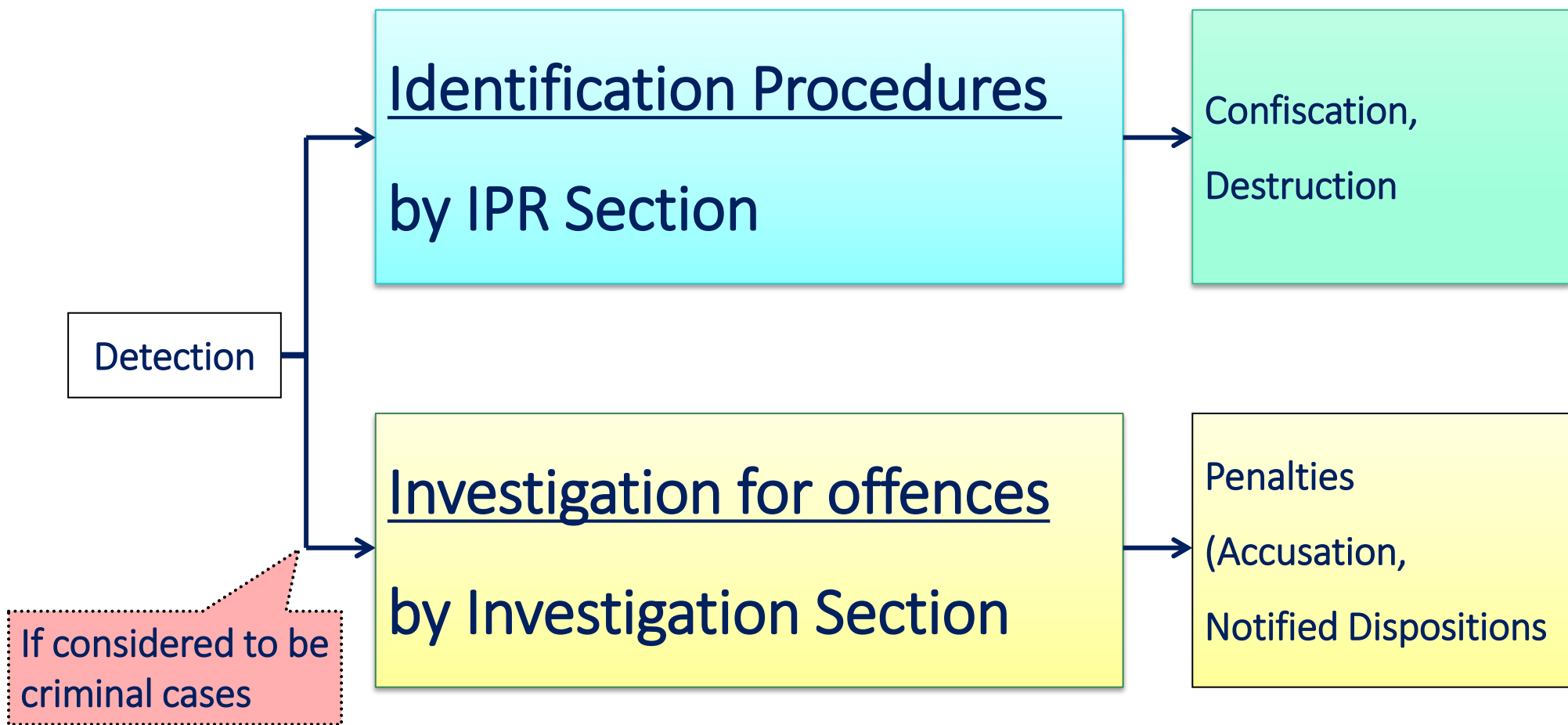
# Topic 8

## Border Measures :The Japanese Experience

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Japan Patent Office (JPO)



1. Overview of IPR Border Measures
2. Seizure Results
3. Features of Japanese IPR Border Enforcement
4. Joint Investigations with Police



If considered to be criminal cases

### Notified Dispositions

The director generals at regional customs offices notify the suspects to pay customs the amount of the fine.

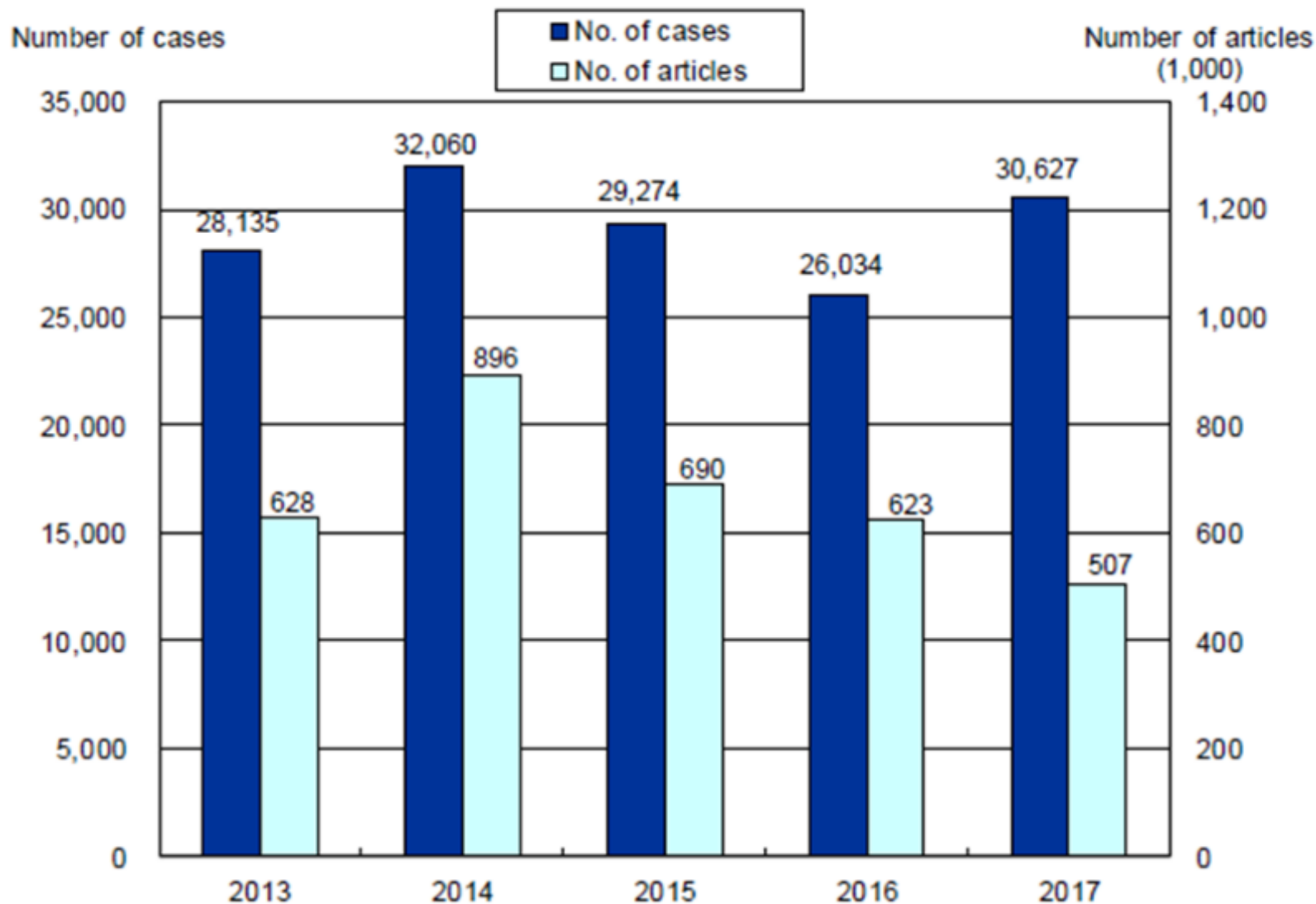
### Accusation

Director-generals at regional customs offices make accusations to the public prosecutors if the suspects in the cases

- should be punished by imprisonment with work, or
- do not have financial resources to pay money for the DG's dispositions.

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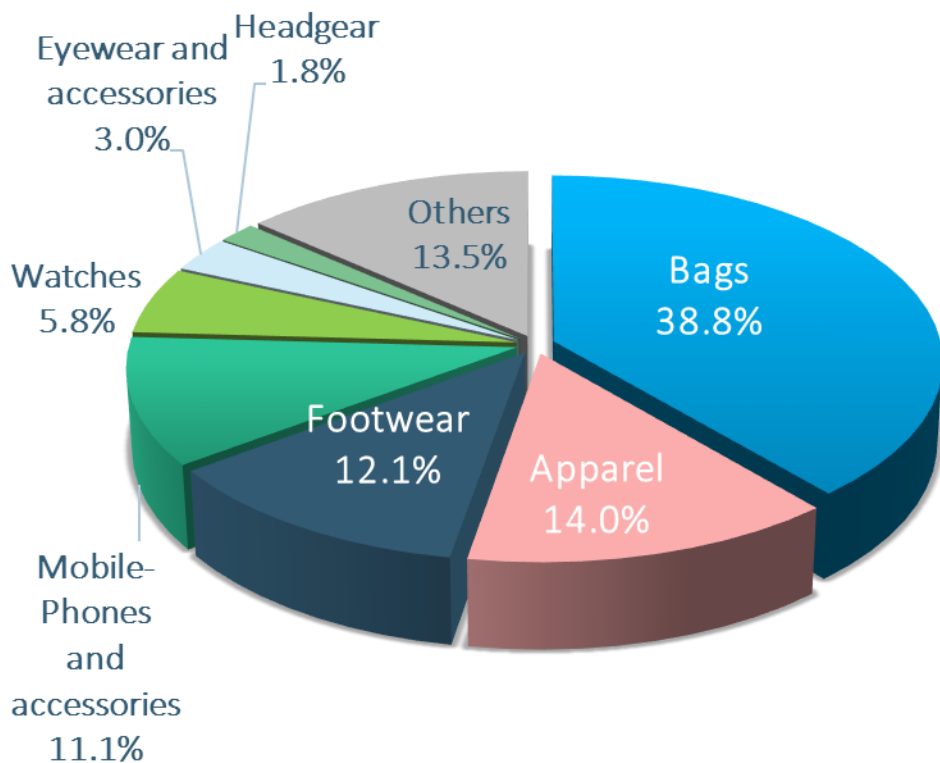
## Number of Import Seizures



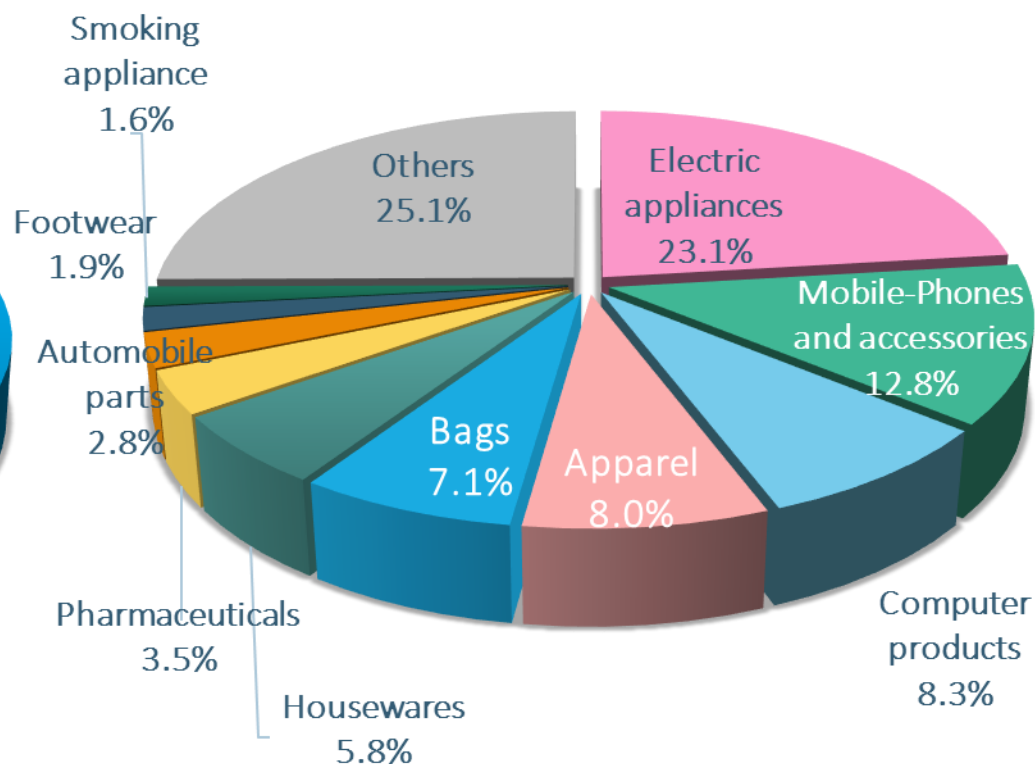
Source: 2017 Seizure Statistics of IPR Border Enforcement Japan Customs

## Number of Import Seizures by Type of Commodity

No. of Seizures by Type

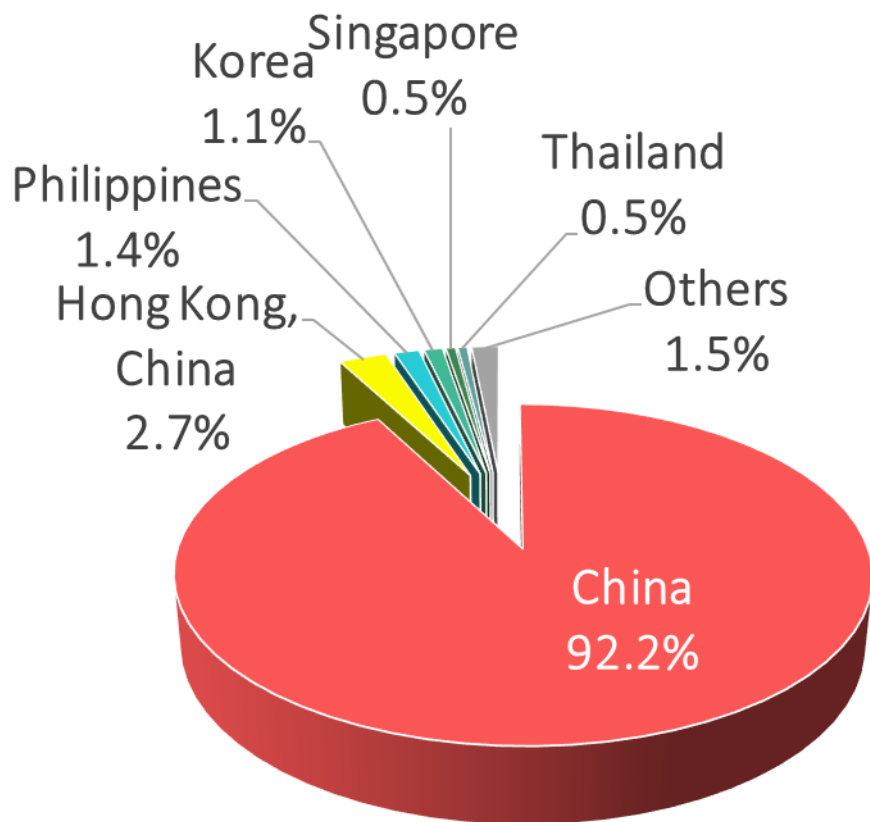


No. of Articles Seized

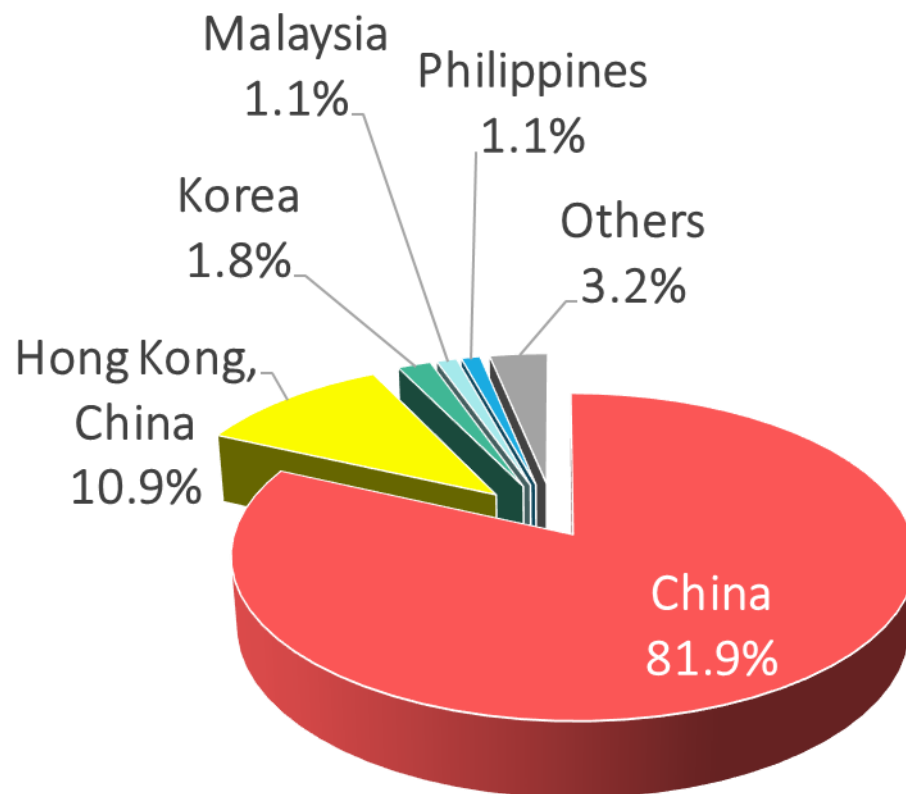


## Number of Import Seizures by Source Country

No. of Seizures by Source Country

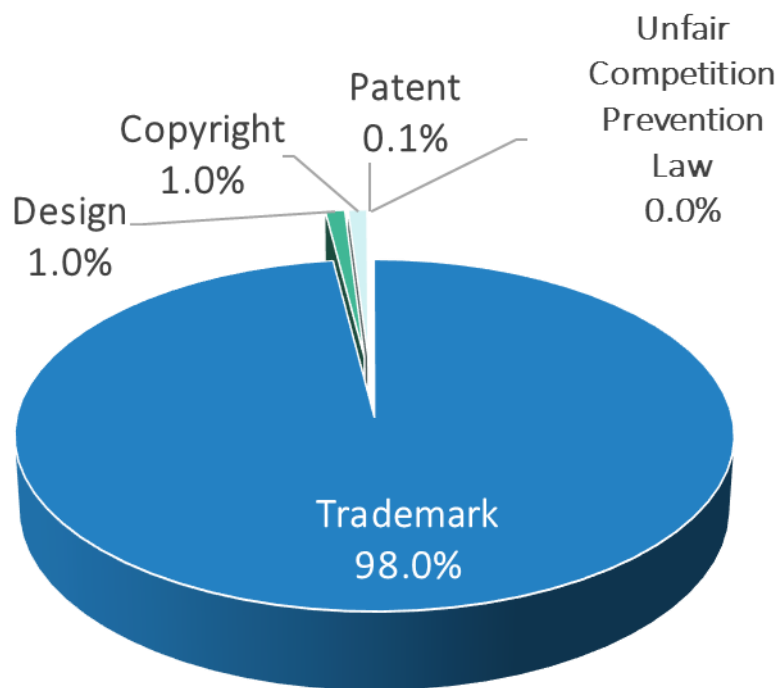


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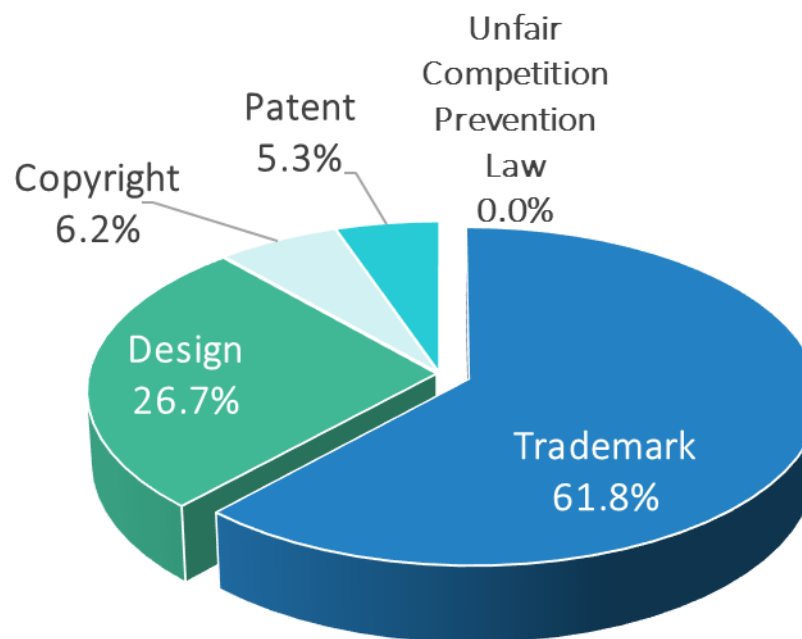


## Number of Import Seizures by Type of Right

No. of Seizures by Type



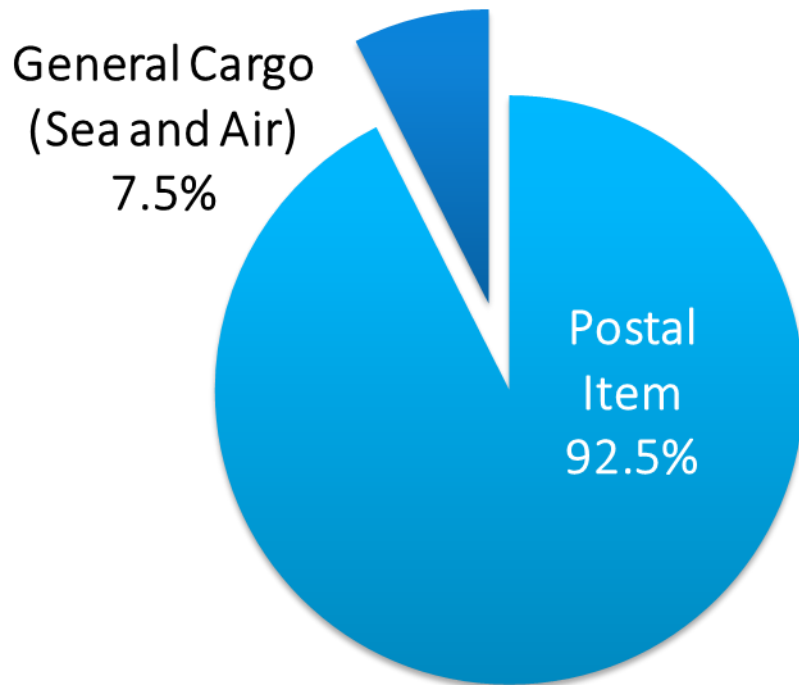
No. of Articles Seized



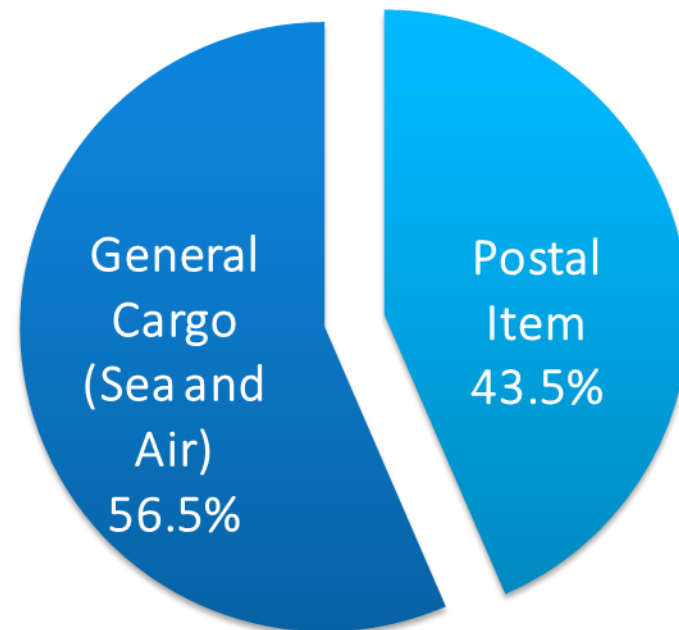


## Import Seizures by Means of Transport

No. of Seizures by Means



No. of Articles Seized



## Trademark Rights



Supreme



## Copyrights



## Design Rights

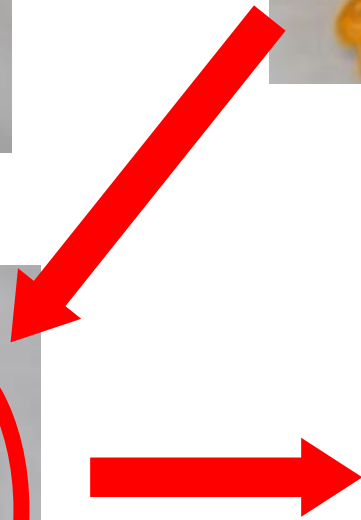


## Patent Rights





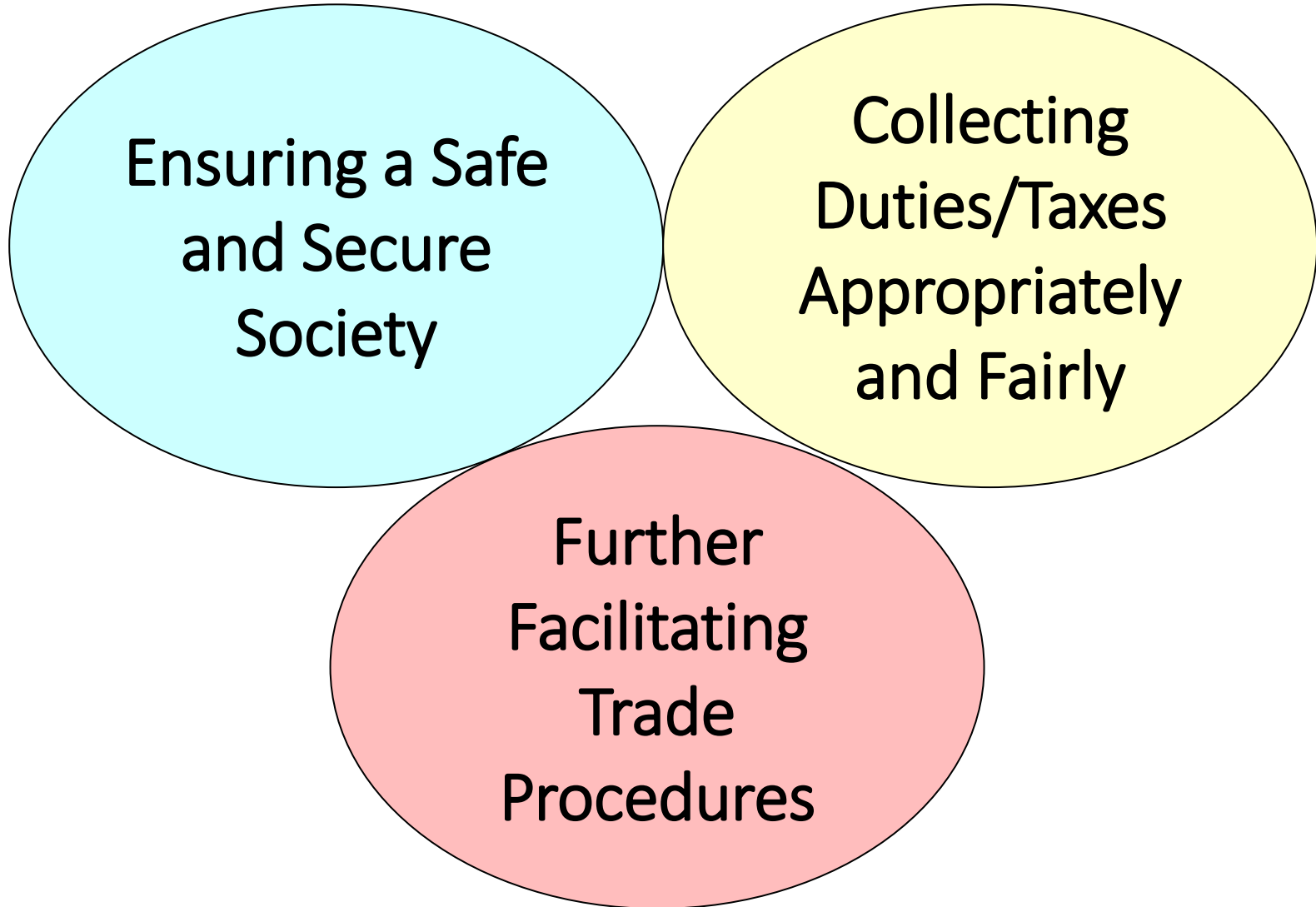
# Examples of Successful Seizures ~Concealments~







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## \*Para. 1 of Article 69-11 of Customs Law

The following goods shall not be imported:

1-8

- Illicit drugs
- Firearms
- Terrorism-related items,  
etc.



9 &10

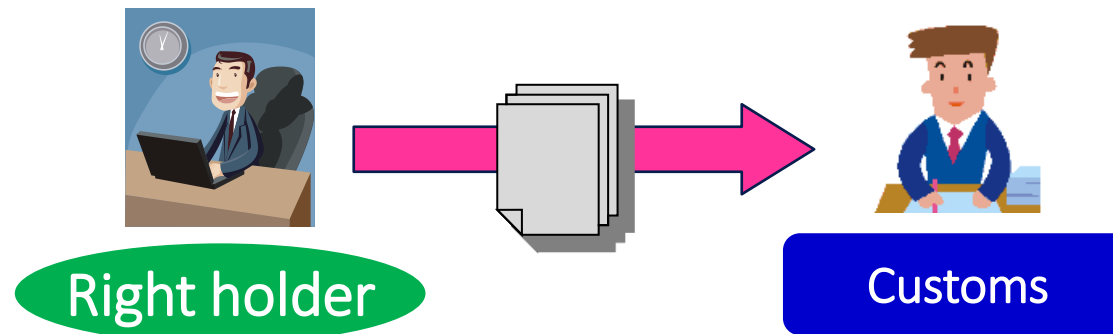
- Articles which infringe intellectual property rights

Imprisonment with labor up to **max 10 years** or fine not exceeding **10 million yen**

\*Similarly, the prohibition of exporting such goods is stipulated in paragraph 1 of Article 69-2 of the Customs Law

- 1897
  - Goods that infringe IPRs were prohibited from being imported based on the Customs Tariff Law
- 1995
  - TRIPs Agreement came into force
    - Introduced Applications for Suspension
    - Introduced Identification Procedures
    - Established the IPR Sections

IPR holders submit Applications for Suspension\* requesting Customs to initiate Identification Procedures in case Customs detects imported/exported goods suspected of infringing their IPRs.

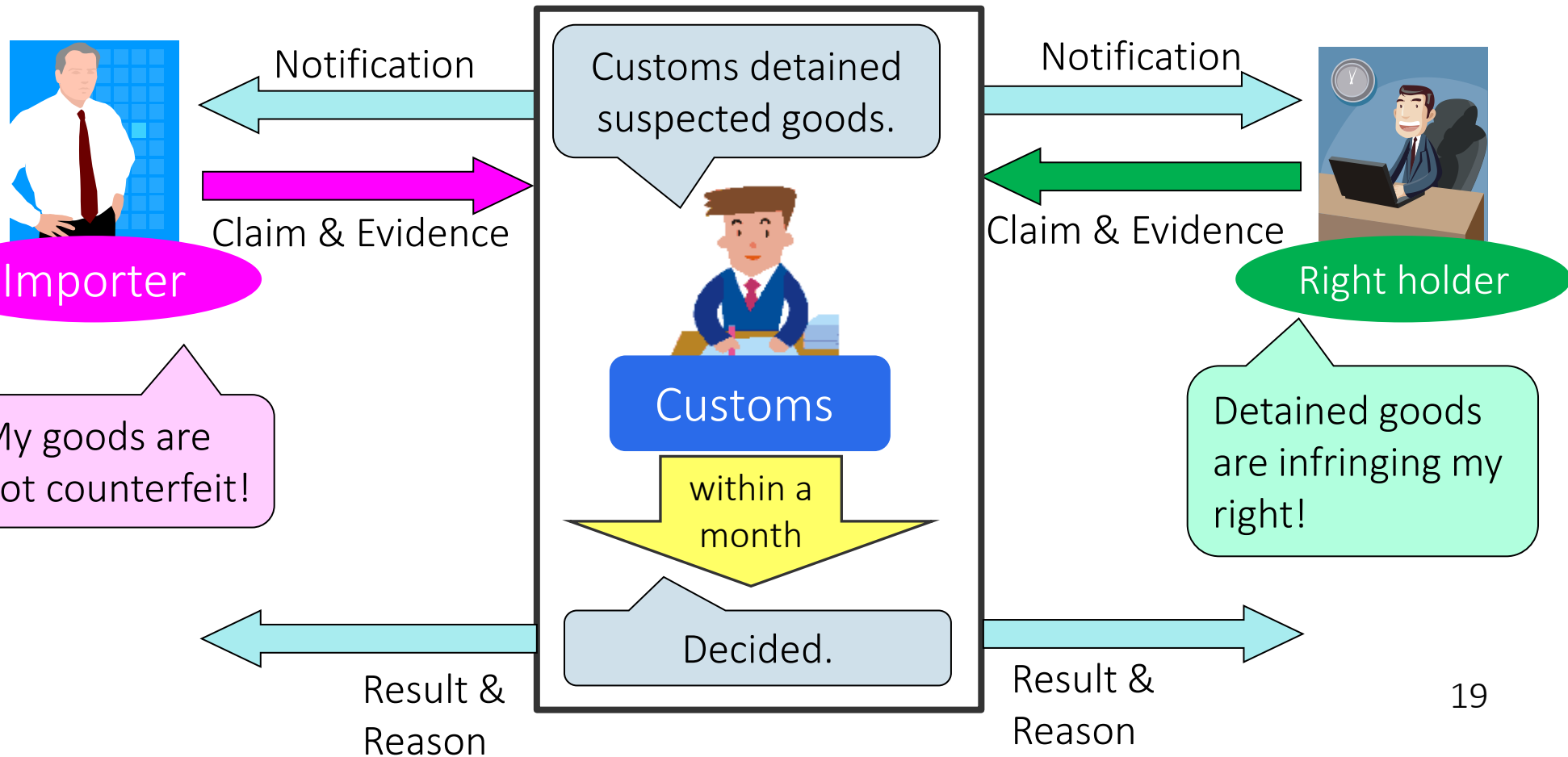


- Evidence of infringement
- Identification points determining genuine or fake
- Importers' and/or exporters' name and address, etc.

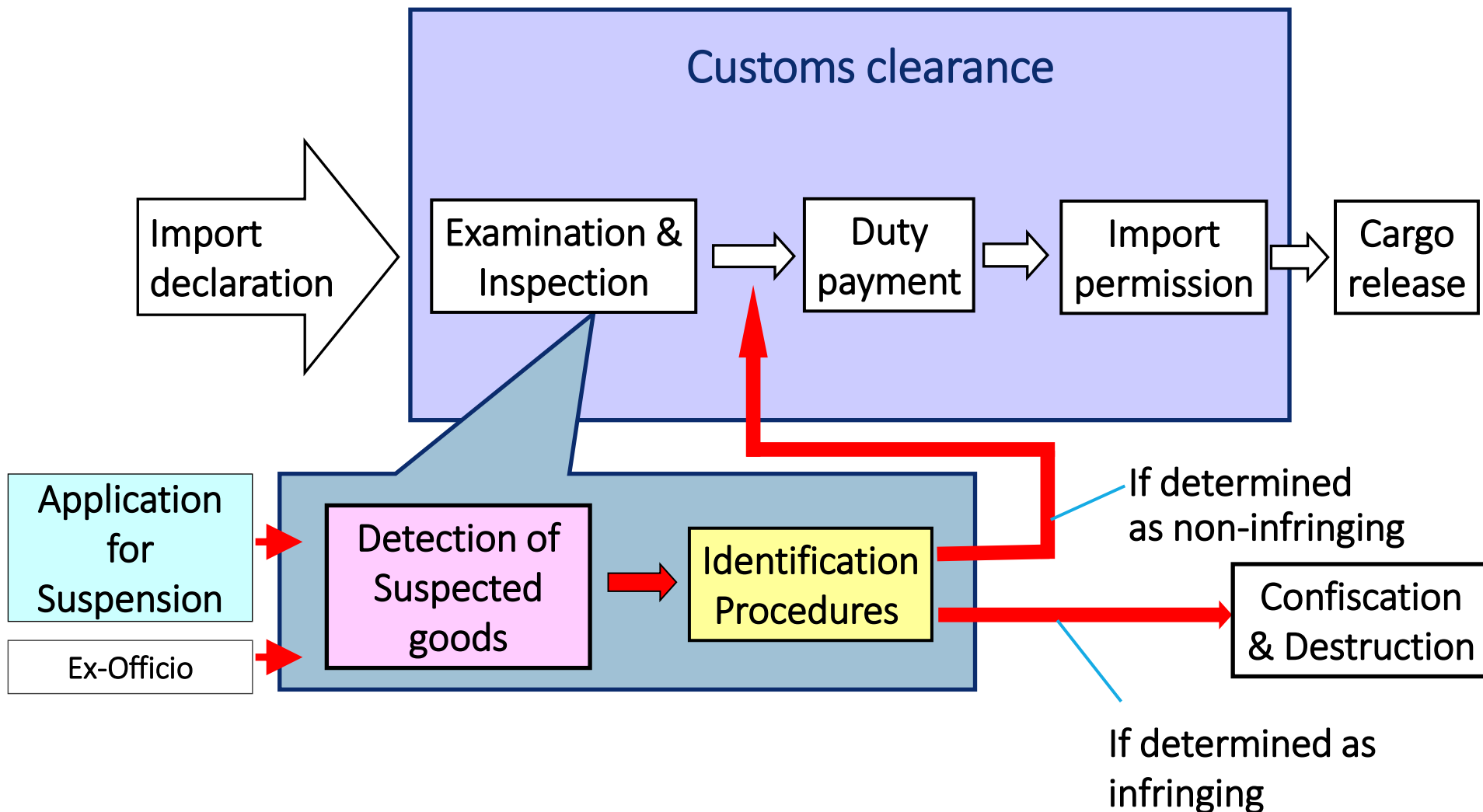
\*Valid for 4 years covering multiple declarations at all customs offices

\*No fees for submitting applications

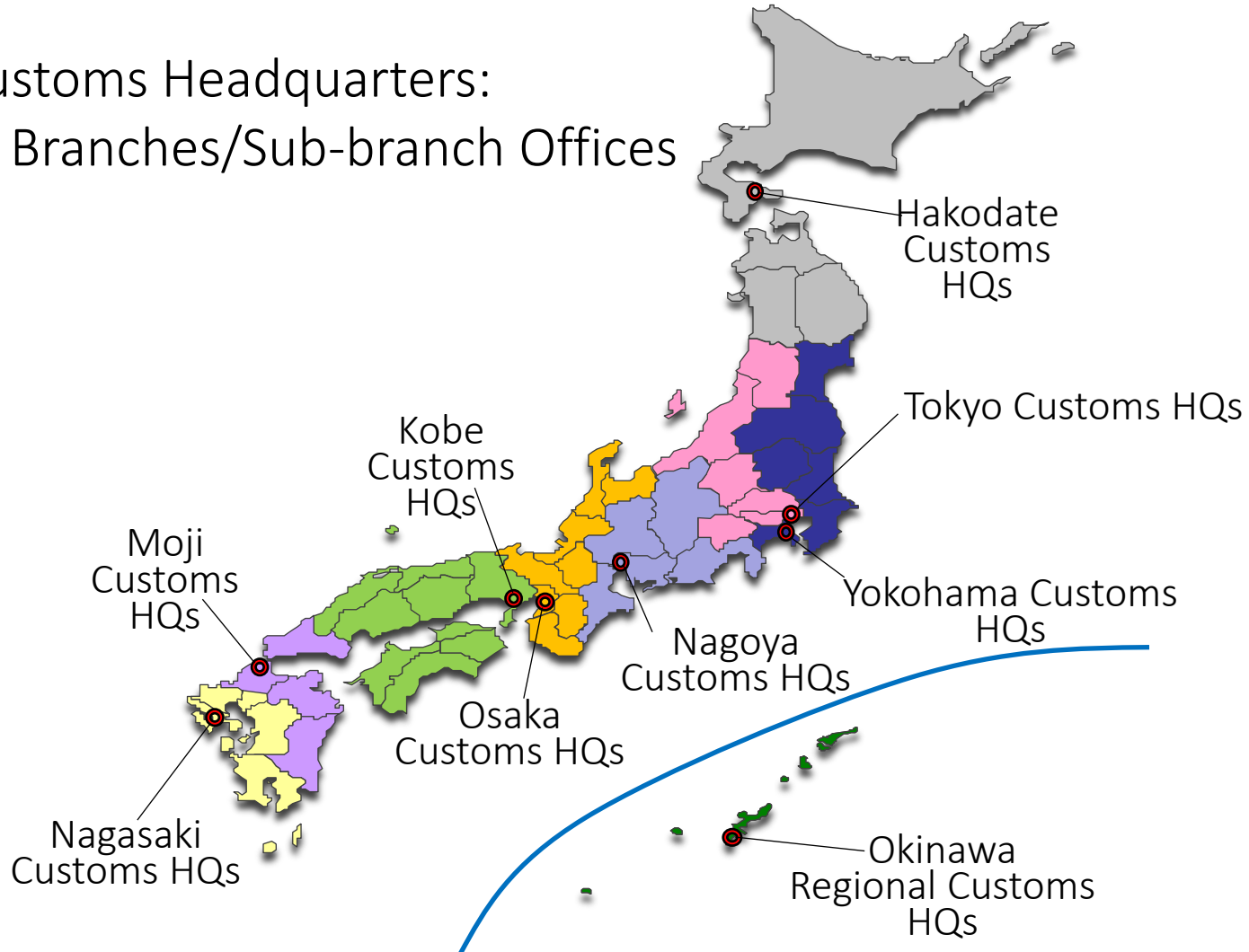
Identification Procedures are the processes Customs follow to decide whether the goods are infringing IPRs, based on claims and evidence submitted from importers and right holders.



# Customs Clearance Procedures (Import)



9 Regional Customs Headquarters:  
177 Customs Branches/Sub-branch Offices



## Headquarters

### Divisions

Customs Clearance

Coordination

Enforcement

Post Clearance Audit,  
Investigation and Intelligence

### Sections Involved with IPR Border Enforcement

#### ● Front Line Officers

Examination, Inspection

#### ● IPR Section

Identification Procedures

#### ● Investigation Section

Investigation for offences

## Branch Offices

- Front Line Officers
- IPR Section/Designated Officer in charge of IPR

## Sub-Branch Offices

- Front Line Officers
- IPR Section/Designated Officer in charge of IPR

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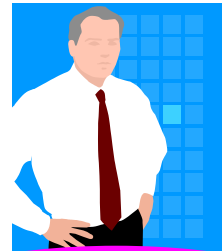
- To discover identities of criminals by analyzing past import records
- To obtain customs' documents on identification procedures
- To use customs officers as investigation personnel at stakeouts, etc.

## Public Announcement by Police



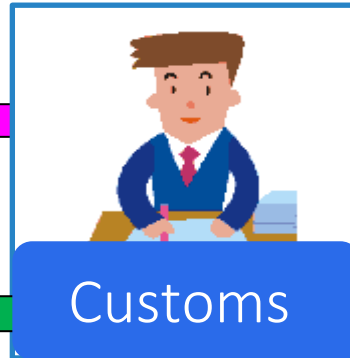
Arrested a man on suspicion of selling Hermes's counterfeit handbags.

## Identification Procedure



Importer

Claim & Evidence



Customs



Right holder

Claim & Evidence

I bought the bags for personal use.  
It's not a trademark infringement!

Detained goods are counterfeit!

- The importer's claim is different, based on the fact that he sold the counterfeit bags.
- The importer received a claim from the right holder. At this point, he must have recognized that the bags were counterfeits.

Smuggling of 100 power supply adapters that infringe trademark rights





Smuggling of 210 smartphone covers that infringe trademark rights



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# Thank you!

