Disclaimer and Statement of Purpose

“The Illicit Trade in Tobacco Products and How to Tackle It” is published by the International Tax and Investment Center (ITIC), a non-profit research and education foundation. ITIC serves as a clearinghouse for information on best practices in taxation and investment policy, and as a training center to transfer such know how to improve the investment climates of transition and developing countries, thereby spurring formation and development of business and economic prosperity.

The purpose of this publication is to serve as a resource guide and best practices reference for tax, customs, and law enforcement officials to improve their efforts to combat the illicit trade in tobacco products.

ITIC received supplemental contributions from tobacco companies to help underwrite the cost of this publication. However, ITIC retained full editorial control and takes full responsibility for the content and any errors or omissions.

The publication is not intended to be a statement of ITIC policies, nor is it intended to endorse the views or policies of any of the contributing organizations or individuals (financially or otherwise), such as the World Customs Organization (WCO), the European Anti-Fraud Office (OLAF) or the tobacco industry. Inputs to this publication, including data and case studies, were provided by tax and customs officials, the World Customs Organization (WCO), industry representatives and various consultants.

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The Illicit Trade in Tobacco Products and How to Tackle It

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We live in an extremely fast moving world where global trade is fundamental to the way we live and to our economic development and prosperity. Customs play a significant part in ensuring that global trade conforms to international requirements and that the taxes due are paid to governments to fund public services. Where goods are highly taxed and easily portable criminals, terrorists and insurgents will take advantage of any weaknesses in customs and revenue controls to amass profits. They do not care whether laws are flouted, consumers’ health is damaged, governments lose revenues or legitimate businesses lose trade. We have witnessed an unparalleled growth in illicit trade of tobacco products over recent years, and we need to step up our efforts to tackle the problem.

New ideas, questioning, forward planning, learning from others and greater collaboration across enforcement agencies, other national agencies and with the legitimate trade will enable us to modernize and optimize the use of the expensive and scarce resources in tackling the illicit tobacco trade. We need to make governments and the public aware of the implications of illicit trade and gain their full support. An innovative approach, creating and building on partnerships will enable us to transform our efforts and achieve significant reductions both in illicit trade and the number of criminals who benefit from it.

This publication builds on the successful ITIC “Anti-Ilicit Trade in Tobacco Products” conference in November 2009 and brings together principles and good practice from across the world which I hope will lead to improved partnerships and working practices.

Kunio Mikuriya
Secretary General, World Customs Organization
Executive Summary

This publication aims to raise awareness of the growing and evolving illicit trade in tobacco products. It is a compilation of facts and views from a wide range of sources including respected academics, private sector consultants, journalists, international enforcement organizations, government revenue authorities and industry. It defines the different aspects of illicit trade and provides information on ways of measuring its size. It analyzes the nature of the problem, its causes and consequences, and offers authorities best practice guidance on implementing anti-illicit trade strategies. Case studies are used to provide evidence of good practice and global efforts to tackle this serious problem.¹

What is the Illicit Trade in Tobacco Products?

Illicit trade manifests itself in three major ways: smuggled, counterfeit and local tax evaded products. These categories are interrelated and show that the illicit trade in tobacco products is a global phenomenon, covering all continents and high and low income countries alike. Cigarettes, being highly taxed, easy to transport and possessing a lucrative risk to reward ratio, are among the most illegally trafficked goods in the world.

Size and Measurement

Despite the lack of robust global data the overall consensus is that the global illicit trade in tobacco products is unacceptably large. Recent studies estimate that approximately 11% of the world cigarette market is illicit, representing over 600 billion cigarettes a year and resulting in annual government revenue losses of over US$40 billion.²

Most governments do not attempt to measure the problem on a regular basis and remain unaware of the many negative effects the illicit tobacco trade can have on their economy and society. Without a robust means of measuring the extent of the problem, it is difficult for authorities to assess the effectiveness of strategies to combat it.

Global Nature and Dynamics

In recent years the dynamics of illicit trade have evolved rapidly. There is an explosive growth of “illicit white” cigarettes that are made specifically for smuggling. Another example is the increased use of internet sites to sell and ship cigarettes worldwide in small quantities by the post to evade taxation. Furthermore, research demonstrates that illicit trade has become a major security challenge in different environments around the world and is increasingly used to fund terrorism.³

There is also an expansion in distribution networks used by criminal organizations for the illicit trade in a wide range of products including tobacco, narcotics, and human trafficking.

The Impact on Society

Illicit trade has a huge impact on the economic and social fabric of society. In addition to vast amounts of lost revenue which undermines the tax base of economies, it obstructs economic development, undermines government policy objectives and the rule of law, supports corrupt practices, funds

¹ The case studies in this publication have been provided by the industry, consultants, and academics.
² Framework Convention Alliance (2008).
organized crime and terrorism and encourages the expansion of criminal activity. It undermines investment in manufacturing, innovation, trade and distribution by legitimate industry and negatively impacts employment.

**Causes and Facilitators**
The primary drivers for this illicit trade are twofold:

- Consumers to save money; and
- Criminals to make money.

Factors contributing to the problem include an unbalanced fiscal policy, disparities in tax driven prices between jurisdictions, protectionist policy measures, corruption, weak enforcement, lack of official controls in free zones, inadequate legislation and sanctions, growth in illegal distribution networks and public tolerance of the illicit trade in tobacco products.

**How to Combat the Problem**
In developing comprehensive anti-illicit trade policies, governments need to pay particular attention to the involvement of all relevant government agencies (e.g. Customs, Ministries of Finance, Health, Justice and Trade) to ensure alignment and commitment to achieving the same goals. In addition, enforcement authorities need to be given adequate resources and encouraged to work closely with the other domestic stakeholders to combat the problem. Exchange of information with authorities in other countries and international enforcement organizations must be the norm, and legislation with deterrent penalties and an efficient functioning judiciary are vital. Citizens must be provided with information on the implications of purchasing illicit products such as unwittingly supporting organized crime and terrorism.

**Article 15 of the World Health Organization (WHO) FCTC**

The critical importance of tackling the illicit tobacco trade on a global scale is recognized in the WHO FCTC whose governing body is in the process of negotiating an Illicit Trade Protocol. The Protocol aims to create more detailed binding obligations for over 170 governments aimed at curbing the illicit trade in tobacco products. In particular, it sets out international guidance for national action on supply chain security, offences and enforcement and international cooperation.

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1. What is the Illicit Trade in Tobacco Products?

1.1 Definitions

The illicit trade in tobacco products is defined in Article 1 of the WHO FCTC as “any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity.”

The illicit trade in cigarettes and other tobacco products exists in three broad forms:

- **Smuggled**: the unlawful movement of tobacco products (genuine or counterfeit) from one tax jurisdiction to another without the payment of applicable taxes or in breach of laws prohibiting its import or export.

- **Counterfeit**: illegal manufacturing in which a product bears a trademark without the owner’s consent. Illegally manufactured products can be sold in the source country or smuggled into another country. Excise tax is rarely, if ever, paid on counterfeit products.

- **Local Tax Evasion**: cigarettes manufactured for consumption in the same jurisdiction, which are not declared to the tax authorities. These cigarettes are sold without tax and may be manufactured in approved factories or illegal covert operations.

1.2 Other Common Terminology

**Contraband** is another widely used term for smuggled tobacco products.

In recent years a novel type of large scale smuggling has emerged with cigarettes often termed ‘illicit whites’ or ‘cheap whites’. These cigarettes are marketed on price and typically produced legally but intended for smuggling into countries where there is no prior legal market for them. An example of this is “Jin Ling”, manufactured outside the EU but the second most seized illegal brand within the EU in 2008.5

**Unbranded tobacco** is sold as loose leaf of tobacco in half kilogram or one kilogram amounts. It carries no labeling or health warnings and is consumed in roll your own (RYO) form or inserted into empty cigarettes tubes. Unbranded tobacco is also sold illegally in the form of loose cigarettes contained in clear plastic re-sealable bags (commonly known as ‘baggies’).

**Bootlegging** involves individuals or small groups who smuggle lesser quantities of cigarettes, taking advantage of tax differentials, for resale. Examples of this practice are labourers who cross the European Union (EU)–Eastern Europe border daily for work and bring in cartons (200 cigarettes) to make some extra income; or couriers who fly back and forth between high and low tax jurisdictions using low cost airlines. These cigarettes are bought and consolidated by organized crime groups who distribute them in target destination markets.

Within a country there can also be leakages from legitimate tax exempt areas into the tax paid market. At the lowest level, smuggling is undertaken when an individual imports cigarettes in excess of national legal allowances6 for personal use.

**Cross border shopping** is a legal practice of avoiding higher domestic tax whereby the individual purchases tax paid cigarettes within the legal allowance for consumption in another jurisdiction. The levels of these practices depend on the tax and price differentials as well as the distance and cost of travelling between jurisdictions.7

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5 OLAF presentation, ITIC Conference (November 2009).
6 A common duty free allowance is 200 sticks (one carton).
7 For example, a correlation has been shown between the numbers of British tourists traveling abroad to lower tobacco tax countries and the increase/decrease in domestic cigarette sales.
2. Size and Measurement

2.1 Size

There are, currently, no reliable global statistics on the size of the worldwide illicit trade problem. The World Bank Tobacco Toolkit\(^8\) published in 2005 estimated the scale at 6% to 9% of total tobacco consumption. A recent study estimates that approximately 11% of the global cigarette market is illicit, representing over 600 billion cigarettes a year.\(^9\) However, these numbers are not based on an independent single methodology or process but are simply compilations of existing estimates from different sources, covering various countries and points in time until 2008.

Studies estimating illicit consumption on a country by country basis are usually more accurate. For example, KPMG has estimated that in 2009 the counterfeit and contraband share of cigarette consumption in the EU was 8.9% based on an identical research methodology applied to each of the 27 Member States. The KPMG study is described in more detail under 2.3.

2.2 Measurement

Whilst there is general agreement that tobacco products are one of the most illegally trafficked goods in the world, measuring quantities precisely is very difficult. However it is important that individual governments attempt to establish the scale of illicit tobacco use and tax avoidance to enable informed policy decisions and provide a baseline against which to assess the success of anti-illicit trade strategies.

The objectives of an illicit trade measurement tool are to:

- Measure the incidence and relative share of illicit cigarettes including consumer usage, purchasing behavior and empty pack surveys.
- Enable analysis of trends over the long term and evaluate their development.

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\(^8\) Understand, Measure and Combat Tobacco Smuggling, World Bank Economics of Tobacco Toolkit (2005).

\(^9\) Framework Convention Alliance (2008); International Union Against Tuberculosis and Lung Disease (2009).
KPMG have been contracted since 2005 by Philip Morris International to make an independent assessment of the size of the illicit tobacco products trade market in the EU as part of their cooperation agreement with the European Commission and the Member States. The methodology was developed during a comprehensive pilot study conducted in 2005 in Germany, Poland and Finland after which the results were rigorously challenged and tested and a number of refinements were implemented. Subsequently, four full years of research across all EU Member States have been conducted using the methodology.

The application of a robust methodology is the first crucial step in the process as it needs to stand up to independent scrutiny and be accepted by all parties concerned.

2.3 Methodologies

There is no universally recognized methodology to assess the size of the illicit tobacco trade and different approaches might be required to meet potential budget restrictions, particularly in developing countries. At the same time, multiple methods can be used concurrently to establish a more accurate picture.

At its most basic, customs seizure data can be an indicator of a problem even though they are generally believed to represent only a small portion of the illicit trade volume. Moreover, seizure statistics can be important in identifying trends and changes in routes and types of illicit trade at an early stage.

Other methods include smoker surveys, empty pack and cigarette butt collection analysis, comparisons between household survey estimates of tobacco products consumption, government statistics of tax-paid tobacco products and trade monitoring.

In order to achieve robust results, it is critical to acknowledge the inherent strengths and weaknesses of the chosen method. For example:

- Primary data collection needs to be undertaken in a scientific, systematic and structured manner that ensures a representative sample and stands up to close scrutiny. For pack collection this must include physical checks to confirm their nature (counterfeit/genuine) and source country, if possible.
- Consumer surveys – there is extensive evidence that smokers underreport their smoking levels to a significant degree and so consumer reporting cannot be relied upon to determine accurately the overall consumption levels although it gives reliable smoking prevalence data.
- International trade data is usually unreliable as import and export statistics are not readily available in electronic format and can be subject to significant manipulation.

KPMG Methodology for Measuring Illicit Trade in Tobacco Products

KPMG have been contracted since 2005 by Philip Morris International to make an independent assessment of the size of the illicit tobacco products trade market in the EU as part of their cooperation agreement with the European Commission and the Member States. The methodology was developed during a comprehensive pilot study conducted in 2005 in Germany, Poland and Finland after which the results were rigorously challenged and tested and a number of refinements were implemented. Subsequently, four full years of research across all EU Member States have been conducted using the methodology.

There are three primary sources namely: empty pack surveys, legal domestic sales and consumer interviews. As its starting point, and because of the limitations of determining consumption levels from consumer research previously mentioned, the methodology uses legal domestic sales plus an empty pack survey to determine the overall consumption level based on the relative proportions of legal domestic versus other packs. Because these surveys are conducted across the 27 EU Member States, a further refinement is then made to account for out-flows of product from each market (i.e. those cigarettes sold in one country but ultimately consumed in a different country).

This enables KPMG to determine the volume of overall consumption split between legal domestic consumption (product legally sold and consumed in that country) and non-domestic consumption (product originating from outside that country). The next stage of the process is to determine the split between non-domestic consumption that has been legitimately brought back to the country by travellers and the proportion that is illicit. Legal flows are determined using primary research (over 159,000 consumers were interviewed in 2009) to quantify how many cigarettes travellers purchased while overseas during the year. These volumes are then deducted from the total non-domestic consumption level with the remainder being classified as illicit consumption.

Before results are finalized, data is cross referenced with all available alternative data sources together with anecdotal observations of trends and developments by Customs and other experts involved in fighting the illicit trade. Moreover, seizure data and econometric data can also provide good corroboration of results and trends.

Table 2: Composition of Large Cigarette Seizures by UK Authorities

<table>
<thead>
<tr>
<th>Year</th>
<th>Genuine UK brands</th>
<th>Genuine non-UK brands/cheap whites</th>
<th>Counterfeit</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002/3</td>
<td>41%</td>
<td>54%</td>
<td>48%</td>
</tr>
<tr>
<td>2003/4</td>
<td>48%</td>
<td>28%</td>
<td>20%</td>
</tr>
<tr>
<td>2004/5</td>
<td>51%</td>
<td>31%</td>
<td>13%</td>
</tr>
<tr>
<td>2005/6</td>
<td>70%</td>
<td>13%</td>
<td>18%</td>
</tr>
<tr>
<td>2006/7</td>
<td>51%</td>
<td>36%</td>
<td>44%</td>
</tr>
<tr>
<td>2007/8</td>
<td>49%</td>
<td>47%</td>
<td>43%</td>
</tr>
<tr>
<td>2008/9</td>
<td>49%</td>
<td>44%</td>
<td>47%</td>
</tr>
<tr>
<td>2009/10</td>
<td>49%</td>
<td>44%</td>
<td>47%</td>
</tr>
</tbody>
</table>

Source: UK - HMRC Border Agency (2008)

* The seizure volume for a brand not sold in the UK is included within genuine non-UK brands and not within genuine UK brands as reported by HMRC.

2.4 A Constantly Changing Picture

Regular comparison and analysis of seizure statistics provides an indication of the continuous changes in illicit trade. Comparisons of seizures made over recent years by the UK’s HMRC and UK Border Agency show how quickly the illicit trade can change. In 2002/03, 31% of large cigarette seizures in the UK were genuine UK brands. Due to cooperation between HMRC and the cigarette manufacturers this share had become insignificant over time and decreased to 4% in 2009/10.
3. Global Nature and Dynamics

3.1 Nature and Composition of the Problem

There are countries which are mainly a source of the illicit product (both for domestic consumption and for export), others which play a part as transit routes and finally destination countries where consumption occurs. In many cases a country may be in more than one of these categories.

3.2 Source Countries

Cutting off illicit trade at source is in theory the most effective means of tackling the problem. However, it is also the most difficult to achieve.

Identified common features present in many source countries are:

- Lack of political will to fight illicit trade (i.e. it is not seen as a priority);
- Inadequate legal regimes (e.g. non-existent laws including those which protect intellectual property, lack of prosecutions, weak penalties for offenders);
- Under-funded, poorly trained police forces and customs officials;
- Oversupply (i.e. cigarettes produced and released for consumption in the source market in excess of domestic demand);
- Lack of capacity;
- Corruption; and
- Availability of second hand cigarette making machinery or counterfeit machinery.

Regular comparison and analysis of seizure statistics provides an indication of the global
Asia13 (21% of global seizures), followed by the seizures by Customs authorities originated from indicate that the highest amount of illicit product consignments destined mainly for Brazil. and Paraguay remains the source for the illicit contraband detected in East and Southern Africa the Middle East. Zimbabwe is a main source of Egypt features as a key source of contraband for are known Asian sources of illicit cigarettes. China, North Korea, Philippines and Vietnam are known Asian sources of illicit cigarettes. Egypt features as a key source of contraband for the Middle East. Zimbabwe is a main source of contraband detected in East and Southern Africa and Paraguay remains the source for the illicit consignments destined mainly for Brazil. changes in illicit trade sourcing. The World Customs Organization (WCO) publishes an annual Customs and Tobacco Report which analyses seizures reported by its member countries. The 200912 report indicates that the highest amount of illicit product seized by Customs authorities originated from Asia13 (21% of global seizures), followed by the United Arab Emirates (9%). However, the UAE is known as both a manufacturing source and the transit or transshipment location for consignments originating in Asia. In Europe, the number of detections with UAE indicated as the source amounted to 249 million cigarettes, out of more than 304 million cigarettes indicated as departing from UAE in 2009.

China, North Korea, Philippines and Vietnam are known Asian sources of illicit cigarettes. In recent years, many illicit factories have been detected and dismantled within the EU showing that criminal gangs are bringing their production more difficult. During transit documentation is changed and goods can be transhipped into other vessels. Transit points tend to be some of the largest and busiest ports in the world.14

These relationships have meant that continuing pressure is placed on counterfeit cigarettes traders. Every year, thousands of arrests are made and billions of cigarettes seized in raids involving police and STMA officials. The manufacture, trading and export and smuggling of counterfeit cigarettes from China is controlled by highly organized criminal syndicates. These syndicates have operatives all around the world who attempt to organize the smuggling of counterfeit cigarettes into the destination or transit market. Given the international nature of the counterfeit cigarette trade, global cooperation between the industry and law enforcement authorities is essential. The GACC, through its networks of global customs agencies is able to support the work of Customs in Europe and North America in stopping shipments of counterfeit cigarettes. For example, in August 2010, the European Union and the GACC held a joint conference in Shanghai and one of the key topics of discussion was cooperation on stopping the flow of counterfeit cigarettes from China. The STMA also cooperates closely with the major international manufacturers, BAT, ITL, JTI and PMI. This cooperation extends back more than a decade and is based on the sharing of information and intelligence to allow the STMA to take action in China against identified counterfeiters and for the manufacturers to take actions to protect their trademarks in jurisdictions outside China.

3.3 Transit Points
Illicit trade shipments are very often deliberately transited via several ports in order to make detection more difficult. During transit documentation is changed and goods can be transhipped into other vessels. Transit points tend to be some of the largest and busiest ports in the world.14 In these days of fast moving global trade, ports compete for speed in processing cargo and the turnaround time of vessels. This means minimizing controls and often a low priority on the interception of potentially illicit consignments which are just transiting through.

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12 The figures in the WCO report are based on the information provided by the Members Customs administration to the global database within the WCO Customs Enforcement Network (CEN) system.
13 Only seizures of more than 100,000 pieces are included in the WCO report.
14 Singapore and Dubai, ranked #1 and #7 container port in the world, are primarily transit ports.
Panama, Greece, the UAE and Russia are examples of commonly used transit countries for illicit trade but this is a dynamically changing situation. As soon as one country improves controls, the criminals switch to another route. New transit routes are exploited as countries invest in better road and rail infrastructures and inland destination markets (specific transit frauds are covered in 5.2.3).

Due to the difficulties of tackling illicit trade at source, there is a lot of focus on intercepting consignments in transit when they reach a “friendly” port where officials are willing to investigate containers and act on tip-offs.

### 3.4 Final Destination Countries

Illicit tobacco products are available throughout the world in high income and low income countries alike. Some common characteristics of final destination markets are:

- A tobacco taxation policy that has resulted in high retail prices relative to consumer income (low affordability) or higher than those prevailing in neighboring countries;
- Low law enforcement focus on the illicit tobacco trade due to other priorities or a general lack of resources;
- An inadequate legal regime (i.e. one in which either the legislation or judicial system do not properly enforce intellectual property rights, and/or penalties for smuggling are too weak to be a deterrent and/or are simply not effective in condemning smugglers); and
- A culture of accepting illicit product or a lack of knowledge that the product is illicit.

Developments in recent years show that organized crime will supply any country in the world as long as there is a demand for illicit product and the potential for profit exists.

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**Case Study: Paraguay – Source Country for Counterfeit and Illicit Whites in South America**

Counterfeit cigarettes and illicit whites produced in Paraguay have been found across Latin-America. The illicit traffic involves major criminal organizations and local tax evasion. The magnitude of the problem is illustrated by the estimation that 44% of licensed retail outlets in Brazil stock illicit brands from Paraguay.

Paraguay produces an estimated 47 billion cigarettes per year although domestic consumption is estimated at only 4 billion sticks per annum or less than 10% of domestic production. There are approximately 30 manufacturing sites, thereof 14 currently active, with an estimated capacity of 100 billion cigarettes. The Paraguayan north-eastern frontier is 650 km long and there are more than 1,000 km of river banks and lake shores in the Ciudad Del Este / Itaipu ‘Tri Border’ area.

Organized Crime Groups have been identified as being involved in the illicit trade in cigarettes. Illicit whites and counterfeits are transited through Bolivia by road into Chile and Peru then transported by sea to other countries in South America, Panama and the Caribbean or along the Rio Parana and smuggled into Argentina and Brazil.

The Paraguayan Government has commenced a process to better regulate internal cigarette production such as working towards a digital verification system, and recently, there has been some success in law enforcement involving cooperation both with the industry and across frontiers. For example, Brazilian Authorities have initiated a ‘Cease and Desist’ Programme to stop the licensed retail outlets selling illicit cigarettes from Paraguay.

Under this regime the government inspectors have the power to close retail shops stocking illicit tobacco products. The program involved a two phase approach where traders were first warned not to stock illicit brands. If this warning was not complied with, a formal Cease and Desist letter was served on the retail outlet which was required to be displayed in a prominent position inside the outlet or in the window so it could be viewed from the street. If there was further non-compliance the outlet would be closed on the spot. The program has been very successful with seizures up 41% when compared to the same period in 2009.

In addition, the Bolivian Customs Authority has restructured its resources to be more effective in interdicting the flow of smuggled and counterfeit product from Paraguay transiting Bolivia to Chile and Peru.
Case Study: Cross Border Tobacco Smuggling into South Africa

South Africa is a prime destination for smuggling of tobacco products from neighboring and other countries. A significant source of illicit whites is Zimbabwe where there are 6 factories manufacturing more than 20 brands of cigarettes. These factories are situated in an export zone with concessions given to improve foreign currency flows and a minimum of 80% of finished goods must be exported. There are no controls over the movement of the finished product or the influx of foreign currency. The situation is compounded by a lack of political commitment to effectively address the illicit trade issue in the country.

It is estimated that, annually, more than 4 billion sticks are manufactured in Zimbabwe for export destined for Zambia, South Africa, Mozambique, Malawi and the Democratic Republic of Congo. The majority of this product actually enters South Africa. A portion is legally imported under warehousing for export or local sale of which about 500,000 sticks are declared for domestic consumption with duties paid. A similar amount is seized in the market along the border. Overall the illicit influx from Zimbabwe is estimated to be more than 2 billion sticks.

Corruption at border is high where up to US$50,000 per container is offered to officials to let concealed cargo through. Enforcement actions within Zimbabwe are a rare occurrence.

However, a good working relationship with regular information and intelligence sharing sessions has been established between the tobacco industry and law enforcement agencies in South Africa. A number of national interventions involving the industry working in conjunction with Customs and the South African Police Force have brought successful results with the seizure of illicit product in the market and along borders. These operations have also included corruption charges against illicit traders.

There is also close cooperation between the Tobacco Industry of Southern Africa (TISA) and the authorities with quarterly review meetings of the Revenue Services Forum, presentations to the South African Customs Union, the Southern African Development Community Tax Forum, the Africa Tax Forum and the National Treasury. Furthermore, cross border forums have been established between countries neighboring Zimbabwe (i.e. Mozambique, Swaziland, Botswana, Angola, Namibia and Zambia).
4. The Impact of the Illicit Trade in Tobacco Products

4.1 The Impact on the Economy

4.1.1 Lost Government Revenue

The illicit trade in tobacco products obstructs economic development, undermines the rule of law and weakens the tax base, costing governments vast amounts of lost revenue. Illicit trade means there is less money available to governments for public services such as health care, education, defence, transport, and environmental concerns.

The Framework Convention Alliance\(^{15}\) has estimated recently that the global tax lost to governments at $40.5 billion.\(^{16}\) The European Commission estimates that the EU Member States lose up to €10 billion in tax revenue a year as a result of the illicit trade in tobacco products. In the EU, the average loss of customs duty, excise duty and VAT on a smuggled 40 foot container containing 10 million cigarettes is about €1.5 million.\(^{17}\)

As well as loss of indirect taxes governments will collect less income tax, social contributions and corporate taxes as the legitimate industry and trade lose legal volume and subsequently jobs.

4.1.2 Financial Loss to the Legitimate Industry and Trade

Legitimate manufacturers and suppliers of tobacco products are impacted as in addition to lost income, illicit trade distorts competition in the market, undermining investment in innovation, distribution, brand equity and employment.

Small tobacco retailers are among those worst hit by easily available illicit cigarettes. In the UK, the illicit tobacco products trade is reported as having a devastating effect on local retailers who have to compete with the black market economy. Shopkeepers, wholesalers and distributors are estimated to be losing £230 million to smugglers annually.\(^{18}\)

Research\(^{19}\) in Canada by the Canadian Convenience Stores Association and the Canadian Tobacco Manufacturers’ Council found that the illicit trade resulted in a 30% revenue loss to convenience stores.

4.2 The Impact on Society

4.2.1 National Security and Organized Crime

The infiltration of supply lines by criminal networks and terrorist groups hinders the fundamental building blocks of development, democracy, human rights and the rule of law and supports corrupt practices among Government officials and private citizens alike. These same networks are used to traffic humans, weapons and drugs.

In many countries, enforcement resources and harsh penalties are targeted at drugs and human trafficking leaving the trade in illicit tobacco products as a high profit but low risk activity. As a result, the high profits available when measured against the risks of being caught and the low penalties handed down should a prosecution ever take place, make cigarette smuggling a very attractive option for organized crime gangs and terrorist networks.

Post 9/11 there has been a crack down on the banking systems making money laundering through the banks more difficult. So, criminals and terrorist groups are now using illicit trade to generate profits and move money across borders. The US Department of Justice Bureau of Alcohol, Fire-arms and Tobacco (ATF) claims that organized criminal groups, including those with ties to terrorist organizations, are engaged in illegal trafficking in alcohol and tobacco products, including counterfeit tobacco products.\(^{20}\)

Academic research on terrorism, transnational crime and corruption has revealed that the people involved in the illicit trade in tobacco products are also involved in other forms of illicit trade (e.g. drugs, people, alcohol, diamonds, timber or antiquities). The illicit trade in tobacco products has been growing, in part because of the absence of coordinated control resources focused on illicit trade routes and distribution chains which are often the same for many different products.

The extract of research on page 15\(^{21}\) by Dr. Louise Shelley – Professor and Director of the Terrorism, Transnational Crime and Corruption Center at the George Mason University, Arlington, Virginia provides an overview of the link between the illicit trade in cigarettes and the funding of terrorism.

4.2.2 Respect for the Rule of Law

Where the general public becomes aware that laws are not being complied with and no consequences arise, there is a gradual erosion of respect for legislation and enforcement authorities. If people rarely hear of arrests and successful prosecutions of those involved in illicit trade, then the perception will spread both that enforcement authorities are ineffective and that the law doesn’t really matter. People who habitually

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\(^{15}\) Framework Convention Alliance “How Eliminating the Illicit Cigarette Trade Would Increase Tax Revenue and Save Lives” INB3 fact sheet.

\(^{16}\) This figure is probably exaggerated as it uses a very high average excise rate and ignores double counting (i.e. when a tax-paid product in country A is then smuggled into country B, you need to deduct the tax paid in country A).

\(^{17}\) European Commission/MEMO/10/448 (27 September 2010).

\(^{18}\) Talking Retail (industry news) (10 December 2009).

\(^{19}\) Royal Canadian Mounted Police’s Contraband Tobacco Enforcement Strategy, p. 17 (2008).

\(^{20}\) The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Efforts to Prevent the Diversion of Tobacco (September 2009).

break the law without suffering any consequences can influence others thus lowering the standards of acceptable law abiding behavior.

4.2.3 Public Health

The illegal trade in tobacco undermines public health initiatives to curb tobacco consumption by making cheaper cigarettes available in an unregulated environment where they may be sold to vulnerable groups such as minors.

Unlike legal tobacco products which are manufactured and sold in compliance with strict regulatory requirements such as health warnings and maximum tar and nicotine levels, illicitly traded products, especially counterfeit, are partly or fully outside of this regulatory framework.

Research conducted by the Dutch National Institute for Public Health and the Environment (RIVM) demonstrates that counterfeit cigarettes contain cadmium levels that are five times higher and lead levels that are six times higher than in genuine cigarettes.22

The Center for Public Integrity’s investigation Tobacco Underground23 says: “many of the smokes are made from the lowest quality tobacco, full of stem and sawdust, and spiked with unusually high levels of nicotine. Tests reveal that counterfeit cigarettes carry a bevy of products that could further shorten even a heavy smoker’s life: metals such as cadmium, pesticides, arsenic, rat poison and human faeces.”

The WCO has reported seizures of counterfeit cigarettes containing mites (pictured below) and identified unprecedented methods of concealment, (e.g. in barrels of titanium sponge containing toxic chlorine gas) which posed serious health risks for the law enforcement officers charged with inspecting and seizing the illicit cigarettes from inside these containers and which therefore could have been extremely hazardous if smoked by a consumer.
Case Study: “Illicit Trade: A Security Challenge” (Shelley, 2009)

“For decades, the [illicit tobacco] trade has benefited crime groups and corrupt officials, but terrorist organizations have also exploited this illicit trade. The Italian Mafia has been involved in this trade since the early or middle of the twentieth century (Paoli 2003). However, the lure of profits from this commonly smuggled and trafficked commodity has attracted not only the traditional organized crime groups. The U.S. government and international corporations have documented the manufacturing of counterfeit cigarettes in the Tri-border region of South America by terrorist organizations (Hudson 2003; Sverdlick 2005).

Many other diverse terrorist groups have exploited the cigarette trade to generate financial support for their activities such as Hezbollah, Hamas, Al Qaeda, IRA, PKK, ETA (Basque Fatherland and Liberty), and Egyptian and Palestinian Islamic Jihad, Farc have been identified as participants in this illicit trade (Coker 2003; Billingslea 2004, Wilson 2008). Because of the involvement of so many different groups in this activity, the U.S. Government Accountability Office (GAO) (2003) ranks cigarette smuggling among the top fundraising activities used by terrorists, along with illicit drug, weapon and diamond trade. Illustrating the lucrative nature of the trade, the combined total profit from cigarette trafficking for the three primary factions of the IRA (the Provisional IRA, Real IRA, and the Continuity IRA) reached approximately $100 million between 1999 and 2004 (Billingslea 2004).

The links between crime and terrorism continue to be identified. Recently, the International Consortium of Investigative Journalists has shown that trafficking in illegal cigarettes is a major revenue source for terrorists in Pakistan (Center for Public Integrity, 2009; Wilson, 2009). Russian researchers in Southern Russia in the conflict ridden North Caucasus region are also finding that trade in counterfeit goods including cigarettes is a funding source for terrorism.

Cigarette trade is a crime of choice among terrorists because it commands limited attention from law enforcement. Terrorists seek to secure funding in ways that draw the least attention to themselves. Terrorists smuggle cigarettes because the risks of apprehension are low and the profits sufficiently high to fund terrorist groups and purchase arms and even dual use equipment with the proceeds of this criminal activity. Terrorists are increasingly turning to cigarette smuggling for funding. Among the groups are the Taliban, for whom cigarettes are now second only to heroin as a funding source, and al Qaeda.”
5. Causes and Facilitators

5.1 Economic Drivers of Illicit Trade

The illicit trade in tobacco products is a global phenomenon, covering high and low income countries alike. The primary drivers for illicit trade are:

- A desire by consumers to save money by willingly purchasing cheaper illicit products; and
- The potential for criminals to make high profits.

Cigarettes, being highly taxed, widely consumed, easy to transport and possessing an attractive weight-to-value ratio, are one of the most illegally trafficked goods in the world.

Even in countries with a perceived low absolute tax rate, smuggling can be very profitable if the tax level is high relative to income. The tax evaded is shared between the consumer in the form of cheaper cigarettes and the smuggler.

For example, individuals in Eastern Europe are content to make a profit of just $100–150 per week by smuggling small quantities since this far exceeds the income from a regular job whilst, at the other end of the spectrum, criminal gangs smuggling container loads into the European Union can make millions in profit per consignment.

5.2 Factors Facilitating Illicit Trade

In addition to the primary economic drivers, there are a number of other factors that have a significant bearing on the incidence and scale of illicit trade. Factors contributing to the problem are an unbalanced tobacco taxation policy, protectionist policy measures, inadequate enforcement, exploitation of free zones, inadequate legislation and sanctions and public tolerance.

5.2.1 Tobacco Taxation Policy

In most countries, tobacco is considered to be an ideal candidate for taxation revenues: this is because it is widely consumed, demand is relatively inelastic and the negative externalities justify taxation.

Indeed, tobacco has been subject to special taxes since the 17th century and today all countries impose at least one tobacco products tax, be it excise, import duty, VAT/sales tax or other related taxes. Notwithstanding a few legal exemptions (i.e. duty free traveller allowances), all these taxes are due to be paid in the country of consumption.

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**Case Study: Effect of Sharp Increases in Excise Duty on Cigarettes in Ireland**

**Excise duty, price levels and tax revenue**

Over the last decade, Ireland has experienced two periods of sharp increases in the excise duty paid on cigarettes, during 2001–2003 and 2006–2009. The total increase in cigarette excise duty rates between 2000–2009 was 76% in the most popular price category – three times higher than the corresponding rate of inflation (26%).

From 2000–2005 cigarette prices increased by 31% and duty-paid volumes decreased by 16%. During the second period of steep duty increases (2006–2009), prices increased by 33%, reaching €8.45 a pack – almost €2 more than the EU country with the second highest prices.

In spite of these exceptional duty excise increases, the Government reported no fiscal benefits, with revenue gained from cigarette taxation (excise duty and VAT), remaining virtually flat between 2001 and 2009.

**Cigarette consumption and smoking incidence**

In 2005, illegal (non-duty paid) volume emerged in the market, reaching approximately 8% of total consumption. However, the inflow of contraband products escalated rapidly, reaching an estimated 25% of the market in 2009, equivalent to 1.5 billion sticks.

Since 2005, the legal (duty-paid) cigarette market has decreased further by 19% from 5.6 billion to 4.55 billion sticks. By adding the number of legal and illegal cigarettes together (4.55 billion plus 1.5 billion) it is clear that the actual consumption in Ireland for this period remained at over 6 billion sticks and has not decreased since 2003.

This statistic is further substantiated by the evolution of the smoking incidence level between 2000–2009 which has remained virtually stable at around 30% of the adult Irish population.

**Conclusions**

The steep excise duty increases during 2000–2009 have not resulted in a decline of total consumption and smoking incidence which was the key health objective driving the increases. The massive availability of illicitly traded cigarettes, while fuelling organized crime, provided adult smokers and young people with cheap, uncontrolled product.

The policy of sharp excise increases has also been counter-productive from a revenue perspective as the massive rise in excise duty from €155 in 2001 to €261 per thousand cigarettes (an increase of 68%) did not result in any fiscal benefits for the Irish Government as revenues remained virtually flat.

The limitations of this policy of sharp excise increases was recognized by the Irish Minister of Finance who stated, during the budget announcement on the 9th December, 2009, that

“I have decided not to make any changes to excise on tobacco in this Budget because I believe the high price is now giving rise to massive cigarette smuggling. My responsibility as Minister of Finance is to protect the tax base.”
Excise is usually the main tax and it often accounts for the majority of the final retail price. Besides providing governments with a secure, predictable and easy to collect source of revenue, tobacco taxes are used by governments as a policy instrument to discourage tobacco consumption.

The downside is that an unbalanced tobacco taxation policy can trigger the emergence of illicit trade. It is therefore critical that governments balance their approach to the setting of excise rates with the aim of optimizing tax revenues in a long term and avoiding the development of an illicit market. In applying a principle of optimization, tax policy needs to reflect:

- Consumer affordability – tax levels on cigarettes should be benchmarked against consumers’ purchasing power.
- Tax rates in neighboring countries or within a trade bloc – to minimize incentives for cross-border shopping and smuggling.
- Ease of administration and enforcement – to minimize bureaucracy and tax compliance costs.

Sharp excise rates increases which lead to a sudden decline in consumer affordability tend to be particular drivers of the emergence of illicit trade as demonstrated by the recent Irish experience on the previous page. As illustrated below, Canada provides another example where particular circumstances can result in a surge in illicit trade.

These examples show that tax policies can be counter-productive from both a revenue and health perspective. In this regard, the World Bank has stated that:

“The potential for smuggling tobacco can limit increases in tobacco tax rates. When setting tax rates, consider the risk of smuggling, the purchasing power of local consumers, tax rates in neighboring markets, and the ability and effectiveness of the tax authorities to enforce compliance.”

5.2.2 Protectionist Policy Measures

Import restrictions, prohibitive import duties rates or other protectionist measures aimed at imposing technical barriers to trade constitute an additional economic impetus for illicit trade as consumer

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**Tax Evasion Case Study: The Manufacturing of Tobacco Products in Certain First Nations (Indigenous Peoples) Reserves**

The location of First Nations territories along and across the border between Canada and the United States creates a unique opportunity for illegal cross-border activity. Some First Nations strongly believe that it is the sovereign right of their citizens to produce and sell tax-free tobacco products without the interference of federal or provincial governments. As law enforcement has been reticent to enforce tobacco laws and regulations on reserves, the illegal manufacturing and sale of tax-free tobacco products has proliferated over the last 10 years.

Licensed and unlicensed factories in these reserves produce and sell non-duty paid tobacco products, which are sold either directly to consumers at on-reserve outlets, or sold in bulk to illicit distributors who sell to consumers off reserve. According to the Royal Canadian Mounted Police (RCMP), approximately 100 organized crime groups are involved in illegal tobacco trafficking.

Large and successive increases in tobacco taxes from 2001 to 2005 created the incentive for smokers to buy these contraband tobacco products. Clear plastic bags containing 200 illegal cigarettes now sell for as little as $10 compared to an average price of more than $70 for the equivalent amount of legal product.

In 2008, illicit tobacco trade represented 32.7% of the Canadian consumption and, in the most populous provinces, Ontario and Quebec; contraband levels reached respectively 48.6% and 40.1%. These contraband tobacco products did not comply with any of Canada’s tobacco legislation or regulation (e.g. health warnings, Lowered Ignition Propensity paper, testing and reporting) and in 2008 represented a tax loss to government of approximately $2.4 billion. It is estimated that the legal industry lost $900 million in revenue due to illicit trade in that same year. Retailers experienced a loss of $2.5 billion in tobacco sales in 2009 due to illicit trade. 2,300 retail outlets closed due in large part to the loss of tobacco sales volume. Though seizures by law enforcement in 2009 were 33 times the level in 2001, this still represented less than 2% of the total illicit volume.

Within the past two years, some progress has been made in Canada. The prevalence of illegal tobacco nationally has been reduced to 19%, reflecting decreases in the provinces of both Ontario and Quebec. Ontario continues to have the highest prevalence of illegal tobacco at 32.4%. In Quebec, it represents 17.9% of the total market.

Starting in 2009 provincial governments introduced new enforcement measures, including a stronger police presence, tighter management of raw tobacco leaf and stricter border monitoring and control.

Actions to date have focused on increased enforcement. However the high excise levels will continue to provide the incentive for the manufacture and sale of low priced illicit whites to consumers who demand them. To successfully eliminate the trade, governments will need to pursue practical, long-lasting solutions that involve the First Nations communities.

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demand for international brands exists. An example of this is China, where imports of foreign brands are limited by strict quotas making them legally inaccessible to the vast majority of consumers.

5.2.3 Inadequate Enforcement

In many instances, laws are enacted that attempt to address illicit trade, however, once in place they are not properly enforced for a number of reasons.

- **Official Controls**

Policing millions of movements of goods across borders is resource intensive and requires the involvement of national and international enforcement agencies. The resources required involve skilled prevention, intelligence, detection and investigation staff as well as the IT backup for intelligence, risk assessment plus resource allocation and intervention feedback as well as mutual assistance across borders. Mobile task forces require transport equipment, mobile scanners and new technologies as they evolve.

For geographical reasons the borders of many countries are difficult to police comprehensively. In most cases smuggling takes place through known entry and exit points (ports, bridges, interstate roads, airports and free zones). Inadequate controls at such points, often coupled with varying levels of corruption, allow smugglers to move products in large volumes undetected. The situation can be exacerbated due to political instability in a country or region.

- **Goods in Transit and Transhipment**

Goods in transit are those that have departed from the dispatch, loading or shipping point but have not yet arrived at the receipt, offloading or delivery point. Transshipment is the shipment of goods to an intermediate destination and then from there to yet another destination. Often this is due to a change in the means of transport during the journey for example from ship transport to road transport. Much international transshipment also takes place in designated customs areas, thus avoiding the need for customs checks or duties.

Both the OECD and WCO have raised concerns as to the lack of adequate legislation, controls and enforcement governing goods in transit. In its 2007 report on crime the OECD stated “very often goods in transit are specifically excluded from the prohibitions related to counterfeit goods, which mean that they cannot be intercepted.”

The table below lists the relevant categories.

### Key Categories of Transit Fraud

- **Non-completion of transit procedures.** This is the simplest method of committing a transit fraud. The goods just “disappear” somewhere between the office of departure and the office of destination.

- **Fraudulent completion of the transit procedure.** Criminals may create the impression that a transit operation has been discharged through the use of forged or stolen official stamps or the use of false documents as return copies.

- **Transit guarantee fraud.** This may involve the illicit use of a genuine guarantee or may be the result of a forged guarantee certificate.

- **Misdescription of goods.** This is a common customs fraud involving the misdeclaration of sensitive goods or goods subject to high taxes to non-sensitive or low taxed goods during transit.

- **Concealment or substitution of goods during transportation.** This is another common Customs fraud which sometimes includes tampering with official Customs seals on lorries.

An example of inadequate legislation for goods in transit is given in the case study below:

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**Case Study: No Clear Legal Authority in Egypt for Customs to Seize Counterfeit Goods in Transit**

Egypt, with its strategic geographic position between Asia and Europe, is a hub for transshipment and transit of counterfeit cigarettes.

There are significant gaps in Egyptian Intellectual Property Laws and regulations that hamper the Egyptian Customs officers in tackling the transshipment and transit of counterfeit cigarettes. Egyptian Laws do not explicitly provide Customs with the authority to seize goods in transit that violate Intellectual Property Rights (IPR). The Border Measures regulations (Import and Exports laws which are under the authority of the Ministry of Trade and Industry), leave room for interpretation and confusion when enforced in conjunction with the Customs Laws (under the authority of the Ministry of Finance). This can create uncertainty within customs and among judicial personnel responsible for IPR cases. As a result, Egyptian Customs may have no choice but to let consignments pass through Egyptian Free Trade Zones. Often, their only option is to coordinate with counterparts in the goods’ destination countries.

In 2009, two containers were in transit in Port Said carrying approximately 17 million counterfeit cigarettes. Thanks to Customs’ constant support over two months, the rights holder was able to initiate legal proceedings. However, the rights holder was unable to obtain a seizure order from the District Attorney. On December 17, the two containers were cleared for shipment to Mersin, Turkey. On December 25, Turkish Customs seized the containers on their arrival in the Mersin Free Trade Zone despite the fact that the containers were in transit to Famagusta in the Turkish Republic of Northern Cyprus. This case highlights the ineffectiveness of the current Egyptian Intellectual Property Rights protection system.
• Free Zones

Free zones are set up by governments in an effort to attract new business and foreign investment. They facilitate trade by eliminating tariffs, quotas, and minimizing bureaucratic requirements like customs procedures and disclosure requirements.

Criminal organizations use free zones to smuggle or divert illicit products to the domestic market and even to set up production facilities for counterfeit and contraband goods. Seizures of cigarette containers in free zones reveal that they are often misdeclared as legitimate goods. Significant numbers of shipments seized in recent years were intended to be transited/transhipped more than once, and some underwent as many as five transit/transshipment points before being seized. Reduced Customs controls are the key driver.

The OECD has identified the abuse of free zones as a key facilitator for illicit trade. They are sometimes treated as outside the nation’s customs territory with the result that goods enter or exit these areas with minimal customs controls. The WCO has recognized that Customs need to have clear authority in law to monitor goods in transit and in free zones: “In some cases it is not clear if the Government or the customs authorities do have the jurisdiction to exercise controls in free zones.”

A recent examination of free zones’ controls suggests that, even where the necessary legislation exists, enforcement can be weak due to pressure on customs authorities to relax controls in order to stimulate economic growth.

Case Study: United Arab Emirates (UAE) Jebel Ali Free Zone

In the UAE there are multiple free zones within or adjacent to sea ports containing 15 cigarette manufacturing facilities. Nine of these are in the Jebel Ali Free Zone (JAFZA), four in Fujairah Free Zone and one each in Sharjah and Ajman Free Zones. JAFZA is a known source of considerable counterfeit cigarette production which targets predominantly West African markets. Fake products from JAFZA have been found in Ghana, India, Afghanistan, Iraq, Iran, various countries in South East Asia, the Balkans, Eastern and Western Europe and other States of the Middle East. JAFZA was created in 1985 and welcomes 100% foreign owned companies which are free to employ whomever they choose. There is no corporate tax and no import or export duties. Since 2003, it is possible for international businesses to establish offshore entities within JAFZA benefitting from unrestricted repatriation of capital and profits. The free zone authority issues licences for trading, service and manufacturing activities within the confines of the free zone area.

There are 54 companies in JAFZA listed under the “Tobacco and Cigarettes” category. One of these, Concord Tobacco International FZE, has a long association with counterfeit cigarette production and is linked to facilities in Afghanistan and Iraq. Concord Tobacco was raided by Dubai State Security and Dubai Customs in May 2008 and two full containers of counterfeit cigarettes were seized in addition to large amounts of counterfeit packaging, loose sticks and other non-tobacco materials.

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25 In 2002 there were approximately 3,000 Free Zones spanning 116 countries.
27 WCO Guidelines on Controlling Free Zones in Relation to IPR Infringements Para 3 (January 12, 2005).
Case Study: Russia – Procedures Needed for Obligatory Destruction of Equipment or Machinery used for Counterfeiting

In Russia, despite the provision for destruction of equipment (including machinery) in Chapter 4 of the Russian Civil Code, equipment or machinery used to produce counterfeit cigarettes and seized in raids of counterfeit production factories is often not destroyed. This is because the Russian Criminal Procedure Code does not define the destruction process clearly.

In most cases, courts limit their decisions to the seizure of equipment and do not order its destruction. Similarly, when a criminal case is initiated and later suspended, there is no clear direction to judges as to what should be done with material evidence, machinery and counterfeit products. Right holders, although not prohibited from participating in the destruction process, are not formally required to do so. Nor do right holders receive any official notification of destruction. Russian law does not determine who, in cases where no natural or legal person is identified as the infringer, should bear the costs of destruction, which can be significant in the case of high-tech machinery used for the production of counterfeit products. As a result of the lack of clear procedural provisions regarding destructions, seized equipment or machinery could easily re-enter circulation and be used in future counterfeiting operations.

This problem could be remedied through the introduction of clear provisions in the Criminal Procedure Code that:

1. dictate that courts must order the destruction of equipment and machinery shown to have been used or been intended for use to produce counterfeits;
2. provide courts with the authority and obligation to order the destruction of material evidence in situations where a criminal case is suspended and the material evidence is shown to be counterfeit or, in the case of equipment and machinery, it is shown to have been used to manufacture counterfeit goods;
3. provide for a procedure for the destruction of equipment or machinery used for counterfeiting;
4. provide for the participation of right holders in the destruction process;
5. provide for formal written notification to right holders of destructions; and
6. dictate who should bear the costs associated with destruction where there is no legal or natural person identified as the infringer.

The seizure and destruction of materials and equipment used to manufacture counterfeit cigarettes are critical components of legislation and an effective means to combat illicit trade.
5.2.4 Inadequate Legislation and Sanctions

In many countries, enforcement agencies have insufficient legal powers to enable them to operate effectively as illicit trade of tobacco products is considered a relatively minor offence. This attracts crime syndicates who see cigarette smuggling as a high profit, low risk activity which incurs lighter penalties than criminal activities like drug trafficking, human trafficking and arms smuggling.

The following statement by a (former) smuggler in the 2008 Report ‘Tobacco and Terror’ by the staff of the House Committee on Homeland Security illustrates the limited deterrence effect of the law (still in place) in the US: “Tobacco smugglers’ only fear is losing a load of cigarettes. We do not fear law enforcement. They will pull us over, seize the load, and maybe we get arrested, but most likely we do not. The worst case scenario, we go to jail for a couple of months before returning to smuggling again. Think about it. A small fish like me can make $50,000 a month working only a few hours each week. The big fish make hundreds of thousands a week, most of which goes to the Middle East in cash or trade transactions.”

Countries without strong deterrent penalties preferably including the power to confiscate the proceeds of crime automatically put themselves in a weak position to tackle the illicit trade in tobacco products.

In addition, as the case study on the previous page illustrates, the destruction of seized goods and equipment used in the manufacturing of illicit tobacco products should be mandatory. In some countries, goods and equipment are auctioned off with the result that they find their way straight back onto the illicit market.

5.2.5 Public Tolerance

Consumer demand drives the illicit trade. Consumers are generally aware that they are purchasing smuggled or counterfeit goods but still decide to do so to save money. At the same time, the general public is often unaware of the implications of illicit tobacco trade and perceive it as a victimless crime. In a study of smokers in socially deprived areas in the UK, Wiltshire et al. found that, far from being ashamed of such behavior, they saw it as a way of challenging a perceived injustice. They note that: “Nearly all respondents expressed dissatisfaction with the price of legal tobacco products. It was thought to be unjust and directed against people on low incomes.”

A recent study by the NGO Action on Smoking and Health (ASH) reports similar findings: “Measures that are perceived by the public as unreasonable have potential to increase tolerance of illicit trade.”

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30 The Illicit Tobacco Trade: Monitoring and Mitigating Risk in New Zealand, ASH Action on Smoking and Health, p.3 (June 2010).
6. How to Combat the Problem

A comprehensive government approach to combating the illicit trade in tobacco products requires first and foremost a strong political will to address the multi-faceted aspects of the problem. This should ensure adequate financial resources are made available, targets are set and regular progress reports to evaluate success (or not) are presented.

In this chapter we list the main elements a comprehensive approach needs to assess and, where required, amend or implement.

### Summary of Key Features of a Comprehensive Strategy to Fight the Illicit Tobacco Trade

- Understand and monitor the size and nature of the problem.
- Evaluation of the main facilitators, including manufacturing and export controls, free zones and transit operations, etc.
- A balanced tax policy and effective tax collection.
- Analyze existing legislation and regulations to ensure they work, the penalties are adequate and act as a deterrent.
- Ensure the judiciary is aware of the seriousness of the crime and the need to destroy illicit product and equipment in a timely manner.
- Develop an enforcement strategy comprising all relevant national agencies and ensure they possess adequate powers to act efficiently.
- Provide sufficient financial resources for adequate law enforcement capacity.
- Tackle demand by educating and informing the public about the implications of the illicit tobacco trade.
- Build and strengthen partnerships between national and international agencies.
- Cooperate with legitimate industry players to make best use of combined intelligence and resources.

### 6.1 Understanding the Size and Nature of the Illicit Trade

As a first step, governments and their law enforcement agencies need to understand the size and implications of the illicit trade in tobacco products, identify those involved and the links with illicit trade in other goods. There are several indicators of the presence and growth of illicit trade in tobacco products. These include:

- An unexplained drop in legal market sales – usually noticed first by the industry and trade;
- Disturbances in the flow of Government revenues;
- An increase in seizures of illegal product – either in frequency or quantities;
- The emergence of brands which do not display the correct markings or which are not legally distributed and sold in the country; and
- Changes in the results of anti-illicit trade surveys.

The results of solid and robust methodologies are usually instrumental in raising awareness of the authorities and the general public about the seriousness of the problem and can serve to influence the allocation of resources.

### 6.2 Evaluating the Main Facilitators of Illicit Trade

Please refer to Chapter 5, in particular 5.2.

### 6.3 A Balanced Tax Policy and Effective Tax Collection

As highlighted in 5.2.1, cigarette excise tax rates should primarily be set to optimize tax revenues over the long term. When setting tax rates, Governments need to take into account the level of economic development, the purchasing power of the consumer and the tax rates in neighboring countries. Experience shows that radical excise “shocks” are more likely to lead to the emergence or growth of illicit trade.

Countries use different methods to collect and control tobacco taxation revenues. Excise administrative systems are usually based on checking factory output, bonded warehouse and import volumes. This can be complemented by the use of fiscal markers (e.g. paper tax stamps or digital coding) affixed to each individual sales package. These markers can be used either as an additional audit mechanism or as a means of tax payment itself (i.e. they bear the actual tax payment for the product to which they are applied).

However even the most sophisticated paper tax stamp systems cannot protect fully a market against the threat of illicit products and have failed to protect excise revenue. Like cigarettes, paper tax stamps are subject to very high quality counterfeiting, often within weeks of appearing, to avoid easy detection. Paper stamps are also vulnerable to theft and re-use by smugglers.

With today’s technology a digital tax verification solution offers a far more secure approach to tax collection and auditing. It uses advanced unique
digital coding technology printed directly onto packs effectively replacing either a tax stamp or a fiscal marker. It is easily readable and can also serve as an authentication tool since the duplication of a genuine encrypted code is virtually impossible. Governments obtain real-time and secure information about the volume of cigarettes produced both in and for their country – thus offering full transparency on the amount of excise duties to be collected by each manufacturer and importer. Digital tax verification for tobacco products is fully in line with e-government and e-customs initiatives.

Digital tax verification is the way forward and, as the most cost effective system, it is accessible to both developed and emerging countries.\textsuperscript{31}

6.4 Effective Legislation and Regulations

To be effective, legislation needs to be clear, simple to administer and should provide law enforcement with sufficient authority to take action. Important legislative requirements include:

- Clear offences and appropriate penalties;
- The systematic destruction of all seized illicit tobacco products, raw materials, manufacturing equipment and components. In some countries legislation on the disposition of seized goods is non-existent, creating confusion and the inability to destroy them promptly;
- Means to recover tax revenue losses and costs for destruction of seized goods, for example through asset confiscation;
- Supply chain control (e.g. manufacturing licences, security markings); and
- Strong protection measures for brand owners against IPR violations.

To be in the best position to combat illicit trade, customs powers may need to be strengthened and clarified so that there is no ambiguity regarding jurisdiction.

It is very important that the destruction of confiscated goods occurs within a reasonable timeframe to ensure it cannot be misappropriated for recycling into the illicit trade.

It is not recommended in any circumstances that legislation allows government agencies to auction or otherwise sell any seized items which are directly related to the manufacture or sale of tobacco products including counterfeit and contraband cigarettes, manufacturing equipment, tobacco and non-tobacco raw materials.

As a fundamental principle, all regulatory measures aimed at reducing tobacco consumption should take into account their potential impact on illicit trade.

Authorities should ensure that any measures being developed to reduce the legal accessibility, visibility and availability of tobacco products to consumers are considered carefully by enforcement authorities before implementation so that no unintended impetus is given to illicit trade by:

- Impeding the ability of health and enforcement agencies to identify illicit products;
- Making it more difficult for government agencies to identify contraband or for consumers to distinguish between counterfeit and genuine products when making a purchase; and
- Helping those retailers who choose to deal in illicit products to mix them with genuine tobacco products.

6.5 A Functioning Judiciary

A large part of the ultimate success of any anti-illicit trade strategy depends on the judiciary and its capability to quickly deal with cases submitted by the enforcement bodies.

The interventions of enforcement authorities need to be based on adequate laws passed by national legislatures and supported by appropriate penalties which have to be made available to and used by courts to disrupt the activities of the criminals.

6.6 Enforcement

An effective targeted enforcement strategy is the cornerstone of any comprehensive anti-illicit trade strategy. Without it, all the other elements will be of little use. It is often the first step in the process as it is seen as the quickest solution to the problem. However, to be effective it does require considerable investment in skilled resources and tools.

6.6.1 Invest in Appropriate and Effective Resources

At country level, the main enforcement bodies are usually customs, border guards or specialized police units. Fully trained human resources are the key tool in the fight against illicit trade. They need to know the legal requirements for successful prosecutions and be able to use IT tools and analyze data sources. They should be kept up-to-date with intelligence and technical developments (e.g. counterfeit techniques, etc.). Leadership, management, appropriate remuneration and ethics training can help to counter a culture of corruption.

\textsuperscript{31} More information on digital tax verification can be found on www.ITICnet.org.
Effective enforcement also requires investment in technology solutions that address:

- The analysis of production, import and export traffic and trends, together with real-time risk assessment of movements of goods, real-time response operations and feedback/analysis of intervention results; and

- Supply chain security in terms of tracking and tracing products through the supply chain and authentication of products seized and verification of tax declared in comparison with production.

Other tools that have proved effective are sniffer dogs and scanning machines at transit points for international trade. Intelligence from all available sources and analysis of seizures can help identify changes of methods used by illicit traders.

6.6.2 Educate the Public

It is important that revenue and enforcement authorities engage with the public to inform them of their new strategic direction. The media, both nationally and locally, is an excellent tool to educate the population at large about the implications of the illicit tobacco products trade so that successful prosecutions receive maximum publicity. Examples of public awareness advertisements in the United Kingdom are shown below.

Government agencies and the industry need to educate consumers and the wider public about the impact of illicit trade, the involvement of criminal and terrorist organizations and the consequences of continued purchasing of illicit cigarettes.

Case Study: Investing in Enforcement in UK and Hungary

In March 2000, the UK implemented a multi-faceted strategy to combat the rapidly growing market of contraband tobacco products. It is under the control of Her Majesty’s Revenue and Customs (HMRC) and included the allocation of significant additional human resources and investments in technology. Since inception the UK authorities have broken up over 370 criminal gangs involved in the large-scale smuggling and supply of illicit cigarettes and have seized over 16 billion cigarettes and over 1,250 tonnes of hand rolling tobacco at UK seaports, airports and inland as well as en-route to the UK. The UK has successfully prosecuted over 2,000 people and issued over £35 million worth of confiscation orders. This comprehensive strategy, combined with a revised excise policy approach of yearly increases in line with inflation has led to a reduction over 8 years of the mid-point range of illicit cigarette market from 21% to a mid point of 11% (with a range from 5%–17%), and the illicit fine-cut market from 73% to 49%. However HMRC still estimates tax revenue loss up to £4 billion a year.32

Faced with soaring illicit trade due to its requirement to increase excise taxation rapidly on joining the EU, Hungary33 developed a comprehensive anti-contraband tobacco products strategy in 2004. The focus was on increasing its Customs & Finance Guard effectives to better control the border with Ukraine in particular, which was the main source of cheap cigarettes being smuggled into Hungary. Following the implementation of this extremely effective strategy the share of illicit market decreased from 25% in 2005 to 7% in 2008.


6.6.3 Examples of Comprehensive Enforcement Strategies

The catalyst for the adoption of a committed enforcement strategy is government awareness of a growing illicit tobacco products trade and its undesirable effects. Several countries and international agencies have developed comprehensive enforcement strategies to tackle it. In addition to the United Kingdom and Hungary, examples include the European Anti-fraud office (OLAF) and the Chinese tobacco monopoly (STMA).

A comprehensive enforcement strategy is crucial in tackling illicit trade, however, as a stand-alone element it cannot substitute required complementary elements outlined in sections 6.1 to 6.8.

6.7 International Cooperation

Because of its global nature and involvement of highly sophisticated international criminal networks with substantial resources, active international cooperation is essential to tackle the illicit trade in tobacco products and bring about successful investigation, arrest and prosecution of offenders.

Some international and regional organizations (e.g., WCO and OLAF) now have liaison resources sited in strategic locations across the world. Some Customs authorities (e.g., UK and USA) have similar Liaison Officer Networks that work with the local enforcement and revenue authorities and tobacco manufacturers to detect criminal activities.

Case Study: Jail Sentence for US Cigarette Smuggler

In the first case of its kind, a third country national has received a custodial sentence in the United States for fraud (tobacco smuggling) against the financial interests of the European Union and has been ordered to re-pay $1.5 million in restitution.

In the so-called “Miami” case, the Court in the Southern District of Florida has sentenced a US citizen to 2 years in jail and ordered him to re-pay a massive $1.5 million to the EU authorities for his part in smuggling millions of cigarettes onto the EU black market. Roman Vidal was handed the sentence after pleading guilty at an earlier hearing to charges relating to his part in defrauding European taxpayers of several million Euros in customs duties and taxes. The defendant had conspired with individuals in the EU to smuggle cigarettes misdescribed as other goods from the port of Miami into a number of EU countries including Germany, Ireland and the United Kingdom.

Following the sentencing, OLAF’s Acting Director General Mr. Nicholas Ilett said “This is another fantastic result in this large-scale, complex international investigation which has been coordinated by OLAF. As well as the USA, this investigation spanned nine EU Member States and several countries in Central and South America. 43 million cigarettes were seized in the EU and 11 arrests were made. We are particularly grateful for the excellent cooperation and support we have received from US Immigration and Customs Enforcement (ICE) and the US Department of Justice in respect to the American aspects of this case. Not only must Mr. Vidal spend the next 2 years in jail, he must also pay back his share of the illegal profits.”

Mr. Ilett added that he would also like to congratulate the Irish Revenue and Customs Service, German Customs, the Guardia Civil in Spain and Her Majesty’s Revenue and Customs UK which have all played a significant role in ensuring the successful outcome in this investigation and preventing further financial losses.

34 European Commission Press Release, OLAF/10/2, Brussels (8 February 2010).
Case Study: Successful Cooperation Between Law Enforcement and the Industry

On September 1st 2009, “W”, a criminal operating an international counterfeiting network from his base in Germany was sentenced to two years imprisonment (suspended for three years) and a fine of 200,000 EUR to be paid to the public treasury and charitable institutions. The defendant also paid EUR 2.5 million in damages to the trade mark owner, Philip Morris International (PMI). The former car dealer and business man headed an illegal operation responsible for counterfeiting millions of cigarettes. The criminal organization manufactured these cigarettes in China and North Korea and smuggled them into countries across Asia, Europe, the Middle East and Africa. Extensive cooperation between law enforcement authorities and the private sector was the key to success.

Illegal activities were unearthed when one of W's companies bought non-tobacco material similar to those used for Marlboro cigarettes. These goods were later transhipped to North Korea via China. Investigations later revealed that W's ostensibly legitimate companies were connected to a network operating in Dubai, United Arab Emirates.

W's company owned six cigarette trademarks registered in over 80 countries. W had factories in China and North Korea to produce not only his legitimate brands but also millions of counterfeit Marlboro cigarettes as well. During this period, there were numerous seizures in Europe and elsewhere of counterfeit cigarettes with the Marlboro trademark which forensic analysis found had shared identical technical specifications or “fingerprints.”

German and Swiss law enforcement authorities worked closely with the trademark owner. Thanks to the sharing of information, in particular the forensic analysis expertise provided by the trademark owner, samples of seized counterfeit Marlboro cigarettes were directly linked to W and his counterfeiting and smuggling activities from North Korea and China. As a consequence of this close cooperation, W and some of his accomplices were arrested, then taken into custody and subsequently charged with a number of criminal offences relating to these activities.

After in-depth investigations and a trial lasting for four and a half months, W was found guilty and convicted of counterfeiting crimes. Without the close cooperation between law enforcement authorities and the private sector, W may well have avoided prosecution and conviction.

6.8.2. EU Cooperation Agreements

The EU has in place legally binding and enforceable cooperation agreements with the four leading tobacco manufacturers (British American Tobacco, Imperial Tobacco, Japan Tobacco International and Philip Morris International) which supply 95% of the EU tobacco market. The Agreements include industry commitment to:

- Track and trace tobacco products;
- Implement a “know-your-customer” policy;
- Implement anti-money laundering provisions and transparent payment procedures; and
- Supply markets commensurate to local demand.

Additionally, the Agreements provide for clear processes in case of seizures and for close cooperation with OLAF and the law enforcement authorities of the EU Member States.
7. Article 15 of the WHO Framework Convention on Tobacco Control

7.1 Background

The WHO Framework Convention on Tobacco Control (FCTC) was adopted by the World Health Assembly in May 2003 and entered into force on 27 February 2005. Article 15.1 of the WHO FCTC states:

“The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control.”

FCTC Article 15 contains 7 clauses which are currently legally binding on over 170 government Parties. In July 2007, the Conference of the Parties (COP) which is the governing body of the FCTC, decided to establish an Intergovernmental Negotiating Body (INB) open to all Parties to the FCTC to negotiate a Protocol on the illicit trade in tobacco products. The purpose of the Protocol is to create more detailed binding obligations for Parties aimed at curbing the illicit trade in tobacco products by building upon and complementing the existing legal obligations outlined in FCTC Article 15.

Once the Protocol is adopted by the COP, it is open for signature, ratification and/or accession by the Parties. It will enter into force as international law once 40 Parties have ratified it. As a multi-lateral treaty, it will be binding on Parties only once it is enabled into national law.

The three main elements of the Protocol: supply chain security, offences and enforcement and international cooperation are detailed below.

7.2. Supply Chain Security

The Protocol is designed to reduce illicit trade in tobacco products by securing the legitimate supply chain. This requires participants in the supply chain to take measures to prevent diversion of tobacco products and machinery into illicit trade channels. These measures are intended to promote responsible business conduct that must apply equally to all participants regardless of size.

If the global tobacco supply chain can be secured, then it should become easier for enforcement authorities to detect both the point where products are diverted to the illicit market and the criminals who trade in them.

7.2.1 Tracking and Tracing

Article 7 aims to establish a tracking and tracing regime to help to combat the diversion of genuine product as an integral part of efforts to fight illicit trade. Tracking is the ability to monitor the forward movement of finished goods through the supply chain and tracing is the ability to recreate that movement up to a certain point in the supply chain to help determine where the product was diverted into illegal channels.

The ability to exchange and manage data consistently on a global basis to international standards is vital. This point is highlighted in the WHO FCTC Expert Report on Tracking and Tracing of 22 February 2010 entitled “Analysis of the available technology for unique markings in view of the global track-and-trace regime proposed in the negotiating text for a protocol to eliminate illicit trade in tobacco products.” The report has an assessment of the current systems and approaches available to meeting the tracking & tracing requirements of the Protocol. Major points made in the report are:

- The need for aggregation of packaging is fundamental (i.e. linking pallets to master cases to cartons). It is vital that implementation starts from the top down, (i.e. from pallet or master case). It is not feasible to jump straight to pack level tracking and tracing without addressing first the intermediate levels; and

- The most sophisticated ‘paper stamp’ based solutions available globally do not meet the proposed requirement for tracking and tracing. They do not support global data or data transfer standards nor do they support aggregation of packaging or track events along the supply chain. In short, these ‘paper stamp’ systems cannot meet the tracking & tracing requirements of the Protocol.

25 A typical master case contains 50 cartons of 200 cigarettes equal to 10,000 cigarettes.
7.2.2 Customer Identification

Key participants in the supply chain must conduct due diligence with respect to customers (“first purchasers”), including:

- Verification of their legitimacy to trade in or purchase tobacco products;
- Determining whether transactions are commensurate with demand;
- Reporting suspicious transactions; and
- Terminating business relationships when laws have been broken.

7.2.3 Record Keeping

Key participants in the supply chain would be required to maintain complete and accurate records of all relevant transactions for five years and to make records available to relevant authorities. Records should be shared between Parties to the Protocol.

7.2.4 Licensing or Equivalent Approval Systems

When accompanied by effective enforcement and deterrent penalties, the system would help ensure that only legitimate and law-abiding businesses are engaged in the manufacture, import and export of tobacco products and manufacturing equipment.

7.2.5 Free Zones

To reduce illicit trade, free zones need to be subject to the provisions of the Protocol (licensing, tax warehousing, record-keeping, tracking and tracing).

7.2.6 Destruction

The destruction of confiscated manufacturing equipment, tobacco, non-tobacco materials and illicit tobacco products is essential to prevent these items from finding their way back into the illicit trade or being used to produce additional illicit products.

7.3 Offences and Enforcement

This part of the Protocol provides for the legislative and enforcement aspects of dealing with the illicit trade problem. It outlines guidance for governments in terms of measures to deal with unlawful conduct including prosecutions and sanctions for criminal activity as well as liability. It covers search of premises and seizure of evidence, confiscation of assets, seizure payments, destruction of seized products and investigative techniques.

7.4 International Cooperation

The Protocol provides for all Parties to cooperate with each other and with competent international organizations, as mutually agreed, in sharing a wide range of enforcement information and best practices and to cooperate, with each other and/or through competent international and regional organizations in providing training, technical assistance and cooperation in scientific, technical and technological matters.

7.5 Conclusions

The Protocol can assist all stakeholders by creating a platform for an international legislative framework for governments to address illicit trade. However, rigorous enforcement is needed as legislation alone cannot eliminate illicit trade. In addition, international coordination and cooperation with the private sector are fundamental to effectively tackling illicit trade.

There will be a lengthy period of transition as the Protocol is implemented by national governments. It will be important for authorities to use this time to prepare both their local tobacco industries and their enforcement resources for the Protocol and to introduce it as much as possible into national legislation as quickly as they can. The Protocol cannot be completely effective until all Parties have implemented it across all participants in the supply chain.

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**International Track and Trace Standards**

British American Tobacco, Imperial Tobacco, Japan Tobacco International and Philip Morris International have worked together to establish industry standards which meet the requirements of international standards for tracking and tracing. The industry standards comprise:

- ‘Open’ coding standard – all information reported is in a standard format regardless of the manufacturer. The open standard is compliant with international coding standards;
- Reporting standard – all reports come in the same format and content regardless of the manufacturer enabling customs officials to use the same methodology to read the codes whichever the manufacturer of the brand is; and
- Standard report source – government officials can have one point of contact for report requests.

These standards enable all manufacturers, large or small, to adopt a solution that is fit for purpose according to their unique systems, processes and resources. Information collected by these tracking and tracing systems includes sensitive and confidential data and it remains critical that manufacturers can comply with the legislation covering data privacy and data protection.
Glossary of Terms

Approval: authorities usually require a warehouse to be approved for the storage of tax suspended goods and for specific operations on those goods. The warehouse keeper and owners of goods in a tax warehouse may also require approval.

Barcode: a way to represent information that can be read electronically. Barcodes are subject to international standards.

Cigarette packaging: a pack usually contains 20 cigarettes; a carton usually holds 10 packs or 200 cigarettes; and a master case generally holds 50 cartons or 10,000 cigarettes.

Confiscation Order: A confiscation order is made after conviction to deprive the defendant of the benefit that he has obtained from crime.

Digital tax verification: uses advanced digital coding technology printed directly onto packs effectively replacing either a tax stamp or a fiscal marker.

Due Diligence: conducting a reasonable, state-of-the-art investigation before the start of, or during the course of, a business relationship for the purpose of ascertaining whether a business partner or prospective business partner is complying with or can reasonably be expected to comply with his or her legal obligations.

Fiscal Marker: a marker that indicates tax has been paid but which has no tax value.

Free Zone: a specially designated area in which goods are treated as being outside the Customs territory of a country. This means that import duty and taxes are not due to be paid unless the goods are sold domestically within the country. Such zones are also known as Free Trade Zones, Export processing zones, Foreign Trade Zones or Duty Free Zones. Free Zones normally need to be designated as such by the Customs Administration which applies and monitors the application of conditions applying to operators within the Free Zone.

Guarantee: an undertaking given by the guarantor to pay a sum of money up to the level of the guarantee required by the authority. This usually includes an automatic restitution facility.

HRT: Hand-rolling tobacco.

Manufacturing equipment: cigarette makers, cigarette packers, cigarette filter-making and filter-combining machines, and other machines which are used for the purpose of producing tobacco products. In this context it includes all reconditioned equipment, spare-parts and constituent parts.

Protocol: “A protocol, in the context of treaty law and practice, has the same legal characteristics as a treaty. The term protocol is often used to describe agreements of a less formal nature than those entitled treaty or convention. Generally, a protocol amends, supplements or clarifies a multi-lateral treaty. A protocol is normally open to participation by the parties to the parent agreement. However, in recent times States have negotiated a number of protocols that do not follow this principle. The advantage of a protocol is that, while it is linked to the parent agreement, it can focus on a specific aspect of that agreement in greater detail.”

Security: when goods are stored or travel in tax/duty suspension, the tax due is normally covered by a guarantee or bond. Security is provided by a premises guarantee and/or a movement guarantee.

Tax Stamps: A tax stamp is similar to a postage stamp and is fixed to a cigarette pack on manufacture. Another form of tax stamp is a long band or strap that is fixed over the pack opening.

Tax / Bonded Warehouse: A warehouse authorized for the deposit of goods without payment of tax or duty.

Tracing: re-creating the route already taken by products through the supply chain.

Tracking: monitoring the route being taken by products through the supply chain.

Transit: a Customs facility available to operators to enable goods to cross a country or territory without paying Customs duties normally due when goods enter that country or territory.

36 UN Legal Affairs Treaty Office.
Interesting Links

1. International Economic Organizations
   1.1 Organization for Economic Cooperation and Development (OECD) – www.oecd.org
   1.3 International Monetary Fund (IMF) – www.imf.org
   1.4 World Intellectual Property Organization (WIPO) – www.wipo.int
   1.5 World Trade Organization (WTO) – www.wto.org
   1.6 World Economic Forum (WEF) – www.weforum.org

2. Customs/Enforcement-Driven Organizations
   2.1 World Customs Organization (WCO) – www.wcoomd.org
   2.2 European Anti-Fraud Office (OLAF) – ec.europa.eu/dgs/olaf
   2.3 Interpol – www.interpol.int
   2.4 Her Majesty’s Revenue & Customs (HMRC) – www.hmrc.gov.uk/
   2.5 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) – www.atf.gov/

3. International Health Organizations
   3.1 World Health Organization (WHO) – www.who.int

4. Academic and Investigative Journalism Organizations
   4.1 Terrorism, Transnational Crime and Corruption Center (TraCCC) – http://policy-traccc.gmu.edu/
   4.2 The Center for Public Integrity (CPI) – www.publicintegrity.org/investigations/tobacco/

5. Business Organizations
   5.1 Business Action to Stop Counterfeiting and Piracy (BASCAP) – www.bascap.com
   5.2 International Trademark Association (INTA) – www.inta.org

6. Non-Governmental Organizations (NGOs)
   6.1 Framework Convention Alliance (FCA) – www.fctc.org
   6.2 International Tax and Investment Center (ITIC) – www.ITICnet.org
For more information, please visit ITIC’s website: www.ITICnet.org