

## References

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## DEFINITIONS

**“Illicit trade”** means 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.

**“Smuggling”** is one type of illicit trade and refers to products illegally traded across borders, the illegal crossing of borders between jurisdictions being a key characteristic.

**“Illicit manufacturing”** is another type of illicit trade and refers to the production of tobacco products contrary to law. One form of illegal manufacturing is counterfeit tobacco production, in which the manufactured products bear a trademark without the consent of the owner of the trademark.

**“Illicit whites”** is a tobacco industry term for a new type of illicit trade for which there is no internationally agreed definition. Generally speaking, it refers to brands manufactured legitimately in one market, either taxed for local consumption or untaxed for export, and sold knowingly to traders who transport them to another country where the products are sold illegally without domestic duty paid.

**World Health Organization  
Regional Office for Europe**  
UN City, Marmorvej 51, DK-2100 Copenhagen Ø, Denmark  
Tel.: +45 45 33 70 00 Fax: +45 33 70 01 Email: [contact@euro.who.int](mailto:contact@euro.who.int)  
Website: [www.euro.who.int/NoTobacco](http://www.euro.who.int/NoTobacco)

WORLD NO  
TOBACCO DAY

31 MAY

#NoTobacco

**BEWARE!**  
**ILLEGAL TOBACCO**

**Eliminate illicit trade  
in tobacco products**



*Illegal tobacco lets the tobacco industry avoid regulation, target children and support organized crime. Apply the Protocol to Eliminate Illicit Trade in Tobacco Products!*  
[who.int/world-no-tobacco-day](http://who.int/world-no-tobacco-day)

 **World Health Organization**

 **FCTC 10**  
years  
2005-2015  
WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL

# BEWARE!

## ILLEGAL TOBACCO

Every year on 31 May, WHO and its partners mark World No Tobacco Day, highlighting the health risks associated with tobacco use and advocating effective policies to reduce tobacco consumption. Tobacco-related mortality is a global health issue. In the European Region alone, tobacco kills 1.6 million people each year.

For World No Tobacco Day 2015, WHO is calling on countries to work together to end the illicit trade in tobacco products. Stopping this trade is a health priority; the goal is achievable but would need international collaboration, such as on the Protocol to Eliminate the Illicit Trade in Tobacco Products.

### Stopping illicit trade: a health priority

Illicit trade makes tobacco products more affordable and accessible to low-income groups and children, increasing health inequalities within society. Tax and pricing policies are widely recognized to be among the most effective means of influencing the demand for and thus the consumption of tobacco products.<sup>1</sup>

Illicit trade undermines the effectiveness of tobacco control policies and results in less revenue for governments, cheaper prices for smokers and increased tobacco use. Eliminating or reducing the illicit cigarette trade will reduce consumption (by increasing prices), save lives and increase revenue.

The WHO European Region would benefit greatly from such policies: tobacco kills 1.6 million people in the Region each year. It also has the highest adult smoking prevalence at 28% and the highest proportion of deaths attributed to tobacco, at 16%, of all WHO regions.

### European Region has highest tax measures and cigarette seizures

The European Region has, however, taken stronger action than all other WHO regions regarding tax measures. In 2012, 47% of countries in the Region had tax shares representing more than 75% of the retail price of the most popular brand of cigarettes (Table 1).

The European Region is also the region where the greatest number of cigarette seizures take

place, by some margin. The World Customs Organization collects data on cigarette seizures around the world. Although the information from several countries is missing, the importance of the cigarette seizures in Europe is overwhelming compared to other regions. In 2012, 1.952 million cigarettes were seized in Europe; this equates to 95% of all seized cigarettes globally (63% of counterfeit cigarettes, 99% of cheap white cigarettes and 96% of regular brand cigarettes are seized in Europe).<sup>2</sup>

### Eliminating illicit trade: saving 38 000 lives a year in the Region

The availability of cheap, illicit cigarettes increases consumption and causes future tobacco-related deaths. Eliminating or reducing this illicit trade will reduce consumption by increasing prices, thereby reducing premature deaths. The illicit cigarette market in the European Region is estimated to make up between 6% and 10% of the total market. Using a figure of 8% as a guideline estimate, elimination of illicit trade would lead to an overall fall in European cigarette consumption of 1.9%; this would result in a 1.9% reduction in tobacco-related deaths twenty years hence. If it is assumed that there will be around 2 million tobacco-related deaths in Europe in 2035 on the basis of current trends, a 1.9% decline of consumption would save over 38 000 lives a year in Europe from 2035 onwards.<sup>3</sup>

### Potential €9–11 billion gains for government

The government revenue losses resulting from illicit trade in the European Union, the Russian Federation and Turkey are estimated at €12 billion for 2011–12. Total losses in the WHO European Region will be even higher but are difficult to calculate in the absence of reliable data. If illicit trade were eliminated in Europe, governments would gain significant additional revenue.

Losses from illicit trade are not the same as financial gains for governments, as it must be taken into account that eliminating the illicit market would increase the overall price of cigarettes and thus cause a fall in consumption. Gains in revenue for the whole European Region can be estimated at around €9–11 billion, taking into account this fall in consumption.<sup>4</sup>

### Level of illicit trade influenced by many factors

The tobacco industry has claimed that high taxes drive smuggling and has sometimes argued successfully to governments that they should not increase tobacco taxes because this will increase

the level of smuggling. In fact, the overall level of smuggling is generally higher in countries that have lower cigarette prices (these are generally also countries with a lower tax rate) than in countries with high prices. Although a high tax margin may provide the initial incentive to smuggle, the data show that it is not the only factor. Other important factors include the ease and cost of operating in a country, industry participation, the level of organization of crime networks, the likelihood of being caught, the punishment if caught, corruption levels and so on.<sup>5</sup>

Independent data from the United Kingdom show that it is possible to reduce illicit trade despite an increase in taxes. In the period 2000–2012, cigarette prices in the United Kingdom almost doubled, while illicit trade decreased from 21% to 9% during the same period.<sup>6</sup> The strategy used included a wide range of measures designed to curb illicit trade such as the deployment of additional customs officers, additional specialist investigators and intelligence staff; additional X-ray scanners; tougher sanctions and penalties; public awareness campaigns; supply chain legislation; confiscation of proceeds; and international cooperation through overseas intelligence officers.<sup>7</sup>

In addition, data from Spain show that combating illicit trade can be a good investment. From 1993–1996 to 1996–2000 the resources Spain invested in combating cigarette smuggling rose from €4 million to almost €40 million. Over this period the market share of smuggled cigarettes decreased from 16% to 2% and cigarette tax revenue rose from €2300 million to €5200 million.<sup>8</sup> An investment of €44 million thus led to an increase in revenue of almost €3000 million.

### Tobacco industry: part of the problem

"The tobacco industry is complicit in illicit trade. Smuggling is one of its business strategies," said WHO Director-General Margaret Chan in a speech to the 16th World Conference on Tobacco or Health in March 2015. Publicly, tobacco companies express their concern about illicit trade and underline their commitment to partner with authorities worldwide in the fight against tobacco smuggling. In reality, they want to ensure that illicit trade intelligence remains under their control so that such data can be used to undermine tobacco control activities.

It is established practice for the tobacco industry to use illicit trade as the main argument against higher taxes or the imposition of strict product

regulation policies. For instance, tobacco companies have recently claimed that plain packaging would result in more illicit trade because copying and counterfeiting would be easier. The evidence so far from Australia shows no increase in counterfeit trade as a result of the introduction of plain packaging in 2012<sup>9</sup> and demonstrates that the proportion of illicit and unbranded tobacco smokers remained very low (0.2% users among cigarette smokers in 2014).<sup>10</sup> In addition, Australian Customs and Border Protection reported reductions in several illicit cigarette trade indicators from 2013 to 2014: level of tobacco seized (down from 183 to 178 tonnes) and number of cigarettes seized (down from 200 million to 147 million sticks).<sup>11</sup>

The tobacco companies' concern about illicit trade is remarkable, since it comes from an industry with a long history of involvement in smuggling operations. Since 2004, the four major international tobacco companies have paid billions of dollars in fines and payments to settle cigarette smuggling litigation in Europe and Canada.<sup>12</sup>

The tobacco industry is part of the problem, not the solution. Like the WHO Framework Convention on Tobacco Control (WHO FCTC), the Protocol to Eliminate the Illicit Trade in Tobacco Products reminds Parties that the implementation of the obligations of the Protocol requires transparency with respect to any interactions they have with the tobacco industry.

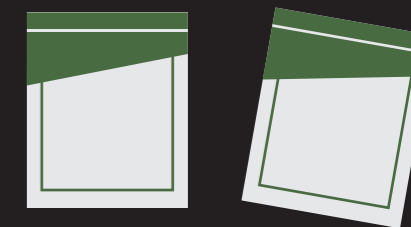
### Next steps

A coordinated set of interventions – including international collaborations, strengthened tax administration, increased enforcement and swift, severe penalties – is necessary to reduce illicit trade.<sup>18</sup> The global scope and multifaceted nature of the illicit tobacco trade require a coordinated international response and improved global regulation of the legal tobacco trade.

Parties to the WHO FCTC should be encouraged to ratify the Protocol to Eliminate the Illicit Trade in Tobacco Products. The Protocol has three parts: measures to control the supply chain, improve law enforcement and enhance international cooperation. It has been negotiated as a supplementary treaty to the WHO FCTC. The Protocol, adopted in November 2012, will enter into force on the 90th day following the 40th ratification of the Protocol. So far, 54 Parties to the WHO FCTC have signed and seven countries – including Austria, Spain and Turkmenistan from the European Region – have ratified the Protocol.

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Several reports indicate possible links between the tobacco companies and illicit trade.

- In 2008 the big international tobacco companies manufactured and imported nearly 130 billion cigarettes into Ukraine, 30% in excess of what the local market can consume. These "extra" cigarettes disappear in Ukraine and fuel the black market in the rest of Europe.<sup>13</sup>
- Tobacco companies have been accused of continued complicity in cigarette smuggling to and through Bulgaria between 2000 and 2010.<sup>14</sup>
- Philip Morris International data for 2011 indicate that a fifth of all illicit cigarettes in the European Union are the firm's own genuine brands.<sup>15</sup>
- In 2014 British American Tobacco was fined £650 000 by United Kingdom tax authorities for oversupplying its products to Belgium.<sup>16</sup>
- Japan Tobacco International is accused of smuggling activities in the Middle East and is under official investigation by the European Anti-Fraud Office, OLAF.<sup>17</sup>

**Table 1. Countries with tax shares representing more than 75% of the retail price of the most popular brand of cigarettes 2012.**

WHO region	Countries	
	Number	Proportion (%)
European	25	47
Eastern Mediterranean	3	13
Americas	2	6
Western Pacific	1	4
African	1	2
South-East Asia	0	0