



ENSP FACT SHEET

On illicit trade
in tobacco products

Definition

Illicit tobacco trade refers to any practice related to distributing, selling, or buying tobacco products that is prohibited by law, including tax evasion (sale of tobacco products without payment of applicable taxes), counterfeiting, disguising the origin of products, and smuggling. [1]

Illicit activities are undertaken not only by the illicit players, but also by players considered as legitimate (e.g. industry misconduct that resulted in settlements: PMI 2004, JTI 2007, ITL and BAT 2010).

Consequences of illicit tobacco trade

1. Cigarette smuggling and other forms of illicit trade in tobacco products cause an estimated EUR 10 billion loss to the EU and national budgets every year [2]

2. Any tobacco kills: legal or illegal [3]

3. Illegal tobacco undermines the effect of tobacco excise tax increasing affordability and attractiveness of tobacco (illicit tobacco is often 50% cheaper than legal product) [3]

4. Uncontrolled illicit trade allows tobacco industry misinform and manipulate the public with false claims of the raise in illegal trade due to increased tobacco tax [4].

5. Illicit trade targets vulnerable groups like youth and poor. As a result, it greatly contributes to even larger health and socio-economic inequalities.

This list can be continued with other negative outcomes: illicit tobacco trade **supports organised crime, destroys fair trade, and inflicts environmental damage.**

Governments' incentive to fight illicit tobacco trade

Among the key arguments to combat illicit tobacco trade are potential tax revenue gain, public health gains due to lower tobacco use, and overall improved governance.

References

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3. World Bank <http://pubdocs.worldbank.org/en/377251548869371433/WBG-Tobacco-IllicitTrade-ExecutiveSummary-web-FINAL.pdf>
4. <https://tobaccoplaybook.net/en/005-illicit-trade.html>
5. WHO Framework Convention on Tobacco Control, Protocol to eliminate illicit trade in tobacco products
6. <https://www.who.int/fctc/protocol/mop/en/>
7. Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulation and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC
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How to eliminate illicit tobacco trade

Control of the entire supply chain and enforcement of tobacco regulations should go hand in hand to reduce both tax evasion and tobacco consumption in general. To that end, governments should draw on Guidelines for implementing the WHO Framework Convention on Tobacco Control (FCTC) as well as on the WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products (5).

WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products entered into force in September 2018, and the 1st Meeting of its parties was held in October 2018 (MOP1). MOP1 was the 1st step towards the creation of a monitoring system to track and trace the movement of tobacco products globally (6).

EU, WHO and WCO recognise track and trace as a key tool to effectively control the supply chain and prevent illicit trade

Track and trace or tracking and tracing (T&T), is a process of determining the current and past locations, the time and status and other information of a unique item. In short, a track and trace system can in real time monitor production, movement and trade and determine the history of tobacco products that are properly marked by a secure and unique identifier.

Track and trace systems of tobacco products become obligatory in the EU by 20 May 2019 due to the implementation of Art. 15 and 16 of the Tobacco Products Directive (2014/40/EU). (7)

They are also due for implementation globally based on Art. 8 of the WHO FCTC Illicit Trade Protocol.

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Due to its unique ability to monitor production and movements of tobacco goods, T&T systems can help Member States fight illicit trade, increase tax collections and create better fair-trade conditions for compliant producers, importers and traders. Finally and most importantly, they save thousands of lives and provide a better protection of the health of EU citizens and of the environment. In short, a track and trace system can in real time monitor production, movement and trade and determine the history of tobacco products that are properly marked by a secure and unique identifier.

The European Commission adopted appropriate implementing and delegated acts to lay down the technical details necessary for the systems of traceability and security features for tobacco products to become fully operational. These acts were adopted on 15 December 2017 and published on 16 April 2018:

- The Implementing Regulation on technical standards for the establishment and operation of a traceability system for tobacco products
- The Delegated Regulation (EU) 2018/573 on key elements of data storage contracts to be concluded as part of a traceability system for tobacco products
- The Implementing Decision on technical standards for security features applied to tobacco products (8).

Next Steps for the EU Member States

EU countries and economic operators have to establish the two systems of traceability and security features. These should be in place **by 20 May 2019** for cigarettes and roll-your-own tobacco and **by 24 May 2024**, for all other tobacco products (such as cigars, cigarillos and smokeless tobacco products), (9).