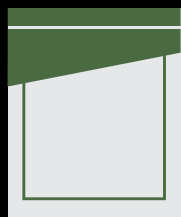
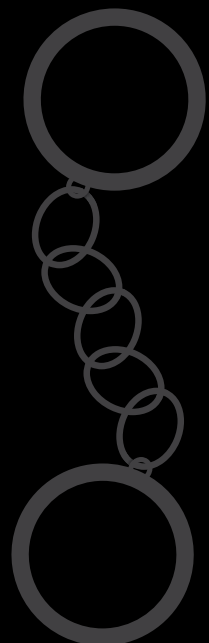
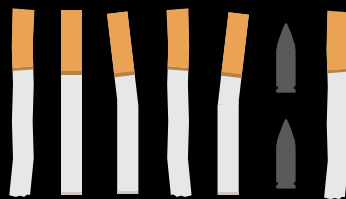
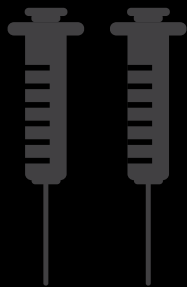
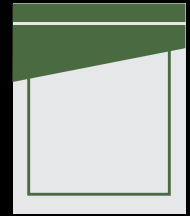
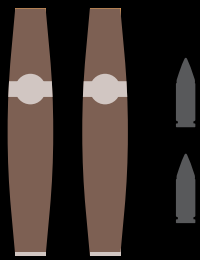


ILLEGAL TRADE OF TOBACCO PRODUCTS

WHAT YOU SHOULD KNOW TO STOP IT



World Health Organization



FCTC 10

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

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A stylized illustration of a person wearing a dark trench coat and a wide-brimmed hat, walking towards the right. The person's face is partially obscured by the hat. The background is a light gray gradient.

**Stopping
illicit trade
of tobacco
products is
a health priority,
as well as a major
economic and
security contribution.**

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INTRODUCTION

The illicit trade of tobacco products poses major health, economic and security concerns around the world. It is estimated that one in every 10 cigarettes and tobacco products consumed globally is illicit.

It is for this reason that combatting the illegal tobacco trade is the theme of the World Health Organization's (WHO) annual World No Tobacco Day (WNTD) in 2015. A key objective of the campaign will be to advocate for the ratification and implementation by governments of the Protocol to Eliminate the Illicit Trade in Tobacco Products (ITP), which is a supplementary treaty to the WHO Framework Convention on Tobacco Control (WHO FCTC).

The Convention Secretariat of the WHO FCTC has joined the WNTD campaign with the aim of supporting implementation of Article 15 of the WHO FCTC to "take measures to eliminate the illicit trade of tobacco products, including smuggling, illicit manufacturing and counterfeiting," and promoting the entry into force of the ITP. So far seven parties to the WHO FCTC have ratified the ITP, and 33 more are needed for it to become international law.



The overall objective of World No Tobacco Day is for WHO and its partners to highlight the health risks associated with tobacco use and advocate for effective policies to reduce tobacco consumption. The tobacco epidemic is one of the world's biggest-ever public health threats, killing nearly six million people annually.

The illicit tobacco trade is supported by various players ranging from petty peddlers to organized criminal networks involved in arms and human trafficking. The tobacco industry also covertly and overtly supports the illegal trade, from providing products to the market to working to block implementation of comprehensive tobacco-control measures by trying to convince governments to believe that any further legislative measures, such as pictorial health warnings or tax increases, will lead to more illicit trade.

Stopping illicit trade in tobacco products is a health priority, and it is achievable. But to do so requires improvement of national and sub-national tax administration systems and international collaboration, such as ratification and implementation of the ITP.

A HEALTH PRIORITY

First: Illicit trade makes tobacco products more affordable and accessible to people from low-income groups, as well as children. Illicit tobacco products are typically sold at lower prices, thereby increasing consumption. Tax and price policies are widely recognized as among the most effective means of reducing demand for, and consumption of, tobacco products. But the illicit trade undermines tax policies, facilitates the uptake of tobacco use by youth and increases health inequalities within the society.

Secondly, illicit trade means less revenue for governments. Reduced revenues lessen the ability of governments to provide good governance. It also reduces resource allocation for socioeconomic development, especially in low-income countries that largely depend on consumption taxes. Illicit trade siphons tax revenues away from governments; these revenues could otherwise be spent on the provision of public services, including healthcare.

Thirdly, illicit tobacco products are not subject to legal restrictions and effective health regulations aimed at curbing tobacco use, such as pictorial warnings or banning sales to minors.

Finally, the illicit tobacco trade sponsors criminals and funds organized crime. These include drugs, human and arms trafficking, and armed insurgent groups with a possible impact on the general level of corruption and security.

Illicit trade in tobacco products is therefore not just an economic issue, but also an important health and security priority.

THE TARGET OF SMUGGLERS

Smugglers target not only low-income groups, but also youth. Research in the Iranian capital, Tehran, and in southern Thailand has shown that youth are more likely than older people to smoke smuggled cigarettes.^{[1],[2]}

Heavy smokers are another target for tobacco smugglers. Research in 16 countries has indicated that on the whole, heavier and more addicted smokers are more likely to engage in tax avoidance and evasion, while smokers who intend to quit are less likely to do so.^[3]

MORE COMMON IN LOW- AND MIDDLE-INCOME COUNTRIES

One in every 10 cigarettes might be illicit. The World Customs Organization recently noted a significant increase in the seized quantity of chewing tobacco from 8 tons in 2012 to 38 tons in 2013. During the same period, the seized quantity of water pipe tobacco rose from 69 tons in 2012 to 75 tons in 2013.^[4]

The global trade in illicit tobacco products occurs in low tax jurisdictions as well as high. It results from a lack of control on cigarette manufacturing and the movement of cigarettes and other tobacco products across international borders. Also, it is run by criminal organizations with sophisticated systems for distributing smuggled tobacco products. Illicit trade is more common in low-income countries than in high.^[5]

RELATION BETWEEN LEGAL PRICE AND ILLICIT TRADE IN 2007

World Bank Income Group	Average legal price of a pack of cigarettes in US \$	Average percentage of illicit cigarette market
Low-income	1.13	16.8
Middle-income	1.89	11.8
High-income	4.89	9.8

ELIMINATING ILLICIT TRADE IS A WIN-WIN SITUATION

Eliminating or reducing the illicit trade in tobacco products will reduce tobacco consumption by restricting availability of cheap, unregulated alternatives and increasing overall tobacco prices. Critically, this will reduce premature deaths and raise tax revenue for governments. If the illicit trade were eliminated, there would be an overall price increase and a subsequent fall in consumption of tobacco products. Research estimates project that governments would gain US\$31 billion annually by eliminating illicit trade, and reduce one million premature deaths attributable to tobacco products every six years, mostly in middle- and low-income countries.^[6]

MANY FACTORS INFLUENCE LEVELS OF ILLICIT TRADE

The tobacco industry claims that high taxes drive smuggling. It also lobbies governments to keep tobacco taxes low.

However, the experience from many countries shows that there is no direct correlation between high taxes and smuggling. High tax margins may provide the initial incentive to smuggle, but data shows that there are other motivating factors leading to smuggling. These include the ease and cost of operating in a country, tobacco industry participation, how well-organized the crime networks are, the tax administration system's efficiency and honesty, and the likelihood of being caught and punished.

Cigarette smuggling has also been linked to armed insurgent groups in the Middle East^[7], Africa and other parts of the world. In areas of central and eastern Africa^[8], research has found that rebel groups accused of mass murder, torture and forced recruitment of children have used the illegal trade of tobacco products to finance their activities.

TOBACCO INDUSTRY IS PART OF THE PROBLEM

The tobacco industry is part of the problem, not the solution. While publicly opposing the illicit trade, and voicing commitment to supporting governments to fight tobacco smuggling, evidence demonstrates the tobacco industry's active involvement in fostering illicit trade in most economies.

Internal tobacco industry documents show that smuggling has been part of the industry's strategy to promote their brands, increase market share or open closed markets. In their internal strategy papers, the tobacco industry uses code words, such as "Duty Not Paid," "Transit" or "General Trade," to describe smuggling operations. Evidence of the direct and indirect involvement of the tobacco industry in cigarette smuggling in Africa, Asia, the Middle East, Europe and Latin America is well documented^[9] on the basis of thousands of internal documents, the tobacco industry's own admissions and court judgments. 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.^[10] Even now, court cases and investigations by governments and media outlets are ongoing, accusing the tobacco industry of complicity in cigarette smuggling.^[11]

TOBACCO INDUSTRY INTERFERENCE WITH ILLICIT TRADE PROTOCOL

The tobacco industry has adopted various strategies in response to the Illicit Trade Protocol.

On one hand, it has insisted that it is a "partner," without whom implementation of the ITP would be impossible. British American Tobacco states on its website that: "We have always publicly supported the development of a World Health Organization (WHO) Protocol to eliminate illicit trade in tobacco products."^[12]

However, during the negotiations of the Protocol, the tobacco industry attempted to interfere with its development and approval, and made all efforts to oppose and delay its approval by supporting participation of pro-industry representatives from numerous countries, and making suggestions on control proposals clearly intended to weaken the provisions. Tobacco industry representatives have developed control strategies that rival WHO's, but at the same time purport to take action in the fight against illicit trade.

For example, tobacco manufacturers have collaborated on creating and promoting Codentify, the industry's own track-and-tracing proposal, and have established a working relationship with INTERPOL.^[13] At the same time, the main transnational tobacco companies have posted on their websites that they are undertaking measures to control the distribution of their products.

By the time the Protocol was approved in 2012, all major transnational tobacco companies, and several well-known allies, had developed position statements, website pages^[14] or stand-alone websites that recommend positions not aligned with the ITP. The tobacco industry instead promotes measures to obstruct or delay implementation of the Protocol's legally binding measures. Examples of this include the industry's own strategy of voluntary and self-regulatory action and entering into memoranda of understanding with governments. Not surprisingly, none of these industry proposals reflect the approved protocol language.

WHAT SHOULD BE DONE?

A major concern is that there is very little awareness about the adverse health, socioeconomic and security impacts from the illicit trade in tobacco. For example, does it facilitate uptake of tobacco use by children? This, and similar concerns, could be used to mobilize public support against illicit trade. Qualitative research in northern England has shown that the message around “illicit tobacco encouraging or making it easier for children to smoke” was a highly successful campaign theme.^[15]

But media campaigns alone will not resolve the illicit trade problem. A coordinated multi-sectoral and whole-of-government approach toward agreed-upon interventions is needed to eliminate illicit trade in tobacco products. This includes international collaboration, strengthened tax administration to secure the supply chain, increased intelligence and enforcement, and swift and severe penalties.^[16] Transparent public data on the extent of illicit tobacco are limited or, in many countries, nonexistent. More efforts are needed to estimate and report on illicit trade in tobacco products.

The transnational and global nature of the illicit tobacco trade requires an efficient coordinated regional and international response that enables information exchange, intelligence sharing and joint action. Governments have agreed on a set of measures while negotiating the ITP. However, only seven parties had ratified and acceded to the Protocol as of April 2015. All parties to the WHO FCTC, the first international treaty negotiated under the WHO's auspices, should be encouraged to quickly ratify the Protocol to Eliminate the Illicit Trade in Tobacco Products, so as to get the minimum 40 ratification for entry into force of the Protocol.

Like the WHO FCTC, the ITP will obligate parties to ensure transparency in any interactions with the tobacco industry.

DEFINITIONS^[17]

■ 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 trademark owner.

■ “Illicit whites” is a tobacco industry term for a new type of illicit trade, but for which there is no international agreed-upon definition. Generally speaking, “illicit whites” refer 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.

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A stylized illustration of a man in a dark suit and hat, looking through vertical grey bars. He is holding a red sign with white text. The background is white with vertical grey stripes.

APPLY THE PROTOCOL

to eliminate illicit trade in TOBACCO PRODUCTS!



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