

ILLICIT TRADE OF TOBACCO PRODUCTS

OVERVIEW

The illicit trade of tobacco products poses major health, economic, and security issues. According to the World Customs Organization, one in every 10 cigarettes and tobacco products consumed globally is illicit.¹ Eliminating the illegal tobacco trade is the theme of *World No Tobacco Day (WNTD) 2015*, and aims to highlight the health risks associated with tobacco use and advocate for effective policies to reduce tobacco consumption. Additionally, the ratification of and accession to the Protocol to Eliminate Illicit Trade in Tobacco Products (ITP), is a key objective to this campaign.

Illicit trade of tobacco products makes these products “more affordable and accessible to people from low-income groups, reduces tax revenue for governments, and sponsors criminals and funds organized crime”.² Various players are involved in the illicit tobacco trade including the tobacco industry, and their engagement ranges 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, will lead to more illicit trade”.^{2,3,4}

The tobacco industry often argues that increasing tobacco taxes would also increase smuggling; however, no direct relationship between increased taxes and smuggling has been found.² Cigarette smuggling results from a lack of control on cigarette manufacturers, and country oversight.² Illicit trade of tobacco products occurs in both low and high tax jurisdictions, and is more common in low-income countries than in high-income countries.^{2,5}

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

² WHO Illegal Trade of Tobacco Products. What You Should Know To Stop It.

TOBACCO INDUSTRY INTERFERENCE WITH THE PROTOCOL

The tobacco industry claims to be a “stakeholder” and integral to reducing illicit trade; however, they systematically attempt to prevent, weaken, and delay illicit trade policy implementation, and claim tobacco control measures would increase contraband and weaken economies.¹⁶ In addition, the tobacco industry attempts to minimize tobacco regulation and delay implementation of the Protocol, by creating relationships with government agencies and public interest groups to shift priorities.²

- 1. During the negotiations of the Protocol, the tobacco industry tried to delay the Protocol’s approval and weaken the provisions.²**
- 2. Tobacco manufacturers created, sponsored, promoted, and negotiated with intergovernmental agencies to implement Codentify, an inadequate global track and trace system that directly conflicts with the protocol (violates WHO FCTC Article 5.3), and must not be by the tobacco industry.^{2,6,20,21}**
- 3. Brazil (2003):**
Souza Cruz, subsidiary of British American Tobacco (BAT), founded the Brazilian Institute for Ethical Competition (ETCO), a civil society organization for public interest – with a sectoral chamber for tobacco and illegal trade. Philip Morris is also a member.²²
- 4. Chile (ongoing):**
Chiletabaco, the Chilean subsidiary of BAT that controls 98% of cigarette sales in Chile, and BAT, has attempted to create partnerships with government officials, and claim that these partnerships are responsible for keeping contraband at low rates.²³
- 5. Dominican Republic (ongoing):**
Philip Morris International (PMI) and the Directorate managed General of Customs (DGA), signed a collaboration agreement to work together to reduce counterfeit and contraband cigarettes.^{24,25}
- 6. Uruguay (2007):**
PMI and the National Customs, signed a collaboration agreement to combat illicit trade.³

A HISTORY OF TOBACCO INDUSTRY INVOLVEMENT IN THE ILLICIT TRADE OF TOBACCO IN THE AMERICAS

The illicit trade of tobacco products is prevalent in the Americas. The tobacco industry facilitates the illicit trade of tobacco products in order to increase their share of the tobacco market,⁶ compete with counterfeit tobacco products by selling at a lower tax-free price,⁶ increase demand for their products, penetrate new markets, introduce new brands to the market,⁶ and convince governments to reduce taxes.⁷ The industry has participated in the illicit trade of tobacco products through product smuggling, money laundering, bribing of customs officials, and tax evasion.^{6,8,9}

Regional examples of tobacco product smuggling, bribing officials, and money laundering:

1. Argentina (1993):

British American Tobacco (BAT) authorized the illegal smuggling of their cigarettes into Argentina to be sold at a lower tax-free price in order to regain position in the market. ⁶

2. Argentina via Brazil (1992):

Nobleza-Piccardo (N-P) introduced two new brands to the Argentinian black market through smuggling from Brazil in order to increase demand for their products, which could then be sold legally later after the Argentine government stopped N-P's illegal business.¹¹

3. Brazil/Mexico/Paraguay (1992-1993):

BAT and PMI created opportunities and facilitated smuggling into Brazil.¹⁴

"There is no evidence of connections between the legal industry and the network of smugglers, but it is clear that the available supply start-Paraguay, at prices much lower to the legal Brazilian prices, and the lack of controls, at the time, of cigarettes flows on both sides of the border, created opportunities and facilitated the smuggling [to Brazil]. In other words, the black market was created by a strategy of firms in Brazil, mainly by British American Tobacco (BAT) and Philip Morris, with two instruments: an increase in the real price of domestic cigarettes and export to Paraguay higher amounts to the total annual consumption of the country".¹⁴

4. Canada (2010 for claims in 1990s):

R.J. Reynolds Tobacco Company (RJR) and JTI Macdonald Corp (JTI-MC) pled guilty to smuggling exported cigarettes in Canada and paid \$550 million in fines.¹²

"...JTI-MC pleaded guilty in the Ontario Court of Justice to a single count of aiding persons to be in possession of tobacco not packaged in accordance with the Excise Act, while Northern Brands International Inc., a company related to RJR, pleaded guilty to a conspiracy offence under the Criminal Code. The fines in these prosecutions, combined with the civil settlement, will result in the companies paying \$550 million to governments".¹²

5. Canada (2008 for claims in 1990s):

Imperial Tobacco and Rothman Benson & Hedges pled guilty to smuggling exported cigarettes in Canada and paid \$1.15 billion fine.¹²

6. Canada/US/Malcao/Venezuela/Colombia/Aruba (1992):

(RJR in Colombia, hired Bryan Harms (managing partner; International Duty-Free Trading N.V.) to smuggle cigarettes into Colombia via Aruba.¹⁰

[Describes the often elaborate routes of transit for tobacco product smuggling]

'[C]igarettes came from plants in Canada and Winston-Salem, North Carolina. RJR shipped the Canadian cigarettes to Aruba via New York and the U.S. cigarettes via Miami. The cigarettes were then shipped by Harms' company to Maicao. Cash payments out of Maicao were transported by Harms' representatives across the Venezuelan-Colombian border by car to Maracaibo" and then flown to Aruba'.¹⁰

7. US/Mexico (1994):

"Affidavit stated that Brown and Williams Tobacco (BWT) sold large volumes of cigarettes to 'Duty Free Warehouses' along the international border between Texas and the adjacent Mexican states where the cigarettes were sold as export merchandise, thus avoiding US and Texas excise taxes. The Affiants stated that BWT's personnel paid 'sales incentives' bribes, to various Mexican officials to facilitate smuggling of Brown and Williams Tobacco products from the United States into Mexico." ¹³

8. US/Mexico (lawsuit launched in 2000):

BWT, British American BAT, and PMI participated in the illicit trade of tobacco by smuggling their products, to sell in export merchandise duty-free to avoid paying taxes.^{8,9}

"[I]n some cases, the manufacturers have worked directly with organized crime figures. In Colombia, tobacco companies are alleged to have helped launder drug money and to have worked closely with distributors who are involved in drug trafficking".⁹

9. US/Mexico (lawsuit launched in 2000):

Tobacco companies in the US and Mexico, assisted money laundering by hiring drug traffickers to smuggle their products across borders after being exported and sold as duty-free.⁹

10. Venezuela (1992):

BAT's Finance Director encouraged the President of its Venezuelan subsidiary, CA Cigarrera Bigott to grow its market share in both the Venezuelan legal and black markets - "commissions" to border authorities.¹¹

[Letter from BAT's Finance Director; Keith Dunt, to Delcio Laux; President of Biggott]

'BAT's expectations for Laux were to both "maintain a 75% market share in the duty paid domestic market and grow from 65% market share when considering duty not paid ...".¹¹



BEWARE!

ILLEGAL TOBACCO

NoTobacco

WORLD NO
TOBACCO DAY
31 MAY



APPLY THE PROTOCOL

to eliminate illicit trade in TOBACCO PRODUCTS!

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