



## ILLICIT TRADE: Questions and Answers

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### **Q: What is the illicit trade of tobacco products?**

**A:** The illicit trade in tobacco most commonly refers to the smuggling of cigarettes. In fact, cigarettes are the most widely smuggled legal consumer product in the world. There are several forms of illicit tobacco trade, including:

- *Large-scale smuggling* – the illegal transportation, distribution and large sales of legally-manufactured cigarettes and other tobacco products.
- *Small-scale smuggling or “bootlegging”* – the purchase, by individuals or small groups, of tobacco products in low tax jurisdictions to resell in high tax jurisdictions.
- *Illicit manufacturing* – the manufacturing of tobacco products in violation of the legal requirements in that country.
- *Counterfeiting* – the manufacturing of tobacco products to intentionally hide or misrepresent their origins or content.

### **Q: Why does illicit tobacco trade occur?**

**A:** Illicit trade is primarily a supply-driven process, facilitated by tobacco manufacturers and wholesalers that control the distribution system. Because the financial costs of illicit trade fall on governments – an estimated \$US 40-50 billion in tax revenue is lost annually – there is little incentive for the tobacco industry to prevent it. In fact, the industry stands to gain significantly from it. Tobacco industry involvement in smuggling has been well-documented in internal documents released through litigation.<sup>1</sup>

Smuggling is also facilitated by organized crime groups because it is highly lucrative and relatively low risk.<sup>2</sup> Cigarettes and other tobacco products have very high fiscal value, are easy to handle and transport, and often do not carry the same penalty risks as other trafficked substances, like narcotics. The absence of adequate controls on the tobacco supply and distribution chain (both within and between countries), as well as lack of appropriate penalties and effective enforcement strategies, all contribute to the smuggling problem. Thus, a comprehensive system of international cooperation is needed to effectively combat illicit tobacco trade.

### **Q: How much of the global trade in tobacco products is illicit?**

**A:** An analysis conducted on behalf of the Framework Convention Alliance found that illicit trade accounted for 10.7 percent of global cigarette sales in 2006, or about 600 billion cigarettes.

### **Q: Why is illicit trade of tobacco products a problem?**

**A:** Tobacco use currently claims five million lives worldwide each year, and that number is projected to double by 2020, with 70 percent of these deaths in developing nations, according to the World Health Organization (WHO).<sup>3</sup>

Illicit tobacco trade undermines one of the most effective ways to stop people from smoking – higher taxes. It makes well-known international brands available at low prices – in particular, undermining efforts to prevent young people from smoking. Illicit trade costs governments \$US billions of dollars in lost revenue. In addition to the severe public health and economic consequences, illicit tobacco trade poses a significant threat to public safety. There is evidence that illicit trade of tobacco products is carried out by transnational organized crime groups, and that money gained from illicit tobacco trade is used for other serious criminal enterprises, including terrorist operations.<sup>4</sup>

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<sup>1</sup> See documents available online at Action on Smoking and Health (ASH UK), ‘International Tobacco Smuggling’, [http://www.newwash.org.uk/ash\\_r7ykwj.htm](http://www.newwash.org.uk/ash_r7ykwj.htm). See also Center for Public Integrity, ‘Global Reach of Tobacco Company’s Involvement in Cigarette Smuggling Exposed in Company Papers’ (2 February 2000), available online at [http://www.public-i.org/story\\_01\\_020200.htm](http://www.public-i.org/story_01_020200.htm); Kelley Lee and Jeff Collins, “‘Key to the Future’: BAT and Smuggling in China” (July 2006) 3(7) *Plosmedicine* 228.

<sup>2</sup> World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control* (1999), 63-64.

<sup>3</sup> World Health Organization, *Building Blocks for Tobacco Control: A Handbook* (2004) 6, [http://www.who.int/tobacco/resources/publications/tobaccocontrol\\_handbook/en/](http://www.who.int/tobacco/resources/publications/tobaccocontrol_handbook/en/)

<sup>4</sup> See generally United States General Accounting Office, ‘Terrorist Financing: US Agencies Should Systematically Assess Terrorists Use of Alternative Financing Mechanisms’, Report to Congressional Requesters GAO-04-163 (November 2003),

**Q: What can be done to combat the illicit tobacco trade?**

**A:** Illicit tobacco trade is a transnational problem that cannot be addressed without a comprehensive system of international cooperation. Recognizing this, nations that are party to the WHO tobacco control treaty agreed in July 2007 to negotiate a supplementary treaty on illicit trade. An effective illicit trade treaty should include:

- An international tracking and tracing system of tobacco products;
- Anti-money laundering measures;
- System of record keeping for all imports and exports of tobacco products;
- Obligations for tobacco manufacturers to control their supply chain with penalties for those that fail to do so;
- The criminalization of participation in illicit trade in various forms;
- Increased international cooperation in the sharing of information and prosecution of offences.

**Q: How will the illicit trade treaty be different from the WHO Tobacco Treaty (FCTC)?**

**A:** The existing WHO tobacco control treaty, the Framework Convention on Tobacco Control (FCTC), is the first international health treaty. It entered into force in February 2005. The FCTC obligates ratifying countries – which now number 152 – to implement effective measures to reduce tobacco use, including: higher tobacco taxes; bans on advertising, promotion and sponsorship; smoke-free workplaces and public places; and stronger health warnings. However, the illicit tobacco trade undermines the effectiveness of many of these measures, especially tobacco taxes.

The illicit trade treaty will be negotiated as a supplementary treaty, or protocol, to the FCTC.

**Q: How is the illicit trade treaty being developed?**

**A:** On February 11, 2008, representatives from more than 150 countries will meet in Geneva to begin negotiations the illicit trade treaty. The nations that are party to the FCTC have set a goal of completing negotiations on the illicit trade treaty by 2010.