COMBATING THE ILLICIT TRADE OF CIGARETTE AND TOBACCO PRODUCTS

ANTI ILLICIT TRADE CONFERENCE
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Colonel John Matroos
National Coordinator
Head Office
Directorate for Priority Crime Investigation
South African Police Service
matroosjohn@saps.gov.za
Crime is no longer bound by borders. The bad guys have all money and no rules. The good guys have all the rules and no money. Transnational organise crime syndicates and the unholy alliances they have formed, have become the most powerful interest group on the planet. Until now they have seemed unstoppable.

Organized Crime taking over the world.
Jeffrey Robinson
“The Merger”
Introduction (Cont..)

• Various Government Departments in South Africa have the responsibility to combat the illegal trade in illicit goods. The Directorate for Priority Crime Investigation (DPCI), has dedicated capacity at National level and in all the Provinces to prevent, combat and investigate offences relating to the illicit trade of cigarettes and tobacco products.

• The illicit trade of cigarettes and tobacco products in South Africa compromises the Government’s health objective, to reduce the incidence of smoking, as the availability and abundance of cheap illegal cigarettes in the market stimulates consumption, especially among the youth and poor people, the very people Government wants to protect.

• The illicit trade of cigarettes and tobacco products are taking place underground as well as on the surface.
Financial Impact of Illegal Cigarettes in SA

Since 2012, in excess of R 17 billion was lost in revenue (taxes) due to the trade in illegal cigarettes.

Legal Industry suffered the same losses.
The National Head, Directorate for Priority Crime Investigation classified the illicit trade of cigarette and tobacco products as ...  

- National Priority Crime
- Appointed a Champion
- Established National and Provincial Coordinators
- Multi-agency task team approach through engagement with relevant role players
- National and Provincial projects and major case investigations
Seek, find and succeed

- **Seek**: To determine the nature and extent of the Priority Threats and to detect and process incidents and cases for prioritization.
- **Find**: The right Interdepartmental (Collaborative) Capabilities and Legal Instruments.
- **Succeed**: In weakening the functioning & ultimate dismantling of Criminal Business Systems with impact.
What is meant by Illegal Trade

It is the importation, manufacture, supply, distribution and sale of illicit, unlawful or counterfeit tobacco products.
Illicit / Unlawful / Counterfeit Cigarettes

• **Illicit cigarettes - Customs and Excise Act, No. 91 of 1964:**
  
  • “illicit goods” defined as in relation to imported or excisable goods, in respect of which any contravention under this Act has been committed and includes any preparation or other product made wholly or in part from materials which were illicit goods.

• **Unlawful cigarettes - Tobacco Products Control Act, No. 83 of 1993:**
  
  • Products that have not been packaged in the prescribed manner.
  • Products that fall outside constituent indicators.
  • Products that have been distributed for free or at a reduced price, other than a normal trade discount.

• **Counterfeit cigarettes - Counterfeit Goods Act, No. 37 of 1997:**
  
  • Applying a trade mark without permission, selling it or dealing with it in the course of trade.
TYPICAL VALUE CHAIN ANALYSIS

High Risk Focal Points (Levels 3 - 5)

1. Individuals / Groups (Smugglers / Street Sellers)

2. Local – Receivers / Couriers (Dealers / Transporters)

3. National – Couriers / Buyers / (Facilitators / Marketers)

4. National – Exporter / Importers (Manufacturers)

International Funders / Importers / Exporters

National Teams

Provincial Teams
Legal Framework

- Customs and Excise Act, 1964 (Act no.91 of 1964)
- Tobacco Products Control Act, 1993 (Act no.83 of 1993)
Operational Task Team perspective

- Multi-agency task team
- Dedicated resources
- Intelligence capacity from different agencies and private sector
- Industry support and intelligence sharing
- Converting intelligence into evidence
- Disruptive operations
- Prosecutorial guided investigations
- Seize and destroy products and machines
- Concentrate on the person / target and taking the proceeds out of the crime
- Eliminating the criminal business system / syndicates
Strategic approach

• To successfully investigate and combat the illicit trade of cigarettes and tobacco products, a good relationship or partnership must exist between Government Departments, Law Enforcement / Police, Customs, Prosecuting Authority and The Industry.

• It works both ways, as neither half can be effective alone as can be together.
STRATEGY TO ADDRESS THE THREAT

DPCI Investigations / PC MC

SANDF

SARB - FIC

SARS

INTERPOL

Designated National Senior Prosecutor

Designated Provincial Prosecutors

PAFI / Asset Forfeiture

Street Sellers

Private Persons

Sources

Shop Owners

DTI

Threat Levels

1

2

3

4

5
Problem Statement:
There is an Organised Criminal Entity operating in/across the identified provinces as well as from the neighbouring/international countries.
Concealment Modus
Seizures – Project Investigations
Thank you