

EXECUTIVE SUMMARY

This report is part of the project *The Factbook on the Illicit Trade in Tobacco Products* (hereafter ITTP). It focuses on **Spain**, where the **illicit trade in tobacco products is an emerging issue, particularly in certain regions**. After tax increases in 2009-2010, **Spain became a destination market** of illicit tobacco and the ITTP penetration peaked at 8.8% in 2013. Nevertheless, the ITTP level is lower than the European average. In the past, ITTP penetration had decreased from 6% to almost 1% between 1998 and 2010, due to the successful enforcement actions against contraband. Spain used to be a transit country.

Non-domestic cigarettes are widespread mainly in two Spanish regions, **Andalusia and Extremadura**. These regions are close to **Gibraltar**, where cigarettes cost half the price of Spanish cigarettes. Moreover, Spain also comprises the **Canary Islands**, which have a different tax regulation, making cigarettes cheaper than on the Spanish mainland. Indeed, Gibraltar and the Canary Islands are the main sources of illicit cigarettes.

WHAT CAN BE FOUND IN THIS REPORT?

This report is organised into three chapters:

- **Chapter one deals with the five drivers of the ITTP:** society and economy, legal market, regulation, crime environment and enforcement. ***The drivers are important areas whose structures may positively or negatively impact on the ITTP. To enable comparison with other country profiles, four key indicators have been selected for each driver.*** The data for the driver indicators come from comparable sources (latest available years). When possible, the report provides the most up-to-date data from national sources.
- **Chapter two focuses on the four components of the ITTP:** demand, supply, products, *modus operandi* and geographical distribution.
- **Chapter three identifies the key factors of the ITTP in Spain and frames the drivers in the components, analysing how different elements of the drivers influence the components of the ITTP.**

THE FIVE DRIVERS

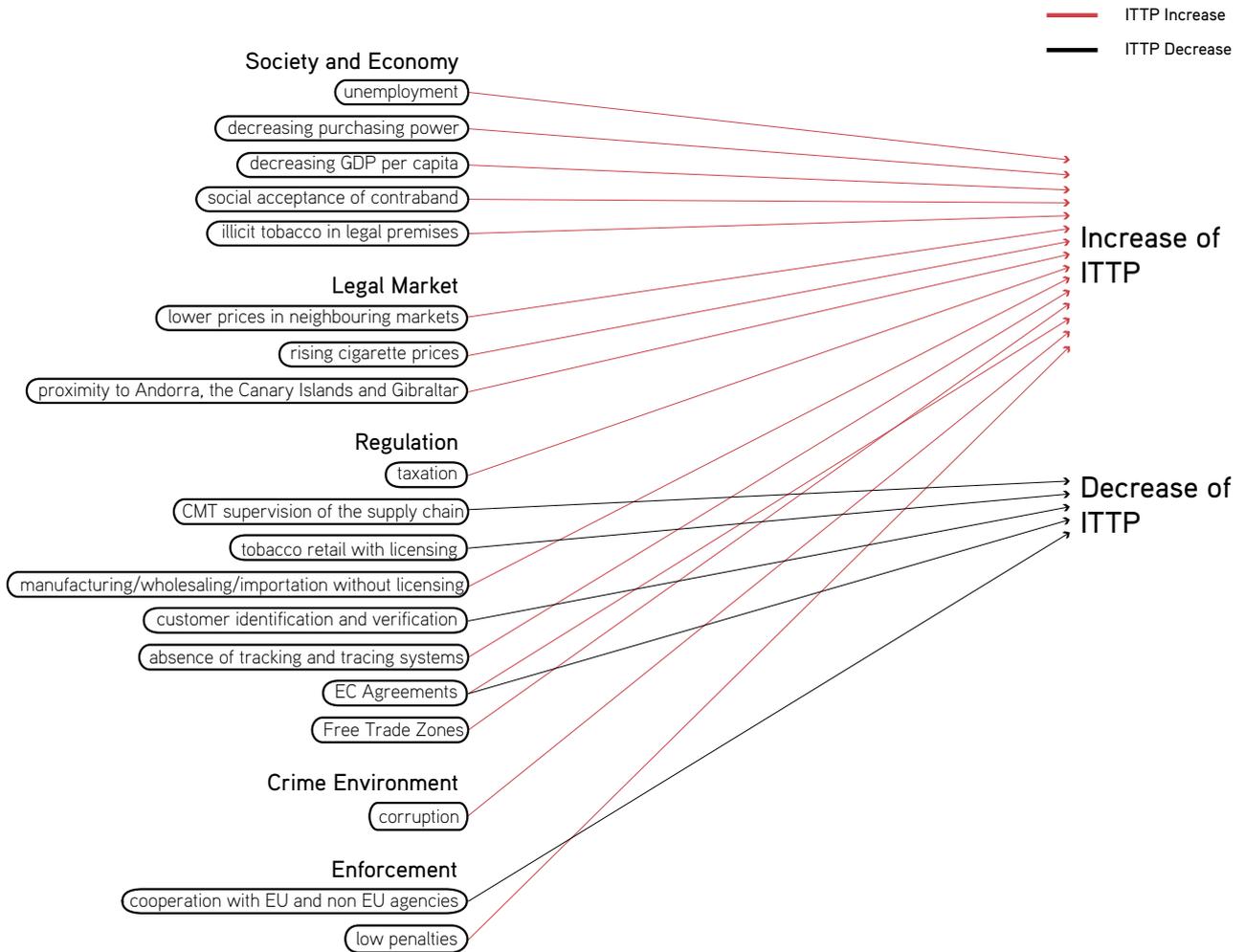
- **Society and Economy:** Spain has been hit hard by the global financial crisis. The unemployment rate has increased while both GDP per capita and household consumption have decreased. The Spanish Government is currently being aided by the EU and international organisations to accelerate economic recovery. Health and education expenditures are below the EU average and income inequality is among the highest among EU member states.
- **Legal Market:** The Spanish tobacco market is relatively large on a global scale. However, legal cigarette sales have fallen in the past decade while hand rolling tobacco (HRT) sales have grown significantly. Cigarette prices are high in global terms, but cigarettes are relatively affordable. Smoking prevalence is high and varies according to the region. Andalusia, Murcia and the Valencian Community have the highest prevalence.
- **Regulation:** Taxation on tobacco products has increased since 2005, and is among the highest on a global scale, both as tax incidence on the retail price and as monetary value per 1,000 sticks. However, the Canary Islands have a different taxation regime, enabling lower taxation to be levied on tobacco. There is a medium-low level of control on the tobacco supply chain and medium-high control on tobacco marketing and promotion, and tobacco consumption and sales.
- **Crime Environment:** Crime rates have decreased in recent years. There is a medium presence of organised crime activities mainly centred on drug trafficking, property crimes and human trafficking. Drug consumption is high, especially for cannabis and cocaine. The shadow economy is medium-low in extent, while corruption is a growing concern.
- **Enforcement:** Since 2011, Spain has implemented two awareness campaigns against the ITTP. Moreover, law enforcement agencies and the Spanish Customs have stipulated cooperation agreements with foreign customs and law enforcement agencies to tackle the ITTP. The average penalty for tobacco contraband is low, between 0 and 2 years of imprisonment. Overall, anti-ITTP action is medium-low due to the absence of official estimates on, and a national action plan against, the ITTP.

THE FOUR COMPONENTS OF THE ITTP

- **The demand:** The demand for illicit tobacco products in Spain responds to the economic crisis, rising unemployment, and higher cigarettes prices. Indeed, a pack of illicit cigarettes, especially of the most popular brands, is sold for half the price of a pack sold in the legal market. Illicit tobacco is easily available and generally tolerated by Spaniards.
- **The supply:** Individual smugglers and large-scale criminal organisations are the main suppliers of illicit tobacco in Spain. Price differentials and proximity to Gibraltar, Andorra and the Canary Islands, together with the current economic crisis, are conditions favourable for the supply of illicit tobacco in the country.
- **The products:** The main tobacco products smuggled into Spain are illicit whites and genuine contraband cigarettes. In particular, Ducal, American Legend and Elixyr are the most widespread illicit whites brands. Counterfeit cigarettes have a low incidence within the Spanish ITTP. The main source countries of illicit cigarettes are the Canary Islands, Andorra and Gibraltar.
- **Modus Operandi and Geographical Distribution:** Several *modi operandi* are used to traffic illicit tobacco in Spain. Both sea routes and inland routes are employed: the former for large-scale smuggling, the latter for small-scale smuggling. Andorra, Gibraltar and the Canary Islands are source hotspots of the Spanish ITTP. Finally, the incidence of non-domestic cigarettes is higher in the Southern region of Andalusia and particularly in the ports on the Mediterranean Sea.

Figure 1. The main interactions between the drivers and the ITTP

Source: Transcrime elaboration



FRAMING THE COMPONENTS IN THE DRIVERS: THE FOUR KEY FACTORS OF THE ITTP

The report identifies four key factors of the ITTP in Spain. **These key factors are the crucial elements through which the five drivers determine the features of the four components of the ITTP** (Figure 1).

- **Economic accessibility:** the price of illicit tobacco and particularly its relative price compared to the price of legal products.
 - The economic crisis in Spain, the high unemployment rate, and the decreased purchasing power of Spaniards are conditions favouring the demand for illicit tobacco due to its greater economic accessibility.

- **Cigarette tax** increases have caused a decrease in legal cigarettes sales and induced some Spaniards to switch to more economically accessible illicit tobacco.
- The increase in cigarette prices has generated demand for cheaper tobacco products. This is shown by the **increasing number of Spaniards, in particular in Andalusia, crossing the border with Gibraltar** in search of cheaper cigarettes.
- **Availability:** the relative ease with which both smugglers and consumers can obtain illicit tobacco products.
 - The availability of illicit tobacco in **bars, shops, street vendors and small markets** in Spain impacts positively on the demand for and supply of illicit tobacco.

- The **widespread social acceptance and tolerance of contraband** are factors important in boosting the availability of illicit tobacco and favouring its demand.
- Cigarettes with **lower prices in the Canary Islands and in neighbouring countries (Gibraltar and Andorra)** increase the availability of tobacco products to be bootlegged and smuggled.
- **The regulation or deregulation of the tobacco sector impacts both positively and negatively** on the availability of illicit tobacco. Indeed, on the one hand, the presence of a **licensing obligation for tobacco retailers** may reduce the availability of illicit tobacco products, as well as **the faculty of the CMT (*Comisionado para el Mercado de Tabacos*) to request any documents** concerning the origin and destination of tobacco products. On the other hand, **the absence of a licensing system for tobacco manufacturers, wholesalers and importers** may increase the diversion of tobacco from the legal supply chain. Furthermore, the agreements on supply chain control between the EC and the four major tobacco companies are legally binding only on the signatory parties, not on smaller manufacturers; which may increase the diversion of products into illicit channels.
- A **high level of perceived corruption** in Spain impacts positively on the availability of illicit tobacco.
- **Profitability: the ability of the ITTP to generate profits that exceed its operational costs.**
- The **proximity to markets such as Andorra, the Canary Islands and Gibraltar**, where there is a significant tax and price differential on tobacco products, favours the smuggling of tobacco products, increasing the profits of the ITTP.
- **Cigarettes price differentials between Spain and other markets** make the ITTP in Spain a profitable activity.
- **Risk: the threat of detection/accusation/conviction and the sanctions imposable on the actors involved in the ITTP.**
- **Spaniards' tolerance of contraband activities** may boost the demand for and the supply of the ITTP by diminishing the risks for the actors involved.
- The **controls of the CMT**, providing for customer identification and verification of the tobacco supply chain, increase the risks for the ITTP. However, the presence of **loopholes in supply chain controls** (e.g. the absence of a tracking and tracing system of all tobacco manufacturers) impacts on the ITTP by decreasing the risks for smugglers.
- The **presence of Free Trade Zones (FTZs), Vigo, Barcelona, Cádiz and Grand Canaria**, boosts the supply of illicit tobacco by decreasing the risks for smugglers.
- **Border permeability** between Spain, Andorra, the Canary Islands and Gibraltar decreases the risks for the illicit suppliers of tobacco.
- **Law enforcement cooperation in the fight against tobacco smuggling** may increase the risk for smugglers. Indeed, the **bilateral and multilateral agreements** signed by the Spanish Customs with other countries impact negatively on the supply of illicit tobacco by increasing the risks for smugglers.
- The **low penalties imposed for tobacco smuggling** in Spain (**between 0 and 2 years of imprisonment**) may decrease the perception of risk among smugglers.

CONCLUSIONS

The ITTP in Spain has increased in recent years, reaching **8.8% of total consumption in 2013**. From 1995 to 2000, the ITTP strongly decreased, remaining **stable at about 1% of the market until 2011**. Thinkcom, a research centre of the University of Madrid, reports that the **ITTP penetration is between 10.23% and 11.75% of the cigarettes market in 2013**. **Illicit whites are the most widespread products**. Genuine contraband cigarettes are the only other product smuggled.

According to Empty Pack Surveys – henceforth EPSs– the **regions of Andalusia and Extremadura** have the highest incidence of non-domestic packs collected in Spain. In particular, **cities in Andalusia, especially those with ports**, are more likely to receive illicit flows.

Smugglers exploit **sea routes** for large-scale smuggling and **inland routes** for small-scale contraband. Studies indicate that **individual smugglers** and **large-scale criminal organisations** are the main suppliers of illicit tobacco in Spain.

This report demonstrates that more research and accurate data would enable better assessment of the ITTP in Spain. Indeed, there are **no publicly available official estimates of the ITTP** in Spain. Furthermore, **there is no research on the socio-economic characteristics of illicit tobacco consumers**.

The ITTP varies according to regulatory and law **enforcement actions**. For example, enforcement actions against tobacco smuggling **in the late 1990s** contributed to decreasing the ITTP. However, **in 2009-2010 the Government increased taxation on tobacco products**. As a result, **the ITTP in Spain has increased**. Moreover, in 2011 and 2013, two **awareness campaigns** were launched; the former at national level, the latter at regional level, in Andalusia. However, no action plan against the ITTP has been implemented to date. Furthermore, the retail, manufacturing, wholesaling and importation of tobacco products is no longer subject to licensing in Spain. This may create loopholes in supply chain control at these levels.

Effective action against the ITTP requires comprehensive strategies including criminal law, administrative sanctions, and other indirect measures aimed at reducing crime opportunities.

The evolution of the project showed that countries have very different situations in relation to the available data on the ITTP. In some cases, the quality of the available data is low and there are no official, regularly updated, data. Inevitably, this affects the quality and reliability of the results. In these cases, institutions, businesses and other stakeholders concerned with the ITTP should consider how to improve data collection on illicit tobacco. This will result in improved knowledge about the ITTP and, in turn, in better tobacco control policies, since the impact of specific policy measures upon crime may quite often be overlooked owing to the lack of reliable data.

After completion of the first phase of the project focused on collecting facts and data through the country profiles, Transcrime will conduct comparative analysis among the countries selected. This will yield additional insights into the complexity of the ITTP and allow for the elaboration of policy recommendations.



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Location:
 Spain, officially the Kingdom of Spain, is located in the Iberian Peninsula in Southwestern Europe. It borders on France (Northeast), Andorra (Northeast), Portugal (West), Atlantic Ocean (Northwest), Gibraltar (South) and Mediterranean Sea (South). The Spanish territory also includes the Balearic Islands (in the Mediterranean Sea), the Canary Islands (in the Atlantic Ocean), and three exclaves in North Africa (Ceuta, Melilla, and Peñón de Vélez de la Gomera). The country consists of 17 autonomous communities. Its capital and largest city is Madrid. Spain covers an area of 505,600 square kilometres.



Population: 46,647,421 (2013)
Male: 23,043,826 (49.4%)
Female: 23,603,595 (50.6%)
Growth Annual Rate: -0.2% (2013)
Age Structure: (0–14) 15.0%; (15–64) 67.0%; (65+) 18.0%
Fertility Rate: 1.3 children born/woman (2012)
Life expectancy at birth (years): 82.0 (2012)
GDP: US\$ 1,358.26 billion (2013)
GDP growth: -1.2% (2013)
Inflation consumer price: 1.4% (2013)
Income level: High

Source: [The World Bank](#)