

EXECUTIVE SUMMARY

This report provides the French country profile of the project *The Factbook on the Illicit Trade in Tobacco Products*. In France, the illicit trade in tobacco products is a key issue due to its high penetration in the French tobacco market, reaching 14.7% of total consumption in 2014 (KPMG 2015). Tobacco control policies are at the top of the French policy agenda, and a national action plans against the ITTP was launched in 2011. Moreover, the recent ratification of the Protocol Against Illicit Trade in Tobacco Products (WHO FCTC), in November 2015, demonstrates France's commitment to tackling the illicit trade. The growing attention of the French Customs to tobacco smuggling is evidenced by the increasing number of seizures.

WHAT CAN BE FOUND IN THIS REPORT?

This report is updated at December 2015. It is organised into three chapters:

- **Chapter one deals with the five drivers of the ITTP: society and economy, the legal market, regulation, the 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, five 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, products, supply, *modus operandi* and geographical distribution.**
- **Chapter three identifies the key factors of the ITTP in France 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:** France is a multicultural country, highly developed, and with a low income inequality rate. Relative poverty among the French population is low in comparison with other high-income OECD members, and its GDP per capita has increased in the past decade. Nevertheless, the global recession and the economic crisis have hit the country severely. Unemployment rates grew until 2014 and then remained stable. France spends a large share of its GDP on education and health, and the life expectancy rate is one of the highest in the world.
- **Legal market:** The French tobacco market is one of the largest in Europe, the Middle East and North Africa, despite the decreasing trend in tobacco sales in the last few years. France is a major European producer of tobacco products, but it is also a large importer of cigarettes. Tobacco consumption in France is high compared with the global average. The majority of smokers prefer cigarettes, but HRT is becoming increasingly common. The price of cigarettes has increased significantly in the past decade, and the proportion of French people buying tobacco products in neighbouring countries has increased.
- **Regulation:** Regulation of the tobacco market is high in France, and the country has one of the strongest anti-smoking lobbies in Europe. Overall, taxation on cigarettes is high and the country has invested a significant amount of resources in tobacco control policies. There is a high level of control on the supply chain as well as on tobacco consumption and sales. The control of tobacco marketing and promotion is medium-high.

- **Crime environment:** France has low crime levels, low corruption, and a limited informal economy. Corsica and Marseille are specific cases within the French criminal panorama, owing to a historically more consolidated presence of criminal organisations. Drug use in the country is high and cannabis is the most used drug. Criminal groups often operate within the illicit drugs market.
- **Enforcement:** France has efficient law enforcement with a medium-low number of police personnel, medium rates of judges, and a large prison population. Cooperation between public bodies and tobacco manufacturers is established by agreements with the European Commission and strengthened through specific agreements between the French Customs and tobacco industry operators. The French government has signed specific partnerships with the European institutions in order to improve the fight against the unlawful importation of goods, including tobacco products.

THE FOUR COMPONENTS OF THE ITTP

- **The demand:** The low price of illicit tobacco is the key factor in the demand for it. Indeed, a pack of illicit cigarettes is €2 cheaper than a legal one, increasing the accessibility of these products. In France, illicit tobacco products can be found on the streets in specific metropolitan areas.
- **The supply:** Illicit tobacco supply is mainly driven by the opportunity to make very high profits with relatively low risks. In France, diverse actors are involved in the supply chain of the ITTP, from individual criminals and street sellers to more organised groups. Illicit tobacco is mainly sold through grocery stores, private apartments, markets and the Internet.
- **The products:** DGDDI argues that one among five cigarettes in France is bought outside the French legal retail network. DGDDI estimates that the overall penetration of the illicit market into the legal market is 5%. Further, some unofficial estimates are provided by private agencies. In 2014, Euromonitor International and KPMG assessed the ITTP penetration at 17.0% and 14.7%, respectively. The main illicit tobacco products are contraband & others and illicit whites.

- **Modus operandi and geographical distribution:** The majority of tobacco seizures occur at the main French ports in Northern France. After arriving via sea routes, illicit tobacco products are transported on motorways by cars and trucks. The Internet retailing of tobacco products is increasingly common in France. Cross-border purchases may be unlawful conduct if purchasers exceed the legal allowances. The ITTP prevalence (mn sticks per 100,000 inhabitants) is higher in Provence-Alpes-Côte d'Azur, Nord-Pas-de-Calais and Languedoc-Roussillon.

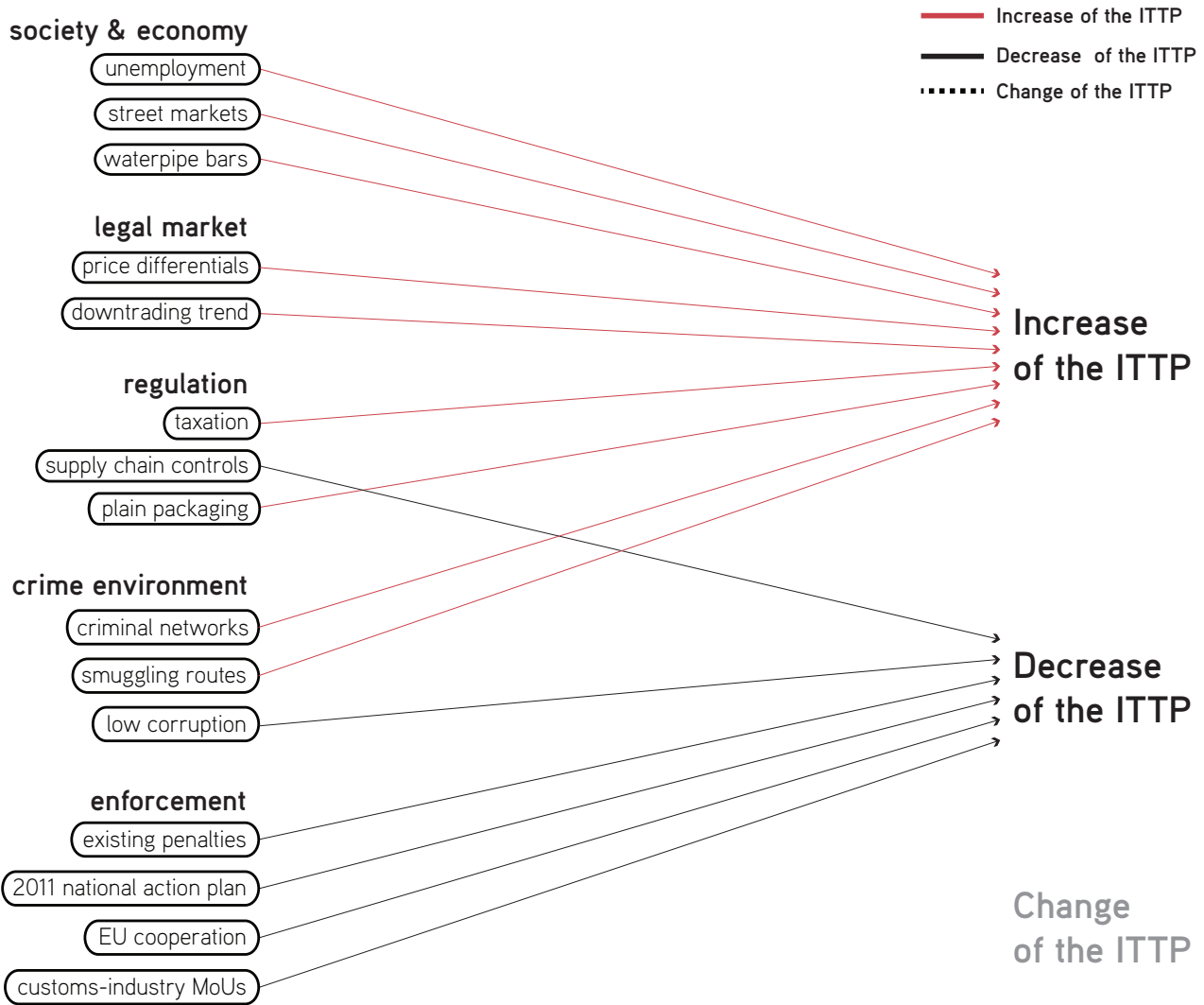
FRAMING THE COMPONENTS IN THE DRIVERS: THE FOUR KEY FACTORS OF THE ITTP

The report identifies four key factors of the ITTP in France. **The key factors are the crucial elements through which the five drivers influence the four components.** This chapter analyses how the interaction between the drivers and the components impact or may impact the ITTP through these **four key factors** (Figure 1, p. 9).

- **Economic accessibility:** The price of illicit tobacco and particularly its relative price compared to the price of legal products.
 - Given the dual nature of the tobacco market composed of legal and illegal parts, the **growth in the price differential between legal and illegal products increases the relative economic accessibility of illicit tobacco and stimulates the ITTP**. In France, this occurred between 2002 and 2004, when the excise duty on tobacco was raised and cigarette prices rose significantly from €3.60 in 2002 to €5.00 in 2004.
 - In 2015, **tax incidence** in France is approximately 80.3% of the final retail price of the most popular brand. The country ranked 7th among 28 EU countries for cigarette taxation (European Commission 2015). A high tax incidence may create profit potentials for smugglers.
 - The **unemployment rate** in France reached 10.1% in 2015 (Banque de France 2015). The global recession and the economic crisis severely hit the country. Worsened social conditions and high unemployment rates may induce smokers to maintain their smoking habits by switching to illicit, less expensive tobacco products.

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

Source: Transcrime elaboration



- **The French market is experiencing a downtrading trend.** Consumption of cigarettes and cigars is decreasing while HRT has increased. Indeed, from 2009 to 2014, the change in the sales volume of HRT (hand-rolling tobacco) was +11.1% (Euromonitor International 2015a).
- **Availability:** The relative ease with which both smugglers and consumers can obtain illicit tobacco products.
- **The easier it is to find and buy illegal products, the greater the likelihood of their diffusion in a specific area.** In France, illicit tobacco products can be mainly found in specific neighbourhoods of metropolitan areas in Paris, Lyon, Toulouse and Marseille.
- France’s geographical location in Western Europe and the presence of neighbouring countries with cheaper tobacco products, such as **Andorra, Spain, Italy, Belgium, Germany and Luxembourg**, may increase the availability of the ITTP in border regions. Indeed, **cross-border purchasing**, i.e., the practice of buying cheaper tobacco products in neighbouring countries, is commonplace in France. These purchases are illegal whenever imported products exceed the amount allowed by the law or if they are used for re-sale even within limits.
- **The high incidence of non-domestic cigarettes at French ports** suggests that international trade practices favour the importation of illicit tobacco products.

- The demand for **specific tobacco products**, such as waterpipe tobacco, may favour its availability on the black market.
- **Supply chain control measures** (tracking and tracing systems, customer identification and mandatory licensing for tobacco retailers and manufacturers) impact the ITTP by decreasing the availability of illicit tobacco products.
- The **introduction of plain packaging** from May 2016 could increase the availability of counterfeit tobacco products on the black market.
- **Profitability: The ability of the ITTP to generate profits that exceed its operational costs.**
- **The ITTP provides very high incomes** because most illicit tobacco products pay no, or very limited, taxes. At the same time, cigarettes are the commodity with the highest fiscal value per weight (Joossens 1998, 149–150). In France, illicit cigarettes cost €2 less than legal ones. This leaves high margins for the ITTP.
- **Importing cheaper tobacco products from neighbouring countries** is a consolidated practice in France. In 2015, the OFDT and INHESJ estimated that 17% of tobacco consumed in France arrived from neighbouring countries (Lermenier-Jeannet 2015). The low prices of tobacco products in neighbouring countries may also encourage bootlegging.
- **The drugs market is the largest illegal market in France** (National Gendarmerie 2015). Consolidated illicit routes used for drug trafficking may increase the opportunities for smugglers to traffic illicit tobacco and exploit scope economies among different goods.
- **Risk: The threat of detection/accusation/conviction and the sanctions imposable on the actors involved in the ITTP.**
- **Penalties against illicit tobacco trafficking** in France comprise **several measures**, depending on the offences committed by the persons involved, i.e., intellectual property infringement, tobacco contraband, presence of a criminal organisation, tax evasion, etc. The penalties imposable for these crimes (e.g., confiscations, fines or imprisonment) constitute deterrents against the growth of the ITTP.
- **Law enforcement cooperation** with EU institutions can increase the risks for the smugglers involved in the ITTP.
- The signings of **several Memoranda of Understanding** between French Customs and the tobacco industry increase the risks for smugglers and impact the supply of illicit tobacco and the *modus operandi* of the traffickers.
- **The 2011 French national action plans** against cigarette smuggling may have reduced the supply of illicit tobacco by increasing the risks for smugglers. A new action plan would be launched in next years, according to the National Programme for reducing tobacco consumption (Axis 3).
- **Supply chain control measures impact the ITTP by increasing the risk for smugglers.** These measures include tracking and tracing systems, customer identification and mandatory licensing for tobacco retailers and manufacturers.
- **The low level of corruption in France** impacts the supply side of the ITTP by increasing the risks for the actors involved.
- **Established smuggling routes** may be used from criminal networks for transporting illicit cigarettes. This may boost the supply of the ITTP by diminishing the risks for criminals.
- **The small structure and *modus operandi* of smuggling rings** in France impact the supply of illicit tobacco by reducing the risks for the actors involved.

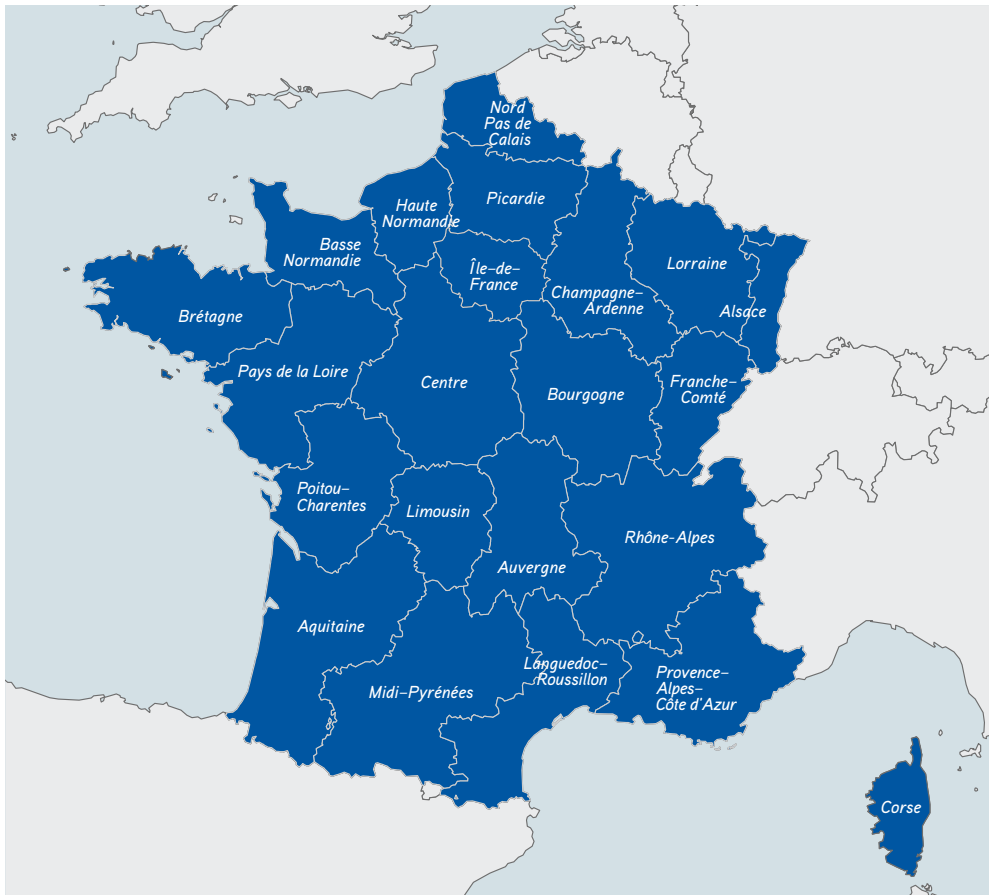
Currently, the only official estimates on the size of the ITTP in France have been provided by the DGDDI for 2011 only. Some unofficial estimates are also available. Moreover, Transcrime has estimated the volume and prevalence (mn sticks per 100,000 inhabitants) of illicit tobacco in France. Contraband & others are the most widespread illicit tobacco product, while the incidence of counterfeits has decreased in the last years. Illicit whites, particularly the *American Legend* brand, have become increasingly common in Southern France, especially in the port basin of Marseille. DGDDI seizures suggest the growing importance of illicit HRT and waterpipe tobacco. Nevertheless, there is no actual official estimate on their incidence in the French market.

Cross-border purchasing is a crucial issue for the analysis of the ITTP in France. France's proximity to countries with cheaper tobacco products facilitates cross-border purchases of tobacco and, in some cases, the importing of quantities in excess of those allowed by the law or the re-sale the tobacco products.

The results of this study demonstrate that more research and accurate data would allow a better assessment of the ITTP in France. Indeed, there are no publicly available studies on the demand for illicit tobacco products. Furthermore, whilst the incidence of contraband, counterfeit and illicit whites is measurable from unofficial estimates, the shares of illicit HRT and waterpipe tobacco have not yet been calculated. The disparity between national consumption and national sales of these products and the rising number seizures in France suggest that this may be a growing trend within the ITTP.

The ITTP is a complex problem, not limited to an issue of law enforcement and criminal justice policy alone. In France, the ITTP seems to have increased between 2006 and 2015. The government has reacted with various measures. Nevertheless, despite the launch of the 2011 national action plan, additional preventative measures, such as a new national action plan or national public awareness campaigns, are necessary. 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 has shown 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 may affect the quality and reliability of the results. In these cases, institutions, businesses and other stakeholders concerned with the ITTP should consider how to improve the data collection on illicit tobacco. This will result in an improvement in the knowledge of the ITTP and, in turn, in better tobacco control policies, since quite often the impact of specific policy measures upon crime may be overlooked due to the lack of reliable data.



Location:

France is the largest country in Western Europe and the third-largest in Europe as a whole. The European territory of France covers 550,000 square kilometres. France shares borders with Spain, Andorra, Monaco, Italy, Switzerland, Germany, Luxembourg, and Belgium. Metropolitan France is formed by Corsica and the French mainland; overseas regions are Guadeloupe, Martinique, Réunion, and Mayotte. France is further subdivided into 27 administrative regions: 22 metropolitan regions and five overseas regions. The regions are divided into 96 metropolitan departments and five overseas departments.

Population: 66,206,930 (2014)

Male: 32,223,161 (48.7%)

Female: 33,983,769 (51.3%)

Growth Annual Rate: -0.4 (2014)

Age Structure: (0–14) 18.5%; (15–64) 62.8%; (65+) 18.5%

Fertility Rate: 2.0 children born/woman (2013)

Life expectancy at birth (years): 82.0 (2013)

GDP: US\$2,829.19 billion (2014)

GDP growth: 0.2% (2014)

Inflation consumer price: 0.5% (2014)

Income level: High