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THE FACTBOOK ON THE  
ILLICIT TRADE IN TOBACCO  
PRODUCTS

directed by: Ernesto U. Savona

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# ISSUE 8 FRANCE





*France*

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**Series editor: Ernesto U. Savona**

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# TRANSCRIME

Transcrime is the Research Centre on Transnational Crime of Università Cattolica del Sacro Cuore of Milan. The Centre, directed by Ernesto U. Savona, Professor of Criminology at Università Cattolica, represents the multiannual union between experience and innovation in the field of criminological research.

Transcrime aims at being a national and international point of reference in the criminological field. The vision of the Centre is to increase knowledge in the criminological field and in the prevention of crimes, developing innovative ideas and cutting-edge techniques.

Transcrime combines its experience in applied research with the consolidated scientific tradition of Università Cattolica del Sacro Cuore, mixing a practice-oriented approach with a profound understanding of criminal phenomena. Through this experience, it developed a solid network of relationships in the academic field, institutions, international organisations and businesses.

The Centre also plays an important role in the support and development of educational activities at Università Cattolica del Sacro Cuore of Milan. Its principal aim is to achieve close integration between scientific innovation and academic education. In particular, since the academic year 2005/06, Transcrime has managed an MA programme dedicated to crime and security (until academic year 2012/13, the curriculum Crime&Tech: Crime Sciences and Technologies for Security within the MA in Applied Social Sciences; since the 2013/14 academic year curriculum POLISI: Policies for security within the MA in Public Policy). In addition, the Centre has contributed to the development of the International Ph.D. programme in Criminology, coordinated by Professor Francesco Calderoni (Università Cattolica del Sacro Cuore), which is currently the only doctoral course dedicated to Criminology in Italy.

Transcrime is an independent academic centre. It pursues an autonomous research agenda, which may be developed also through contracts and funding by private and public local, national and international institutions. The source of funding is always made public through Transcrime's website.





# THE FACTBOOK ON THE ILLICIT TRADE IN TOBACCO PRODUCTS

**This report is part of the project *The Factbook on the Illicit Trade in Tobacco Products* (henceforth, ITTP).**

The project has been developed by Transcrime after the *Round Table on Proofing EU Regulation against the Illicit Trade in Tobacco Products* hosted by Università Cattolica del Sacro Cuore of Milan on 5 May 2011. During the Round Table, participants (researchers and policymakers with experience in the field of the illicit trade in tobacco products) agreed on a research agenda concerning the ITTP (Transcrime 2011). Items 3 and 6 of the research agenda focused on the need for better analysis of the tobacco market by taking account of its dual nature (i.e., legal and illicit part) and on how licit and illicit markets vary across different countries and regions. Given these considerations, Transcrime has developed the Factbook on the ITTP, a multi-annual research plan providing detailed analyses of the ITTP and of its relations with the legal market and other socio-economic and political factors in a number of countries around the world.

**The aim of the Factbook is to provide an innovative instrument to shed light on the complex mechanisms behind the ITTP in different countries. This report focuses on France.**

Tobacco consumption is undoubtedly a danger for human health, and governments should carefully regulate the tobacco market. Illicit tobacco avoids state regulation and taxation and may jeopardise tobacco control policies.

**The Factbook will contribute to raising awareness about the global importance of the ITTP and about the strategies available to prevent it.** The Factbook has been developed for a wide readership ranging from policymakers and academics to interested stakeholders, with **the intention of providing support to develop knowledge-based debates and policies on the ITTP.**

The information gathered for this report originates from academic literature, grey literature, open sources, questionnaires and interviews with experts and stakeholders. The data-gathering phase of the project encountered major difficulties due to the number of sources, institutions and stakeholders involved.

The results of the report do not claim to be exhaustive or an accurate reflection of criminal practices. They provide an initial assessment of the ITTP in France and a starting point for future research.

*As a concerned stakeholder in the fight against the illicit trade in tobacco products, Philip Morris International (PMI) welcomed Transcrime's initiative to develop the Factbook on the ITTP with financial support and the provision of data. However, Transcrime retained full control and stands as guarantor for the independence of the research and its results. Information and data for the study have been collected by Transcrime and have not been shared with PMI.*





## ACKNOWLEDGEMENTS

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# 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.

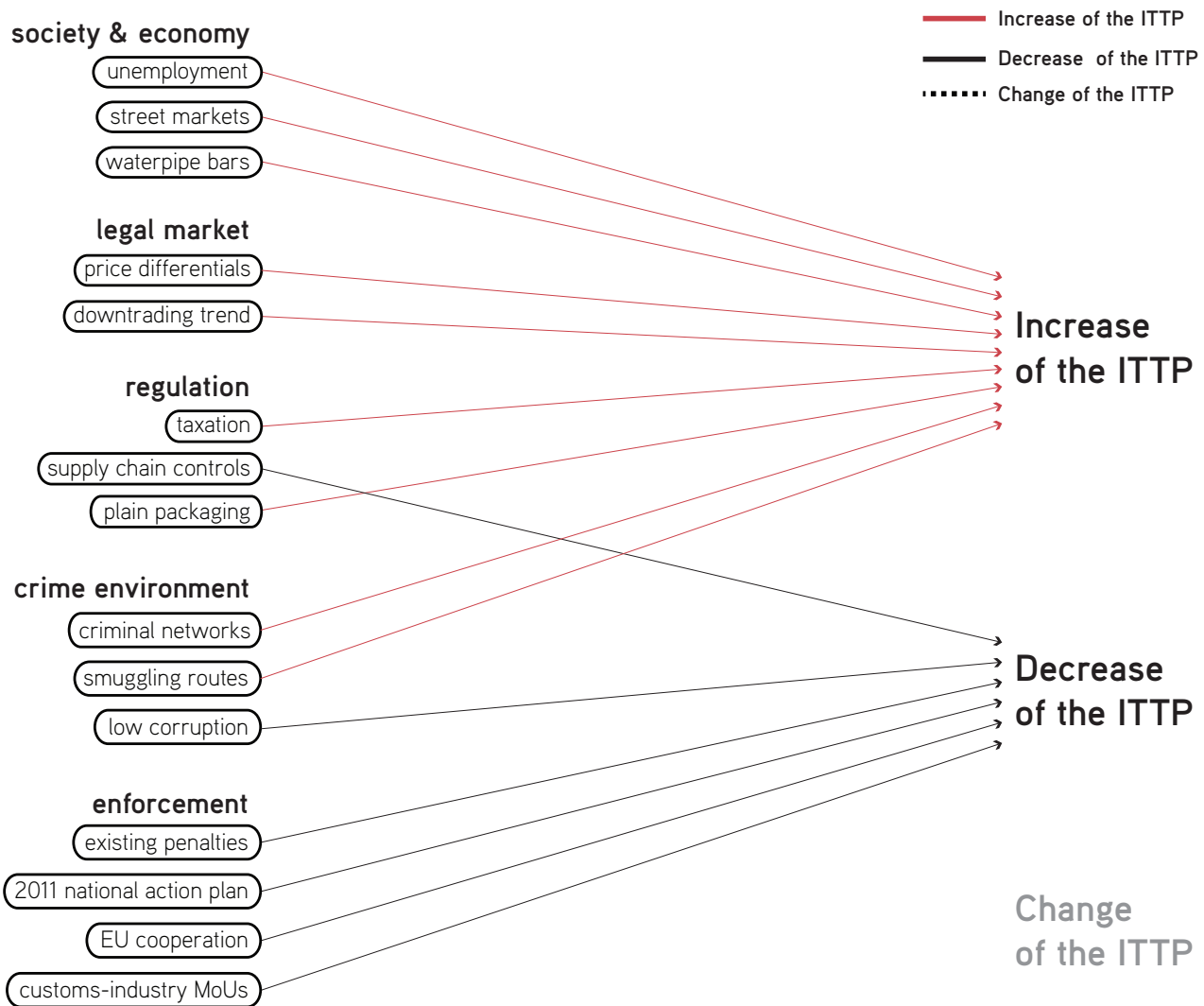
## FRAMING THE COMPONENTS IN THE DRIVERS: THE FOUR KEY FACTORS OF THE ITTP

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 7<sup>th</sup> 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

# INTRODUCTION

## WHY FOCUS ON THE ITTP IN FRANCE?

There are several reasons for studying the ITTP in France.

First, France's geographical position makes it a transit country for illicit tobacco flows mainly directed to the UK. Second, the country's strong commitment to tobacco control policies in recent decades and the significant increases in taxation may have created opportunities for the illicit tobacco trade. Third, six among France's seven bordering countries (Spain, Andorra, Italy, Switzerland, Germany, Belgium and Luxembourg) have cheaper cigarettes. In the past decade, cross-border purchases have become increasingly common. These may proxy the demand for cheap tobacco and this may reflect on illicit tobacco.

DGDDI (Direction générale des douanes et droits indirects) estimates that 1 among 5 cigarettes consumed in France has been purchased outside the legal network of French retailers. In particular, DGDDI assesses that 5% of the tobacco market in France is illicit (DGDDI 2011b). This estimate is lower than other unofficial estimates. Unofficial sources estimate the illicit market at around 20% of the French tobacco market in 2015 (Euromonitor International 2015a).

Tobacco is a dual market consisting of a legal and an illegal part (Figure 2). The two sides of the market are connected with each other: actions affecting one side of the market influence the other side as well.

Figure 2. The dual tobacco market



The ITTP comprises different activities and products:

**Smuggling (or contraband):** the unlawful movement or transportation of tobacco products (genuine or counterfeit) from one tax jurisdiction to another without the payment of applicable taxes or in breach of laws prohibiting their import or export (Joossens and Raw 2008).

**Counterfeiting:** the illegal manufacturing of a product bearing or imitating a trademark without the owner's consent. Illegally manufactured products can be sold in the source country or smuggled into another country (Joossens and Raw 2008).

**Bootlegging:** the legal purchase of tobacco products in a low-tax country and the illegal resale of these products in a high-tax country. Bootlegging concerns individuals or small groups who smuggle smaller quantities of cigarettes, taking advantage of tax differentials, with the aim of making extra income (Hornsby and Hobbs 2007).

**Unbranded tobacco:** manufactured, semi-manufactured and even loose leaves of tobacco (also known as "chop-chop" (Geis 2005)), illegally sold by weight (e.g. in large plastic bags, also known as "baggies"), with no labelling or health warnings and consumed in roll-your-own cigarettes or in empty cigarette tubes (Walsh, Paul, and Stojanovski 2006).

**Cheap Whites or Illicit Whites:** cigarettes produced legally in one country, but normally intended for smuggling into countries where there is no prior legal market for them. Taxes in production countries are normally paid, while they are avoided/evaded in destination countries (Allen 2011).

**Illegal manufacturing:** cigarettes manufactured for consumption, which are not declared to the tax authorities. These cigarettes are sold without tax and may be manufactured in approved factories or illegal covert operations (Joossens et al. 2010).

In France, there are no official data on the prevalence, demand for and consumption of illicit products. This entails that the actual dynamics of the illicit market and its structure should be further researched. The main sources used for this study have been Customs research papers and seizures data, KMPG and Euromonitor International data, empty pack surveys (EPSs) commissioned by the tobacco industry and media news. All non-official sources are treated with caution in order to minimise the impact of their possible bias.

## WHAT CAN BE FOUND IN THIS REPORT?

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

**Chapter 1** is composed of five subsections analysing the **five drivers of the ITTP**:

1. Society and economy
2. Legal market
3. Regulation
4. Crime environment
5. Enforcement

The drivers are important areas whose structures may influence the ITTP positively or negatively. Transcrime selected the drivers based on a review of the literature on the ITTP and discussions with stakeholders and experts. Each subsection provides information on the key aspects of each driver.

**To enable comparison with other country profiles, each driver has five key indicators.** The data for the drivers' indicators come from different sources to ensure comparability among different countries to the last available years (e.g., World Bank, WHO and UN). When possible, the report provides the most up-to-date data from national sources. For four indicators, Transcrime has elaborated composite indicators (see Regulation and Enforcement, pp. 27 and 41). Composite indicators assess the presence of specific policy measures in the country and range from 0 (no measure is present) to 5 (all measures are present). A higher value on the composite indicators does not always imply a better situation. Their purpose is rather to assess the intensity of policy measures in a specific field. The information used for the assessment is drawn from the literature, official sources (reports, websites and legislation) and experts.

**Chapter 2** analyses the illicit trade in France by dividing it into its **four components of the ITTP**:

1. The demand
2. The supply
3. The products
4. The *modus operandi* and geographical distribution

**Chapter 3** combines the results of the two previous chapters to identify the **key factors** behind the ITTP and shows how the various elements of the drivers influence the illicit trade. The four key factors are the following:

1. Economic accessibility
2. Availability
3. Profitability
4. Risk

These factors are pivotal for demonstrating how the various elements of each driver influence the illicit trade.



# Chapter 1

*The five drivers*



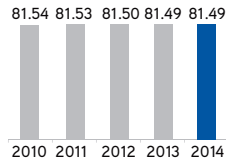
## SOCIETY & ECONOMY

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***F**rance is a developed and modern society. Income inequality is low, and wealth has increased over the decades. Nevertheless, France has been severely affected by the global financial crisis. Public expenditure on education, health and social protection is high.*

## Adult Population

Population aged 15+  
Source: The World Bank



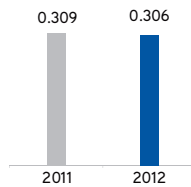
**81.49%**

54 out of 225 countries  
(2014)



## Income Inequality

GINI coefficient after taxes  
Source: OECD



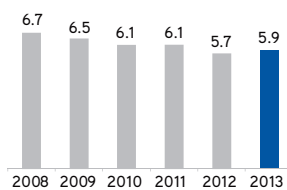
**0.306**

14 out of 32 countries  
(2012)



## Education System

Education expenditure as % of GDP  
Source: The World Bank



**5.9%**

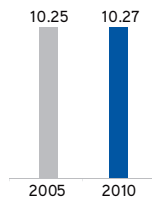
19 out of 182 countries  
(2013)



Last national available data (2014): **6.8%** (INSEE 2015)

## Migration

International migrant stock as % of population  
Source: The World Bank



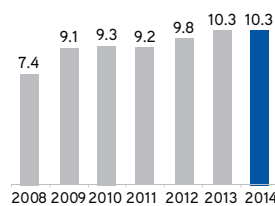
**10.27%**

69 out of 213 countries  
(2010)



## Unemployment

Total unemployment rate as % of labour force  
Source: OECD



**10.3%**

7 out of 34 countries  
(2014)



Last national available data (December 2015): **10.1%** (Banque de France 2015)

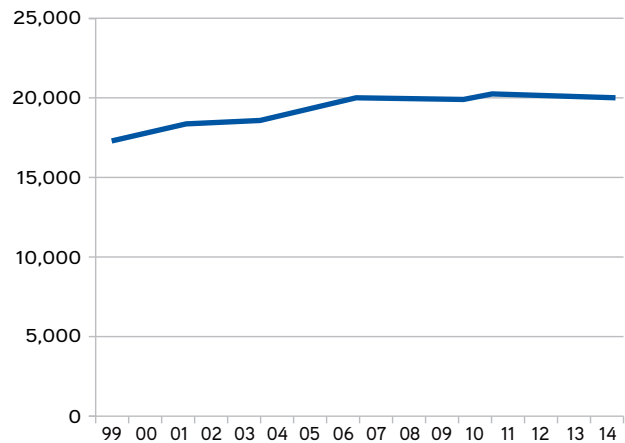


- **France is a highly developed country with a low income inequality rate.**
- According to the Human Development Report, France had a Human Development Index (HDI) of 0.888, ranking 22<sup>nd</sup> out of 188 countries surveyed in 2014 (UNDP 2015).
- With a Gini index of 0.31 in the 2012, France ranks 14<sup>th</sup> out of 32 countries in income inequality (OECD 2015f). According to the CIA World Factbook, comprising a larger number of countries, France ranks 121<sup>st</sup> out of 144 countries (CIA 2015).
- France has lower income inequality and lower relative poverty rates compared to the OECD average. France is one of the few OECD countries in which income inequality has not increased over the past 25 years (OECD 2015b).
- Wealth per adult grew markedly in France between 2000 and 2007, tripling in value. Much of the pre-2007 rise was due to the appreciation of the euro against the US dollar (Keating et al. 2012). The country is recovering from the crisis; however, its wealth per adult is still under the 2007 pre-crisis data and the median wealth per adult is US\$ 86,156 in 2015 (Stierli et al. 2015).
- The unemployment rate in France reached 10.1% in December 2015 (Banque de France 2015), recording an increasing trend in recent years. Whilst unemployment concerned young people in 2008–2009, it now affects all age groups. In 2014 the unemployment rate was 10.3%. It was above the OECD average (8.4%) and in line with the EU average (10.2%). It ranked 7<sup>th</sup> out of 34 countries (OECD 2015f).
- **The global recession and the economic crisis severely hit France.**
- French public debt, as a percentage of GDP, grew by approximately 23 p.p. between 2005 and 2015, rising from 75% to 98% of GDP (OECD 2015b).

- Per capita GDP has increased in the past decade. It decreased only in 2009, but in 2010 it started to rise again reaching US\$39,357 in 2014 (OECD 2015c). Nevertheless, growth of per capita GDP has been behind the OECD's best performers (OECD 2015b).
- **France has an efficient welfare system.**
- As a share of GDP, France spends more on social protection than other OECD countries (31.9% of GDP in 2014 compared to an OECD average of 23.0%) (OECD 2015d). Indeed, France has one of the lowest poverty rates in the OECD, with only 7.9% of the population below half of median income in 2013 (OECD 2015e).
- **Household expenditure has increased in the past decade in France (Figure 3).**

Figure 3. Household final consumption expenditure, PPP (constant 2005 international \$), 1999–2014

Source: [Transcrime calculations on World Bank \(2015\) data](#)



- In 2013, the category with the highest household expenditure was 'housing, heating and lighting' (20.3% of total expenditure). 'Food and non-alcoholic beverages' (10.2%) and 'transport' (9.9%) followed. Expenditure on 'tobacco and alcoholic beverages' was 2.7% in 2013 (INSEE 2014).
- **Public spending on education is high in France.**
- Between 2005 and 2013, expenditure on all levels of education increased in France (The World Bank 2015).

- Public spending on education in France has decreased from 6.7% in 2008 to 5.9% of GDP in 2013. Despite this decrease, France ranks 19<sup>th</sup> out of 182 countries for spending on education (The World Bank 2015). According to INSEE (French National Statistics and Economic Studies Institute—*Institut National de la Statistique et des Etudes Economiques*), in 2014 education expenditure as a percentage of GDP was 6.8% (INSEE 2015).
- **Public spending on health is high in France.**
- Public health expenditure accounted for 10.9% of GDP in 2013. It increased by approximately 1 p.p. between 2003 and 2013 (OECD 2015a).
- France has one of the highest life expectancy in the world, with an average of 82.0 years (The World Bank 2015).
- **France is a multicultural society.**
- The total French population in 2014 was approximately 66 million people, with a growth rate of 0.43% (The World Bank 2015). The proportion of people aged over 15 in 2014 was 81.5%. The country ranks 54<sup>th</sup> out of 225 countries for adult population (The World Bank 2015).
- Despite the economic crisis, France is experiencing a boom in birth rates, the highest since the 1970s. Together with Ireland, France had the highest fertility rate in Europe in 2013, with an average of 2.01 children per woman (The World Bank 2015).
- Among the French population, 93.9% are people born in France and 6.1% are foreigners (4.0 million) (Ministère de l'Intérieur 2015). In 2008, the proportion of immigrant descendants was among the highest in Europe, counting 6.7 million people and representing 11% of the population. The median standard of living of immigrants and immigrant descendants is lower than that of the general population (INSEE 2012).
- The migration stock as a percentage of the total population was 10.27% in 2010 (in 2005 it was 10.25%). The country ranked 69<sup>th</sup> out of 213 countries (The World Bank 2012).
- Historically, the source countries for immigrants have been Algeria, Italy, Morocco, Spain and Portugal. In recent years, Chinese and Turkish migrations have increased (Bouvier 2012).
- Immigrants (43%) and immigrant descendants (32%) are concentrated mainly in the Île-de-France region. They have lower living standards and encounter more difficulties in entering the labour market than do the rest of the population. Indeed, the median standard of living of immigrants and immigrant descendants is 30% lower than that of the general population. The poverty rate is almost 37% for immigrants and 20% for immigrant descendants (Bouvier 2012).

In conclusion, 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 the GDP per capita has increased in the past decade. France spends a large share of GDP on education and health, and the life expectancy rate is one of the highest in the world. Nevertheless, the global recession and the economic crisis have severely hit France. Unemployment rates have grown until 2014 and then remained stable.



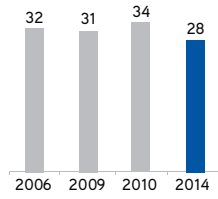
## LEGAL MARKET

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*The French tobacco market is highly concentrated, being dominated by four multinational companies. In the past decade, both cigarette consumption and sales have decreased. Tax increases on tobacco products, which have led to a rise in the price of cigarettes, have made smokers more cost-conscious than before. Cross-border purchases of tobacco products have increased and smokers have shifted to less expensive HRT products, signalling a downtrading trend of tobacco consumption.*

### Smokers

Current smoking of any tobacco product (age-standardised rate)  
Source: WHO-Country reports



**28%**

34 out of 125 countries  
(2014)



### Affordability

% of annual per capita income needed to buy 100 packs of the most sold cigarettes  
Source: Transcrime elaboration

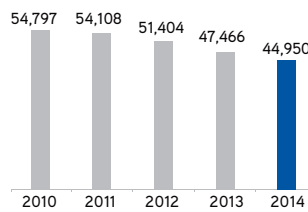
**2.1%**

38 out of 60 countries  
(2015)



### Market Size

Cigarette retail volume (mn sticks)  
Source: Euromonitor International



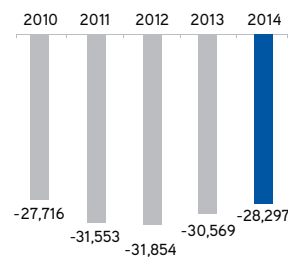
**44,950**

9 out of 47 countries  
(2014)



### Balance of Trade

Cigarette exports-imports (mn sticks)  
Source: Euromonitor International



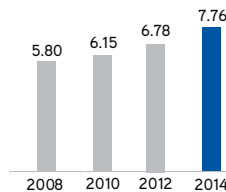
**-28,297**

44 out of 47 countries  
(2014)



### Price

Price of a pack of the most sold brand (Int.\$, PPP)  
Source: WHO



**Int.\$, PPP 7.76**

21 out of 179 countries  
(2014)



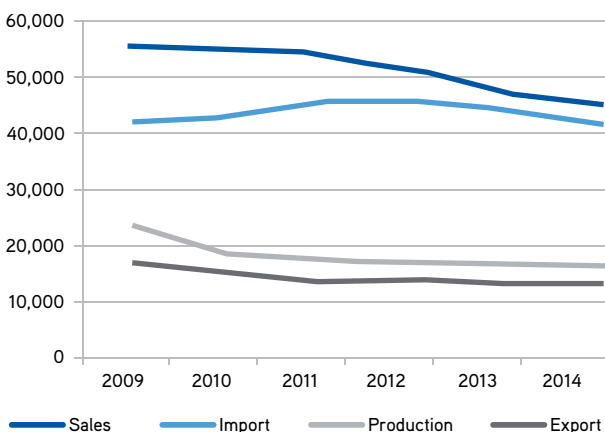
Last available data (2015): **Int.\$, PPP 8.45** (Euromonitor International 2015, International Monetary Fund 2015)

## TOBACCO MARKET

- **In France, cigarette imports exceed exports. National production does not absorb the national demand for cigarettes. In recent years, production, imports and exports have decreased.**
- Although France is not among the main tobacco manufacturers at global level, it is an important manufacturer at the European level, with two production plants in the country and one in Corsica. In 2014, the country was the 11<sup>th</sup> producer of cigarettes among EU Member States, with an output of 13,437 mn sticks (Euromonitor International 2015a).
- France is a large importer of cigarettes, and its balance of trade (exports minus imports in volume) is among the lowest in the world, with a negative value of -28,297 mn sticks in 2014. The country ranks 44<sup>th</sup> out of 47 countries (Euromonitor International 2015a).
- Tobacco growing is present in the country. In France, 1,431 growers operated in 2012 (WHO FCTC 2014).
- French tobacco farmers are grouped into seven cooperatives coordinated by the *France-Tabac* group. The cooperatives supervise the regional production of tobacco and give technical support to tobacco farmers. They are: *Nord & Loire TABAC*; *Poitou Tabac*; *Erigord Tabac*; *Tabac Garonne Adour*; *Alsa Tabac*; *Agri Tabac* and *Midi Tabac*. The tobacco grown by farmers within each cooperative is then processed at the Sarlat tobacco plant (South-West France) (The France-Tabac Group 2016).

Figure 4. National production, importation, exportation and sales of cigarettes (mn sticks), 2009–2014

Source: Transcrime calculations on Euromonitor International (2015a) data



- **France has a large cigarettes market.**

- In 2014, the total value of sales of tobacco products was €18.1 bn. In volume, the size of the French cigarette market was 44,950 mn sticks in the same year. The French market is one of the largest in Europe, Middle East and North Africa (9<sup>th</sup> out of 47 countries) (Euromonitor International 2015a).

- **The French tobacco market is highly concentrated.**

- The French tobacco market has high barriers to entry and is highly concentrated. Indeed, domestic manufacturers and new players find it hard to establish themselves within the market (Euromonitor International 2015b).

- In 2014, the cigarette market was dominated by Philip Morris France SAS (one third of the market), followed by Seita-Imperial Tobacco Group, Japan Tobacco International and British American Tobacco (Euromonitor International 2015a).

- The HRT market exhibits a different pattern. Japan Tobacco International lead the market in 2014. The second largest company was Philip Morris France SAS, followed by Seita-Imperial Tobacco France SA and British American Tobacco (Euromonitor International 2015a).

- **Four top multinational tobacco companies have subsidiaries in France.**

- Philip Morris France SAS (based in Paris) is the leading player in the French cigarette market. It has no tobacco manufacturing facilities in the country. It buys tobacco in France and exports it in the Netherlands where it becomes finished products to be sold in France (Euromonitor International 2015b).
- Seita-Imperial Tobacco France SA, a subsidiary of the Imperial Tobacco Group, is located in Paris. It is present in all key tobacco categories, exports its products worldwide and is the only national producer in France. Its production facilities are based in Riom (Euromonitor International 2015b).

- Japan Tobacco International France SAS is located in Boulogne Billancourt, Île-de-France region. It has no production facilities in France (Euromonitor International 2015b).
- British American Tobacco France (BATF) is a wholly owned subsidiary of British American Tobacco Plc and is based in Boulogne Billancourt in the Île-de-France region. BATF has no production facilities in France and concentrates its production on cigarettes (Euromonitor International 2015b).
- **The main cigarette distribution channels are licensed tobacconists.**
- In addition, points of resale such as bars and restaurants can purchase cigarettes from licensed retailers and re-sell them to customers, without displaying these products (Euromonitor International 2015b).
- Mid-tar cigarettes (10mg tar) are the most commonly sold cigarettes in France, accounting for nearly 37.6 bn sticks in 2014 and corresponding to 83.6% of total retail volume sales. The sale trend of low and ultra-low tar cigarettes was increasing until 2010 and then started decreasing (Euromonitor International 2015a).
- Marlboro was the most popular brand in 2014, with a fifth of the cigarette market. The second most popular brand was Gauloises, followed by Philip Morris. Nevertheless, sales of both Marlboro and Gauloises have decreased since 2009 (-31.7% and -29.6%, respectively), while Philip Morris has increased by 3.3% (Euromonitor International 2015a).
- In the period 2010–2014 the share of premium, mid-priced and economy brands remained relatively stable. Nevertheless, premium and economy brands' shares decreased from 47.6% of the total sales to 45.4% and from 17.9% to 17.3%, respectively. Conversely, mid-priced brands increased from 34.5% to 37.3% (Euromonitor International 2015a).

## TOBACCO CONSUMPTION

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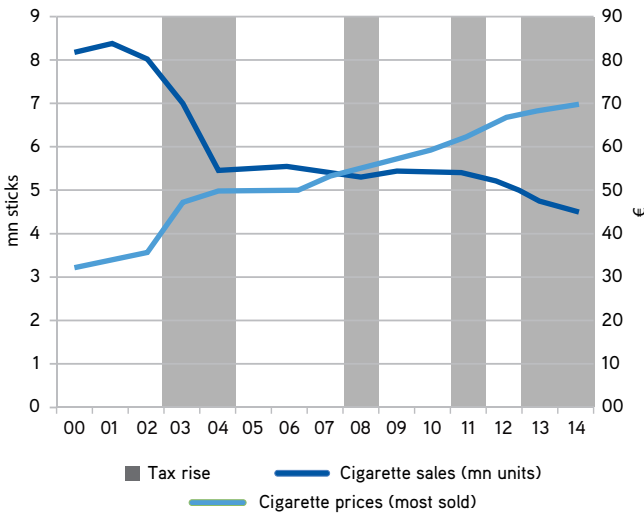
- **Tobacco consumption is declining in France as are sales.**
- The age-standardised smoking rate was 28% in 2014. France ranked 34<sup>th</sup> out of 125 countries (WHO 2015a).
- According to the most recent survey on tobacco consumption in France, conducted in 2014, there has been a decrease in smoking compared with 2010. Of the total population between 15 and 75, the proportion of daily smokers decreased by 1 p.p. between 2010 and 2014, from 29.1% to 28.2% (Guignard et al. 2015).
- The decline in tobacco sales and consumption can be attributed to intensified anti-smoking messages from the government and increasing health awareness campaigns (Euromonitor International 2012).
- As a consequence of the decreased tobacco consumption among the French population, the volume sales of tobacco has decreased in recent years and sales are expected to decline in the next five years (Figure 4, p. 23). Notwithstanding this decreasing volume of sales, the value of tobacco sales has increased over the years because of price increases (Euromonitor International 2015a).
- **The price of cigarettes in France has increased significantly in the past decade (Figure 5, p. 25).**
- The price of a pack of the most sold brand (Marlboro) is among the highest worldwide. Indeed, in 2014, it cost International \$7.76, and France ranked 21<sup>st</sup> out of 179 countries (WHO 2015b). This price has increased by 33.8% from 2008 when it was International \$5.80 (WHO 2015a). In 2015, the price of a pack of the most sold brand is International \$8.45 (European Commission 2015; IMF 2015).
- The average retail price of cigarettes in metropolitan France is €6.74 (PMI 2015).
- In 2015, the recommended selling price (RSP) for a 20-size pack of Marlboro is €7.00. The percentage of per capita GDP needed to purchase 100 packs is 2.1%. For the cheapest brand this percentage is 1.9%.<sup>1</sup> France has relatively affordable Marlboro cigarettes in comparison with French per capita income, ranking 38<sup>th</sup> out of 60 countries for cigarette affordability (PMI 2015).

1. Transcrime elaboration on PMI data on Marlboro prices and International Monetary Fund data on GDP (IMF 2015; PMI 2015).

- According to the Tobacco Atlas, in 2012, the minutes of labour (for median for all occupations) needed to purchase a pack of cigarettes were 34.13 and the country ranked 17<sup>th</sup> out of 47 countries (Eriksen et al. 2015).

Figure 5. Cigarette sales in mn units and price of the most sold brand, 2000–2014

Source: Transcrime elaboration on European Commission (2015) data

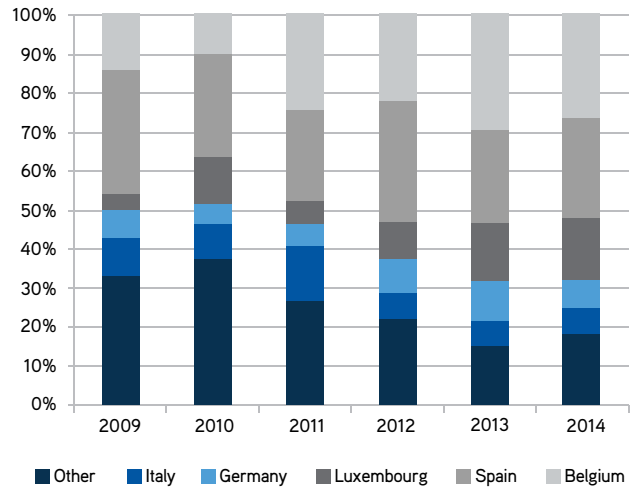


- Large cigarette price increases between 2002 and 2004 led to a rise in cross-border purchases of tobacco products. Several attempts to estimate the size of cross-border purchases have been made by scholars and public bodies.

- It is estimated that around one-fifth of the cigarettes consumed in France come from neighbouring foreign countries (DGDDI 2011b).
- Tax increases on cigarettes between 2002 and 2004 led to a 30% fall in the volume of cigarette sales. French smokers started to buy tobacco products abroad, mainly from north-eastern neighbouring countries such as Belgium and Luxembourg, and from southern countries like Spain, Andorra and Italy, where tobacco products are cheaper.
- From 2009 to 2014, the share of legal non-domestic packs arriving from Belgium and Luxembourg increased (+83% and +318%, respectively), while the share of packs from Italy, Spain and Germany decreased (-31%, -18% and -7%, respectively) (KPMG 2015) (Figure 6).

Figure 6. Non-domestic (legal) packs by origin, 2009–2014

Source: Transcrime calculations on KPMG (2015) data



- OFDT (*Observatoire français des drogues et des toxicomanies*) and INHESJ (*Institut national des hautes études de la Sécurité et de la Justice*) estimates that 77% of tobacco sales occur within the French network of tobacconists, while 17% do so outside this network in neighbouring countries (and 1% in non-neighbouring countries) and 5% through illegal channels (Lermenier-Jeannet 2015).

- In 2011, DGDDI estimated that 80% of tobacco sales occurred within the French network of tobacconists, while 20% did so outside this network in neighbouring countries (15%) and through illegal channels (5%) (DGDDI 2011c).
- Between 2002 and 2010, per capita expenditure on tobacco bought within the French network decreased by 7.7% in border regions, falling from €235 per capita in 2002 to €217 in 2010. Instead, there was an increase in non-border regions, where the expenditure rose from €247 in 2002 to €293 in 2010, with an increase of 18.60% (DGDDI 2011b). Indeed, during this decade, around 5,000 French tobacco retailers went out of business (Binetruy, Dumont, and Lazaro 2011).
- In September 2014, France changed the tobacco importation allowance from other EU countries.



Table 1. Sales of tobacco by category (volume), 2009–2014

Source: Transcrime calculations on Euromonitor International (2015a) data

	2009	2010	2011	2012	2013	2014
<b>Cigarettes (mn sticks)</b>	54,987	54,797	54,108	51,404	47,466	44,950
<b>Cigars (mn units)</b>	1,579	1,556	1,507	1,494	1,425	1,374
<b>HRT (mn sticks)</b>	7,258	7,598	7,976	8,487	8,597	8,064

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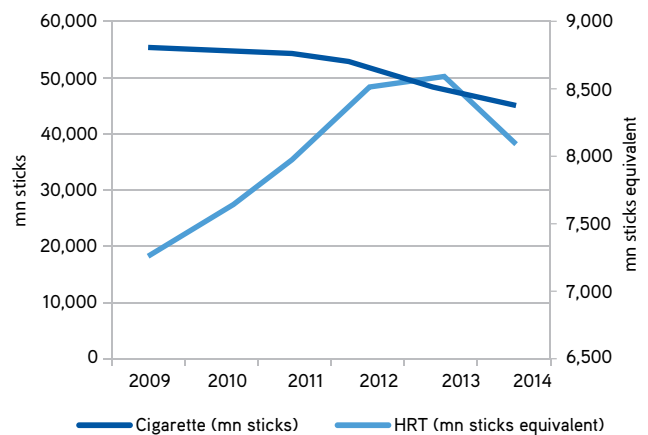
- A judgement of the European Court of Justice of March 2013 established that France was failing to fulfil its obligations under Council Directive 92/12/EEC and under Article 34 TFEU (Treaty on the Functioning of the European Union) by setting quantitative restrictions on imports of tobacco. Indeed, prior to this sentence, cross-border customers could import into France up to 5 cartons of cigarettes from another EU country (art. 575 G–H of the CGI—Code général des impôts). A larger quantity of tobacco could be imported only with specific authorisation from DGDDI, the DSA—*Document Simplifié d’Accompagnement* (Service-public.fr 2012).

- Complying with the judgement of the European Court of Justice, France raised the quantitative limits on the importation of tobacco to 10 cartons of cigarettes. If the holder of the cigarettes does not establish that they are intended solely for personal use, two options are open: either he/she forfeits the cigarettes or he/she keeps them and pays French taxes in addition to those already paid in the country of origin. Moreover, fees amount to €840 per 20 packs, together with fine of up to €2,500 (Service-public.fr 2015).
- To avoid the illegal importation from EU countries, in 2014, the French government adopted a circular (issued 5<sup>th</sup> September 2014), that identified at 4 cartons the threshold at which the customs authorities are empowered to verify if the tobacco transported by a person from another EU country is intended solely for personal use (DGDDI 2015a).
- Cross-border customers from non-EU countries can import a maximum quantity of 200 cigarettes, 100 cigarillos, 50 cigars and up to 250 grams of HRT into France. Specific rules apply to importation from Andorra, in which case larger quantities are allowed: 300 cigarettes, 150 cigarillos, 75 cigars and 400 grams of HRT (DGDDI 2013).

- **7% of French smokers buy tobacco products in neighbouring countries (DGDDI 2011b).**
- Buying habits are very different in areas close to the borders with Belgium, Luxembourg (North-East), Spain and Andorra (South-West). Indeed, 30% of smokers in the north-western region and 17% in the southern region report buying tobacco in neighbouring countries (DGDDI 2011b).
- **The French market is experiencing a downtrading trend. Consumption of cigarettes and cigars is decreasing while HRT is increasing (Table 1).**
- Between 2013 and 2014, cigarettes sales declined by 5.3%, cigars by 3.6% and HRT by 6.2%. Considering a broader time span from 2009 to 2014, the change in sales volume was -18.3% for cigarettes, -13.0% for cigars and +11.1% for HRT (Figure 7).

Figure 7. Sales of HRT (mn sticks equivalent) and cigarettes (mn sticks), 2009–2014

Source: Transcrime calculations on Euromonitor International (2015a) data



- In 2014, sales of cigarettes account for 82.6% of the total market, HRT for 14.8% and cigars 2.5% (Figure 9, p. 27).



Figure 8. Smoking prevalence per region, 2014

Source: Transcrime calculations on Guignard et al. (2015) data

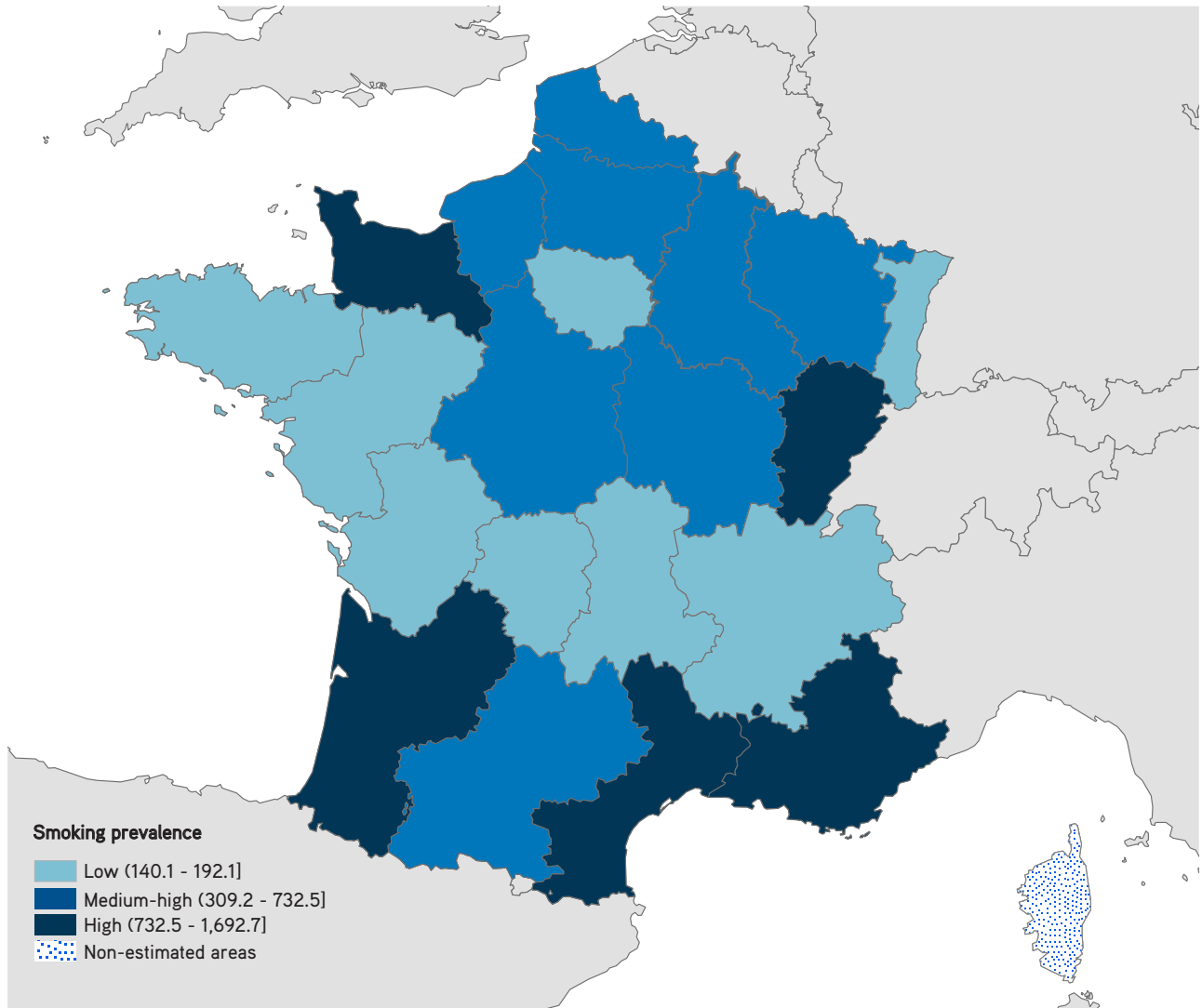
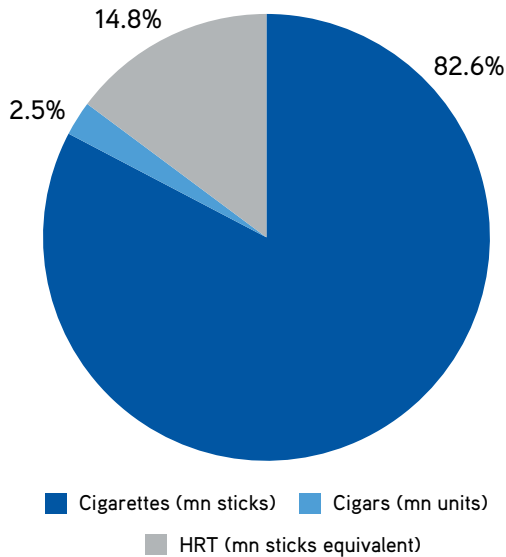


Figure 9. Tobacco products (percentage of the total market), 2014

Source: Transcrime calculations on Euromonitor International (2015a) data

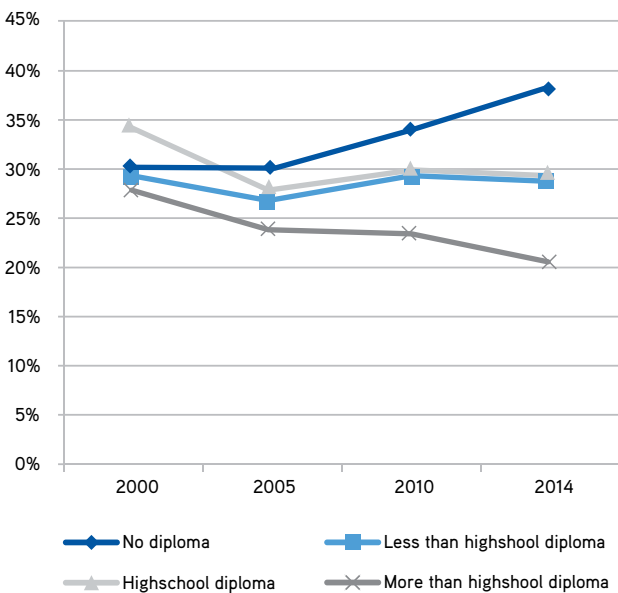


- The sales of electronic cigarettes increased until 2013, then remained stable. A number of French smokers have purchased electronic cigarettes to use on trains, planes and in places with smoking bans (Euromonitor International 2015b).
- **Socio-demographic and economic variables**
- **Geography.** Smoking prevalence is lower in medium-sized towns or rural areas than in larger cities. Furthermore, tobacco consumption is higher in areas with higher GDP per capita (Chaix, Guilbert, and Chauvin 2004).

- In 2010, the percentage of daily smokers was higher in the following regions: Languedoc Roussillon (35%), Provence-Alpes-Côte-d'Azur and Franche-Comté (33%), Aquitaine and Lower Normandy (32%) and Picardie (31%) (Figure 8, p. 27) (Guignard et al. 2015).
- **Age and gender.** From 2010 to 2014, the prevalence among young men (20–25 years old) increased from 42.8% to 44.8%, while it declined among men aged 26–34 (from 47.7% to 43.8%). Among women, the increase was particularly large for those aged between 45 and 64 from 15.5% to 18.6%, and relatively small or non-existent for other age groups (Guignard et al. 2015).
- **Social groups.** Smoking prevalence varies according to the occupational category. Unemployed people record the highest smoking prevalence (48.2%). Among employed persons, intellectual professions workers have the lowest rate (18.9%), followed by farmers (20.6%) (Guignard et al. 2015).
- Smoking prevalence also varies according to **educational level** (Figure 10). People with higher educational status are less likely to smoke than are less educated individuals (Guignard et al. 2015).

Figure 10. Smoking prevalence according to the educational level (15–75 age group), 2000–2014

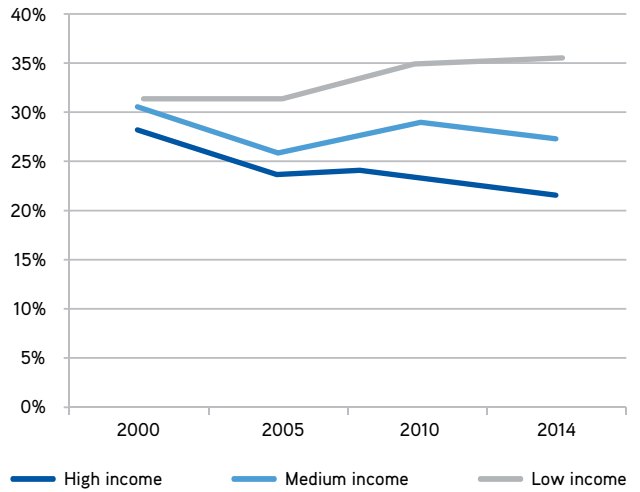
Source: Transcrime calculations on Baromètres Santé (Menard et al. 2007; Beck et al. 2011; Guignard et al. 2013; Guignard et al. 2015) data



- **Lower-income groups smoke more than high-income groups.** In 2014, 36% of people in the lowest income quintile were daily smokers, while only 22.2% in the highest-income group were smokers (Figure 11) (Guignard et al. 2015).

Figure 11. Smoking prevalence in the 15 to 75 age group by income, 2000–2014

Source: Transcrime calculations on Baromètres Santé (Menard et al. 2007; Beck et al. 2011; Guignard et al. 2013; Guignard et al. 2015) data



- **Ethnic groups.** There is no evidence on the predominance of a specific ethnic group in smoking consumption. The fourth implementation report of the WHO FCTC (April 2014) states that no data are available on this issue in France (WHO FCTC 2014).

In conclusion, in France tobacco sales have decreased as well as consumption. Increasing taxation and higher prices of tobacco products may be responsible for the downtrading trend in the market. Indeed, HRT sales have significantly increased, while sales of cigarettes, cigars and pipe tobacco have decreased.



## REGULATION

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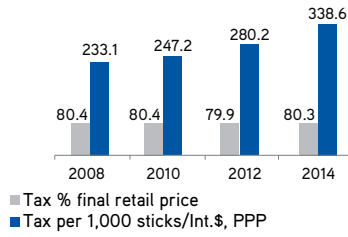
*Regulation of the tobacco market is high in France. Overall, taxation on tobacco products is high, both as tax incidence on the final retail price and as taxation per 1,000 sticks. The country has invested a significant amount of resources in tobacco-control policies. There is a high level of control on the supply chain and on tobacco consumption and sales and a medium-high level of control on tobacco advertising.*

## Taxation

Tax as % of the final retail price of the most sold brand

Tax per 1,000 sticks in Int.\$, PPP of the most sold brand

Source: WHO, EC 2015, IMF 2015



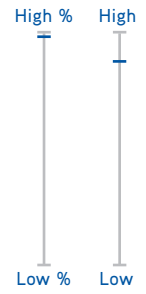
**80.3%**

14 out of 186 countries

**Int.\$, PPP 338.6**

3 out of 28 countries

(2014)

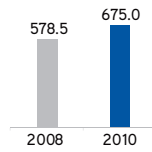


Last available data (2015): **80.3% - Int.\$, PPP 339.4** (European Commission 2015, International Monetary Fund 2015)

## Government Action

Government expenditure on tobacco control not including the control on the ITTP per 1,000 inhabitants (US\$)

Source: WHO-Global Tobacco Epidemic



**US\$ 675.0**

11 out of 106 countries

(last available year)



30

## Tobacco Supply Control\*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



**4.5/5 points**

(2015)

## Tobacco Consumption and Sale Control\*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



**5/5 points**

(2015)

## Tobacco Marketing and Promotion\*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



**4/5 points**

(2015)

\* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

•• **France has regulated tobacco since the 1970s and the tobacco market is closely regulated.**

- The Veil Law, n° 76–616 of 9 July 1976, was the milestone in tobacco control in France. It banned tobacco advertising in the press on radio and television, and during sports events, as well as forbid the free distribution of tobacco samples. Furthermore, it introduced health warnings on cigarette packs.
- The Evin Law, n° 91–32 of 10 January 1991, and later amendments extended the scope of the Veil Law by reinforcing restrictions on tobacco. The advertising of tobacco products, either direct or indirect, is allowed only at points of sale and must not be visible from outside. The only exception to the advertising ban concerned television broadcasts of motor sports events in countries other than France, as stated in art. L3511–5 of the French *Code de la Santé Publique*.
- The Evin Law initially prohibited smoking on all public transport, in public or private educational establishments, and hospitals and healthcare institutions, as well as in all spaces dedicated to reception, training or child accommodations. In 2008, the ban was extended to hotels, restaurants, coffee shops, bars, waterpipe bars, casinos and nightclubs (*Décret n° 2006-1386 du 15 novembre 2006 fixant les conditions d'application de l'interdiction de fumer dans les lieux affectés à un usage collectif*). Violators may receive a fine (up to €450 for smokers and up to €750 for operators of public spaces) (see box *Tobacco control actions at the local level*).
- Waterpipe bars' activity falls under public health law regulation on public smoking (art. L3511-7 *Code de la Santé Publique*). These bars cannot be exclusively smoking places, but reserve a specific smoking area under technical obligations established by the law (art. R3511-2 *Code de la Santé Publique*). Such regulation limits the expansion of these bars as some of them have to comply or close down.<sup>2</sup>

## TOBACCO CONTROL ACTIONS AT THE LOCAL LEVEL

French local authorities can decide to adopt measures to reduce smoking prevalence in their cities. Paris, Nice and La Ciotat (Provence-Alpes-Côte d'Azur) are among the first examples of local anti-tobacco regulations. Since smoking is no longer allowed in public spaces, the number of cigarette butts in streets has increased significantly. Indeed, in 2011, the Paris authorities decided to impose a €35 fine on smokers who discarded cigarette butts on the streets (The Telegraph 2011). Another initiative has been taken by seaside resorts, which have established non-smoking beaches. Indeed, the towns of La Ciotat, Nice and Cannes have created special beaches for non-smokers (Nice-Matin 2012).

- In 2009, the 'Bachelot' Law (n° 2009–879 of 21 July 2009) was approved, and the legal smoking age was raised from 16 to 18 years old. In 2003, the *Recours* Law (n° 2003–715 of 31 July 2003) had already restricted the sale of tobacco to minors, setting 16 years as the minimum legal age for the purchase of tobacco products. According to this law, retailers must request customers to produce some form of identification before selling tobacco products to them. Nevertheless, according to a survey conducted by the *Institut d'enquêtes* LH2, 62% of 430 tobacco retailers sold tobacco products without requesting any form of identification (CNCT 2011).
- A Ministerial Order of 5 March 2003 prohibited the sale of cigarettes with a tar yield of more than 10mg (and/or more than 1mg of nicotine per cigarette and/or more than 10mg of carbon monoxide per cigarette). The law has been implemented since 1 January 2004 for cigarettes imported from third countries into France, and since January 2005 for French tobacco products exported to third countries (CNCT 2013b).

2. It is forbidden to smoke in places intended for public use, including schools and public transport, except in locations specifically intended for smoking.

- It is forbidden in France to sell or purchase cigarettes through vending machines (Euromonitor International 2012). Moreover, the Internet retail of tobacco products is prohibited. Indeed, the legislation prohibits the distance retailing of manufactured tobacco products in both France and French overseas departments and imposes, since 2014, stricter controls over the shipment of tobacco products by express freight companies (art. 568 ter *Code Général des impôts*).
- **French regulations must comply with EU directives.**
  - The ‘Television without Frontiers’ (TVWF) directive (Council Directive 89/552/EEC) banned the advertising of all tobacco products on television. ‘All television advertising promoting cigarettes and other tobacco products, including indirect forms of advertising, are prohibited’.
  - European Commission Directive n° 37 of 2001 established the maximum tar, nicotine and carbon monoxide yields of cigarettes; the health warnings to appear on unit packs of tobacco products, and the obligation for manufacturers to disclose the individual ingredients of tobacco products. The Directive requires manufacturers to rotate a selection of 14 different health warnings to be displayed on tobacco products.
  - European Commission Directive n° 33 of 2003 established that all forms of advertising of tobacco products, either in printed media or on radio and television, are prohibited. Furthermore, tobacco sponsorship events are prohibited, including the distribution of free tobacco products.
  - Under new EU safety standards, all cigarettes placed on the market after 17 November 2011 must be RIP-compliant (i.e., Reduced Ignition Propensity) (European Commission Health and Consumer Directorate General 2010). Cigarettes must be manufactured to be self-extinguishable in order to reduce the chance of their setting fire to other combustible materials.
- The ‘Tobacco Products Directive’ (2014/40/EU) updates the 2001/37/EC Directive. It strengthens the rules on the manufacture, presentation and sale of tobacco products in the EU. It introduces limits for characterising flavours in cigarettes, minimum dimension for pictorial and text warnings, EU-wide tracking and tracing system for the legal supply chain and visible and invisible security features.
- **French regulation must comply with international treaty obligations.**
  - Since 27 February 2005, France has been a party to the WHO Framework Convention on Tobacco Control (FCTC), an international treaty establishing a number of obligations relating to smoking reduction and tobacco control.
  - In November 2012, the Protocol to Eliminate the Illicit Trade in Tobacco Products was adopted in Seoul, South Korea. The protocol is part of the WHO FCTC convention and focuses specifically on the illicit trade in tobacco products. France signed the protocol in January 2013 and ratified it in November 2015 (United Nations 2016).
- **France has one of the strongest anti-smoking lobbies in Europe.**
  - The *Comité National Contre le Tabagisme* (CNCT, The National Committee against Tobacco Consumption), founded in 1868, is the oldest association committed to preventing tobacco use in France. It collaborates with the French Ministry of Health and the National Cancer Institute in order to enhance anti-tobacco legislation and enforce tobacco use prevention (CNCT 2013a).
  - The *Ligue Nationale Contre le Cancer* (LNCC, The National League Against Cancer) created in 1918 focuses on scientific research and the prevention of cancer-related diseases. It takes part in state anti-cancer plans (Plan cancer: 2003–2007, 2009–2013, 2015–2019) by aiding enactment of their measures (Institut national du cancer 2014).

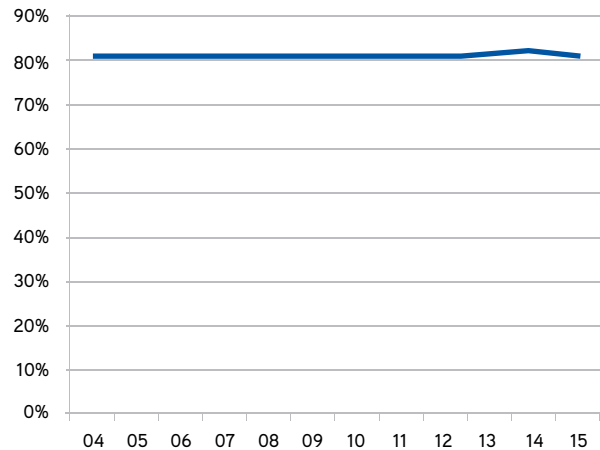


- The *Droits des Non-Fumeurs (DNF, Non-Smokers Rights)* association was founded in 1973 with the aim of supporting non-smokers against second-hand smoke. Its goal is to improve and enact effective tobacco control legislation in both metropolitan France and overseas departments (DNF 2013).
- The *Mission interministérielle de lutte contre la drogue et la toxicomanie (MILDT, Interministerial Mission in the Fight against Drugs and Drug Addiction)* is an official body created in 1982. It organises and coordinates state action in the fight against drugs and drug addiction, including alcohol and tobacco. It works closely with French ministry departments and remains vigilant on enactment of its decisions (MILDT 2013).
- *Alliance Contre le Tabac (ACT, Anti-Tobacco Alliance)* was created in 1991 after approval of the Evin law. It coordinates anti-tobacco lobbying associations in France and collaborates with both the French Health Directorate General and the *Institut National du Cancer—INCa* (National Cancer Institute) to enforce tobacco control measures at both the national and international level (Ligue Contre le Cancer 2013).
- The *Institut National de Prévention et d'Éducation Pour la Santé (INPES, National Institute for Prevention and Health Education)* is an official body created in 2002 and is responsible for implementing policies on disease prevention and health education (INPES 2012).
- The *Observatoire Français des Drogues et des Toxicomanies (OFDT, French Monitoring Centre for Drugs and Drug Addiction)* is an official body created by a Ministerial Order in 1993 with the purpose of observing drug use, drug addiction and their consequences. In regard to tobacco, the OFDT produces a monthly statistical report on tobacco and tobacco addiction in France called *Tableau de bord Tabac* (OFDT 2016).
- **Taxation on tobacco products is high, both as tax incidence on the final retail price and as total tax per 1,000 sticks (Figure 12).**
- Taxation underwent a major increase in 2004, when French tobacco excise reached 80.4% of the final retail selling price. Between 2004 and 2005, France was the European country with the highest excise on cigarettes.

- In 2014, tax incidence was approximately 80.3% of the final retail price of the most sold brand and was stable in comparison with the previous year. France ranked 14<sup>th</sup> out of 186 countries for cigarette taxation (WHO 2015a). In 2015, the tax incidence remains the same and the country ranks 7<sup>th</sup> out of 28 EU countries for cigarette taxation (European Commission 2015).
- In 2014, the tax level expressed in monetary terms (total taxes for 1,000 sticks) amounted to International \$ 338.6 and France ranked 3<sup>rd</sup> out of 28 EU countries (European Commission 2015; IMF 2015). In 2015, the amount is International \$ 339.4.<sup>3</sup>

Figure 12. Cigarettes Tax incidence as a percentage of the Weighted Average Price, 2004–2015

Source: Transcrime calculations on the European Commission (2015) data



- Despite the harmonisation at EU level of excise duties on manufactured tobacco, Corsica has been granted an exception. Indeed, until 31 December 2015, it applied a rate of excise duty lower than the national rate. This has been done 'in order to prevent damage to Corsica's economic and social equilibrium' (Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco). The National Assembly is discussing this disposition and is evaluating the alignment of excise duty with the national one (Le Monde du Tabac 2015a).

3. Transcrime calculations on the Excise Duty Tables 2015 of the European Commission. Tax incidence as a percentage of the final retail price and taxation per 1,000 sticks (tax level expressed in monetary terms) was calculated according to the WAP in 2015. Euro prices were converted into International \$ through the International Monetary Fund conversion factor in 2015.

Table 2. Regulation on supply chain control in France

Source: Transcrime elaboration

Supply chain control indicator	Value
1) The retail of tobacco products is subject to licensing	1 point
2) The manufacture of tobacco products is subject to licensing	1 point
3) There is a mandatory system of customer identification and verification applied to the supply chain of tobacco products	1 point
4) There is a tracking and tracing system for tobacco products	1 point
5) Absence of free – trade zones for tobacco products	0.5 points

**Note:** the indicator should not be interpreted as if a higher value is always better than a lower value. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

•• **France invests significant resources in tobacco control and smoking cessation policies.**

- In 2010, the French government spent US\$675 per 1,000 inhabitants on tobacco control. France is among the countries that spend most money on tobacco control. Indeed, it ranked 11<sup>th</sup> out of 106 countries for government expenditure in this regard (WHO 2011).
- The government has run several awareness campaigns to highlight the health risks associated with tobacco consumption (Euromonitor International 2015b). Indeed, Nicotine Replacement Therapy (NRT) has recorded an increasing trend in last year, rising from 1.9 mn patients in 2009 to 2.1 mn in 2010 (Alliance contre le tabac 2011). The French government offers a €50 reimbursement on National Health Insurance to people who start therapy to stop smoking under medical prescription. Since September 2011, the sum of €150 has been offered to pregnant women involved in quit attempts (WHO FCTC 2012, 21).
- Three cancer plans have been approved by the French government during the past decade. The first 'National Strategy against Cancer', also known as the 'Cancer Plan 2003–2007', was launched in 2003 to inform the French public about the health consequences of smoking cigarettes and with the intent of de-normalising tobacco consumption. The second plan covers the period 2009–2013, while the third plan covers 2014–2019 (Institut national du cancer 2014). These plans support aggressive media campaigns through posters, radio messages and television films informing the public about the toxic components present in tobacco smoke (Dupont de Rivaltz 2006).

•• **France has a high level of supply chain control (4.5 points out of 5, Table 2).**

- **The retailing of tobacco is subject to licensing in France.** Tobacco retailers, in both Metropolitan France and French Overseas Departments, must have a licence to sell tobacco products (art. 568 *Code Général des Impôts*). The licence regulation for French Overseas Departments is recent; indeed, it has been in force only since 2011 (Le Figaro 2011). The monopoly on the retail of tobacco products is controlled by the DGDDI (Direction générale des douanes et droits indirects), which is responsible for the implementation and management of the network of French tobacconists (WHO FCTC 2004) **(Point 1 in Table 2)**.
- **The manufacture of tobacco products is subject to licensing in France.** Tobacco manufacturers must have a license to manufacture tobacco products. They must officially communicate the number of industry establishments and permit all inspections by law enforcement officers (art. 570 *Code Général des Impôts*) **(Point 2 in Table 2)**.



- **Customer identification and verification.**<sup>4</sup> There is a mandatory system of customer identification and verification applied to the supply chain of tobacco products. This system has been established by the European Commission and European Anti-Fraud Office (OLAF) agreements. Specifically, the persons engaged in the supply chain of tobacco products must conduct due diligence before and during the course of a business relationship, as well as monitor the sale to customers, ensuring that the quantities sold are commensurate to the market demand (art. 568, art. 570 *Code Général des Impôts* and Article 2-1 of Annex 1 of Ministerial Decision of 8 July 2010) **(Point 3 in Table 2, p. 34)**.
- The supply chain in France is rather straightforward. The distribution of tobacco products is undertaken by a sole distributor, Logista France, which supplies the retail network monopoly consisting of approximately 26,600 tobacconists (Logista France 2014).
- **Tracking and tracing.** In its 2012 submission to the WHO on implementation of the FCTC, France stated that it had developed a 'practical tracking and tracing regime concerning the distribution of tobacco products'. In line with the requirements of the WHO FCTC and its Protocol on Illicit Trade in Tobacco Products, France provides for a 'unique, secure and non-removable marking' of all the packages of tobacco products manufactured or imported (art. 569 *Code Général des Impôts*). France has complied with marking regulations, which contain information allowing determine the origin and the final destination of tobacco products (WHO FCTC 2012). However, the Conseil d'Etat has yet to publish a decree to implement this tracking and tracing system and the provisions of the Directive 2014/40/EU regarding the traceability will enter into force in 2019 **(Point 4 in Table 2, p. 34)**.
- France is involved in the European Movement and Control System (EMCS) project that provides the electronic monitoring of movements of excise goods such as alcohol, alcoholic beverages, tobacco products and energy products within the European Union (SNDJ 2011).
- The centre of expertise in tobacco (*Pôle de compétence Tabac*) is part of the Joint Service Laboratories (SCL) of the DGDDI. It aims at identifying cigarette frauds and establishing a database of contraband cigarettes in order to map illicit networks of tobacco trafficking (DGDDI 2011a, 31).
- **There are two free trade zones in France.**
  - One free trade zone is in the port of Bordeaux, and the second is in the port of the overseas department of French Guiana. In addition, there are free warehouses located at the ports of Bordeaux, Dunkerque, Le Havre, Marseille, Rouen, Pointe-à-Pitre, and Réunion. The island of Réunion, an Overseas Department, has been designated a free trade zone receiving Chinese counterfeit products bound for Western Europe. Given Réunion's geographical position, its importance as a major transit trading port should not be underestimated (BASCAP 2012). However, the EU Customs Code, as well as the French Customs Code envisage strict controls over these zones, e.g., controls of the entry and exit points, mandatory documentary records for all the persons dealing with tobacco products, sanctions for smuggling and seizures of counterfeited tobacco products (Art. 243, 244 *Regulation 952/2013*, Art. 417 *Code des douanes*, Art. L716-9 *Code de la propriété intellectuelle*) **(Point 5 in Table 2, p. 34)**.
- **Tobacco consumption and sales are closely regulated in France (5 points out of 5, Table 3, p. 36).**
  - **Smoking bans are in place.** Since the approval of the Evin Law in 1991, there has been an evolution in smoking bans in France. It was initially prohibited to smoke in public or private educational establishments, hospitals, healthcare institutions, and in all spaces dedicated to reception, training or child accommodation. Later, the Decree No. 2006-1386 extended the ban to all closed places open to the public and places of work **(Points 1 and 2 in Table 3, p. 36)**.

4. Customer identification and verification comprise a number of measures ensuring that tobacco manufacturers perform their activities with due diligence. This requires the industry to verify essential information about commercial partners and to avoid contact with dubious customers (Framework Convention Alliance 2010, 1). Tracking and tracing are systems (codes, markings or tax stamps) making it possible to track (i.e., monitor tobacco products in their route from the manufacturer to the retailer) and to trace (i.e., recreate the route of tobacco products in the supply chain) tobacco products, at least at the master case level or equivalent.

Table 3. Regulation on tobacco consumption and sales in France

Source: Transcrime elaboration

Tobacco consumption and sales indicator	Value
1) Ban on smoking in public places	Yes, 1 point
2) Ban on smoking in workplaces	Yes, 1 point
3) Ban on the sale of tobacco products from vending machines	Yes, 1 point
4) Prohibition of tobacco sales to minors	Yes, 1 point
5) Ban on smoking in bars, cafés and restaurants	Yes, 1 point

**Note:** the indicator should not be interpreted as if a higher value is always better than a lower value. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

36

- **It is forbidden to sell cigarettes from vending machines** (art. L3511–2 Code de la Santé Publique) **(Point 3 in Table 3).**
- **Prohibition of tobacco sales to minors.** In July 2009, the ‘Bachelot’ Law raised the legal smoking age from 16 to 18-year-olds (Douillard 2012). Retailers must request customers to show an identification document before selling tobacco products to them **(Point 4 in Table 3).**
- **Smoking is banned in indoor pubs, cafés and restaurants.** According to Decree No. 2006-1386, it is forbidden to smoke in indoor pubs, cafés, restaurants and discos. Nevertheless, these public places can provide smokers with an *ad hoc* reserved zone complying with certain law provisions (art. R3511–2 Code de la Santé Publique) **(Point 5 in Table 3).**
- **Tobacco marketing and promotion is medium-high in France (4 points out of 5, Table 4, p. 37).**
- **All forms of direct and indirect tobacco advertising and sponsorship through billboards, TV, radio and printed media are prohibited** (Veil Law, n° 76–616, 9 July 1976) **(Points 1 and 2 in Table 4, p. 37).**
- **There is no ban on the display of tobacco products at points of sale in France.** Tobacco advertising is allowed at points of sale but must not be visible from outside or during television broadcasts of motor sports (Evin Law, n° 91–32, 10 January 1991) **(Point 3 in Table 4, p. 37).**
- **The free distribution of tobacco samples is banned in France.** It is forbidden to organise events with the aim of sponsoring tobacco products and it is prohibited to distribute free tobacco products (Evin Law, n° 91–32, 10 January 1991). Indeed, delivering tobacco gifts, such as free cigarette packs and lighters with brand logos, is not allowed in France (Euromonitor International 2015b) **(Point 4 in Table 4, p. 37).**
- **In September 2003, the European Commission adopted rules for the use of pictorial health warnings on tobacco products** (Decision 2003/641/EC). France envisaged mandatory graphic health warnings in 2010 and, since 2011, all cigarette packs carry such images, together with the text warnings (*Arrêté du 15 avril 2010 relatif aux modalités d’inscription des avertissements de caractère sanitaire sur les unités de conditionnement des produits du tabac*). The 2014 Tobacco Products Directive (2014/40/EU) introduced further requirements for pictorial and text health warnings **(Point 5 in Table 4, p. 37).**

Table 4. Regulation on tobacco marketing and promotion in France

Source: Transcrime elaboration

Tobacco marketing and promotion indicator	Value
1) Ban on tobacco sponsorship and advertising in radio and TV broadcasts and in print media	Yes, 1 point
2) Ban on billboards and outdoor advertising	Yes, 1 point
3) Ban on the display of tobacco products at points of sale	No, 0 points
4) Ban on free distribution of tobacco samples	Yes, 1 point
5) Mandatory pictorial health warnings	Yes, 1 point

**Note:** The indicator should not be interpreted as if a higher value is always better than a lower value. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

- **The National Assembly approved on the 25<sup>th</sup> November 2015 the introduction of plain packaging of cigarettes from May 2016.** The text provides for the establishment of neutral cigarette packets, all having the same shape, same size, same colour and the same typography, without any logo (Le Monde.fr 2015). The introduction of plain packaging can increase: the risk of counterfeiting of tobacco products, the risk of decreased differentiation between legal and illegal products, the risk of ITTP (Transcrime 2012, 26).

In conclusion, the tobacco market in France is intensely regulated at both the national and European Union level. The taxation on tobacco products is high, both as a share of the final retail price and as taxation per 1,000 sticks. There is a high level of control on the supply chain and on tobacco consumption and sales, and a medium-high level on tobacco marketing and promotion.





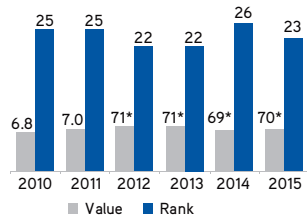
## CRIME ENVIRONMENT

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***F**rance has low crime levels, few structured organised crime groups, low corruption and a limited informal economy. Drug use in the country is high, which may indicate that illicit distribution networks provide opportunities for illicit trafficking, from drugs to illicit tobacco. Criminal networks in France are diverse and operate in different illegal markets, although most of them engage in drug trafficking.*

## Corruption

Corruption Perception Index  
Source: Transparency International



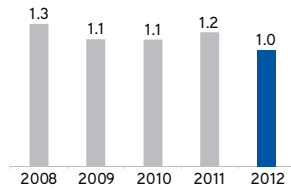
70.0\*

23 out of 168 countries  
(2015)



## Homicides

Homicide rate per 100,000 inhabitants  
Source: UNODC



1.0

178 out of 204 countries  
(last available year)



## Organized Crime Index

40

Composite Organized Crime Index  
Source: Van Dijk (2008), "The World of Crime"

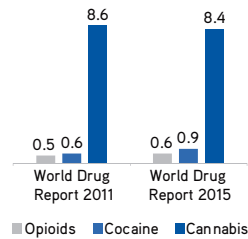
27.0

95 out of 156 countries  
(last available year)



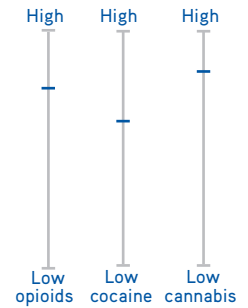
## Drugs

Annual prevalence of opioids, cocaine and cannabis use (15–64)  
Source: UNODC–World Drug Report



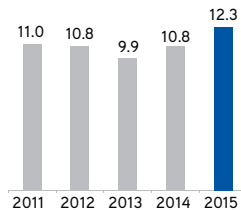
opioids 0.6  
cocaine 0.9  
cannabis 8.4

opioids: 47 out of 130 countries  
cocaine: 34 out of 93 countries  
cannabis: 18 out of 187 countries  
(last available year)



## Shadow Economy

Indicator of the presence of market-based activities that escape the official estimates of GDP  
Source: Schneider (2015)



12.3

23 out of 31 countries  
(2015)



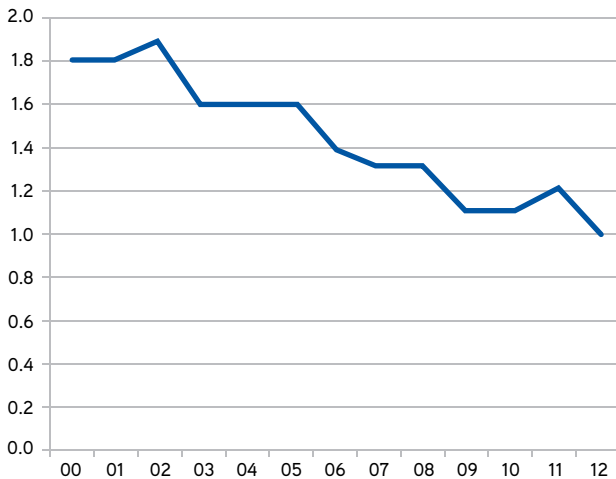
\* Corruption perception index ranged from 0 to 10 until 2011. Since 2012, it ranges from 0 to 100. Highly corrupted countries occupy low positions in this rank.

## CRIME TRENDS

- **Crime is decreasing in France.**
- Some violent crimes, including robbery and homicide, have decreased overall since 2003. Conversely, sexual violence and assault increased in 2003–2013 (+1.4% and +34.3%, respectively) (UNODC 2015a).
- Homicides decreased in the last decade. In 2012, the homicide rate was 1.0 per 100,000 inhabitants. According to UNODC data, France ranked 178<sup>th</sup> among 204 countries for its homicide rate (Figure 13) (UNODC 2015c).

Figure 13. Homicide rate per 100,000 inhabitants, 2000–2012

Source: Transcrime calculations on UNODC (2013) data



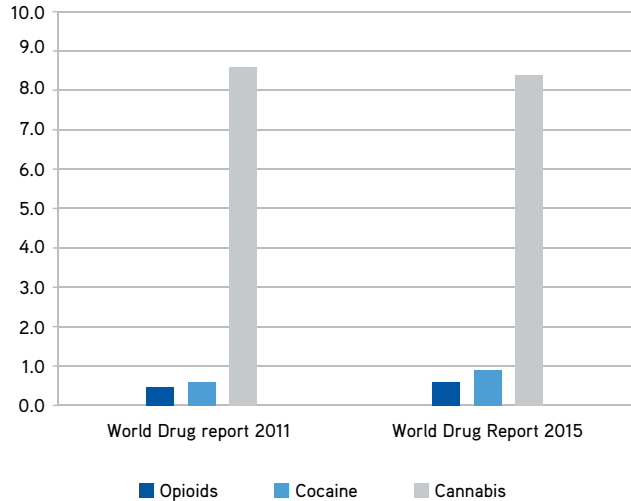
- All property crimes, including motor vehicle theft, theft in general and burglary, have shown a general decrease since 2003 (UNODC 2015c).
- In 2014, crime rates were higher in Île de France, Provence-Alpes-Côte d'Azur, Languedoc-Rousillon, Nord-Pas-De-Calais and Rhône-Alpes. Also the Overseas Department of Guyane has a high crime rate (ONDRP 2014).
- Notwithstanding the decrease in crime rates, nearly 21.1% of French adults report that they feel unsafe when outside their homes. This is the highest percentage since 2007 (Rizk 2015).

## DRUG CONSUMPTION AND MARKETS

- **Drug use is high in France.**

Figure 14. Prevalence of cannabis, cocaine and opioids use, 2011 and 2015

Source: Transcrime calculations on UNODC (2015d) data



- France is among the Western European countries with the highest opioids use prevalence rates. With 190,000 estimated users, it follows the United Kingdom and Italy (350,000 and 216,000 users, respectively) (UNODC 2011, 51). The value of the French heroin market in 2011 was estimated at US\$2 bn, 'pocketed almost entirely by France-based distributors' (UNODC 2011, 83). France ranks 47<sup>th</sup> out of 130 countries for opioids consumption (UNODC 2015c).
- The 'French Connection' of the 1930s organised the purchase of opium in Turkey, processed it into heroin in laboratories operated by Corsicans in Marseille and then smuggled the final product into the United States. It is estimated that, during the 1960s and early 1970s, the French Connection supplied a large amount of the heroin used in the United States (UNODC 2012, 67).
- With 0.88% prevalence in use, France ranks 34<sup>th</sup> out of 93 countries for cocaine consumption (UNODC 2015c). The United Kingdom, Spain, Italy, Germany and France account for 80% of total European cocaine consumption (UNODC 2011, 93). A peculiarity of cocaine consumption in France is that 20% of consumers inject it instead of snorting it (UNODC 2011, 83).



- The annual prevalence of cannabis use in France is high (18<sup>th</sup> country out of 187 according to the 2015 World Drug Report (Figure 14, p. 41). Cannabis is the most commonly used drug in France, with a prevalence rate of 8.4% in the last World Drug Report.
- The total amount of cannabis resin seized in Europe is larger than the total amount of cannabis herb seized in the same zone, although at the global level cannabis resin seizures amounted to about one-quarter of cannabis herb seizures in France in 1990–2009 (UNODC 2012, 73). Indeed, France is among the highest-ranking countries for cannabis resin seizures, with 70.9 tonnes of cannabis resin seized in 2013 (UNODC 2015c).

## ORGANISED CRIME AND CORRUPTION

- **France has a relatively limited, but diversified, presence of organised crime activity, and corruption is low.**
- **France ranks low on the composite organised crime index**, scoring 27 and occupying the 95<sup>th</sup> place among 156 countries. Low positions in this ranking are occupied by countries with a limited presence of organised crime (van Dijk 2008).
- The term ‘organised crime’ has not gained wide acceptance in France because it only appeared for the first time in public debate in the early 1990s (Paoli, Fijnaut, and Lalam 2004). Instead, terms like ‘*milieu*’ (underworld) and ‘grand banditry’ are more commonly used to refer to indigenous French criminal organisations existing prior to World War II and engaged mainly in drug trafficking. The main part of this criminal elite is of low, working-class origin and resides predominantly in South-Eastern France and especially in Marseille, Toulon, Nice, Lyon, Grenoble and in the Corsica region (Gounev and Bezlov 2010).
- **Corsica and Marseille are specific cases within the French criminal panorama (see boxes *The crime environment in Marseille* and *The crime environment in the Corsica region*).**

### THE CRIME ENVIRONMENT IN MARSEILLE

Marseille, the second-largest city in France, has long been dominated by the ‘French Connection’ dedicated to heroin trafficking. This city is an emblematic case of an urban area penetrated by organised crime (Montel 2008). Today, there are no large hierarchical criminal groups in the city, but rather fluid networks operating across different criminal markets. Traditional local crimes have been control over prostitution, gambling, money counterfeiting, kidnapping for ransom and the cross-border smuggling of goods ranging from drugs to cigarettes, firearms and other types of products (Alvarez 2003; Capdepon 2015).

### THE CRIME ENVIRONMENT IN THE CORSICA REGION

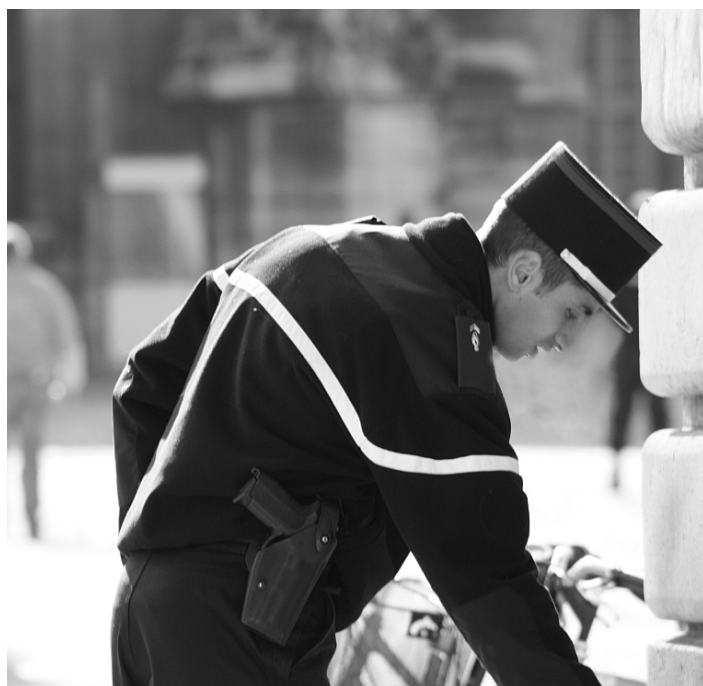
The Corsica region, with a population of 320,200 and a historically violent independence movement, has a distinctive criminal landscape. Indeed, the boundaries between organised crime and clandestine independence groups are blurred because some nationalist fighters have converted themselves into organised criminals attempting to take over parts of the local economy through extortion or racketeering (Gounev and Bezlov 2010). Nevertheless, there also exist structured clans which control economic, political and administrative powers by using fluid clientelistic relationships; they include clans such as ‘Brise de Mer’ or ‘Du Valinco’. The influence of Corsican organised crime is not confined to the island itself, for it spreads to Marseille, Southern France and to Paris and other big cities (Follorou and Nouzille 2004). Criminal proceeds from activities on the mainland are often laundered in Corsica by criminals (Gounev and Bezlov 2010).



- In some cases, marginalised immigrant communities contribute to the formation of criminal structures in ‘difficult suburbs’ of large cities across France (Gounev and Bezlov 2010).
- Foreign criminal networks specialized in particular criminal activities include Russian groups, which mainly engage in money laundering, financial crimes and arms trafficking. Eastern European groups deal with prostitution, burglaries and car thefts, while Chinese groups specialise in money laundering (National Gendarmerie 2015).
- **Criminal groups often operate within the illicit drugs market.**
  - With respect to the illegal drugs market, all criminal groups in France are ‘simultaneously involved, either working jointly or being involved in different aspects of this market’ (Gounev and Bezlov 2010).
  - After World War II, the main organised criminal activities included prostitution and human trafficking, bank robberies, kidnapping for ransom and other activities including forgery, racketeering and gaming machines. The drug market gradually became the largest illegal market in France (National Gendarmerie 2015).
- **France registers a low level of corruption and shadow economy.**
  - The country has low corruption, with a high score (70) on the **Corruption Perceptions Index 2015** (23<sup>rd</sup> position out of 168 countries) (Transparency International 2015).
  - Corruption is more common in particular geographical areas: the Corsica region, large cities or specific economic areas such as public utilities contracts, energy, real estate or defence (Gounev and Bezlov 2010).
  - In 2015, the shadow economy is small (12.3% of the GDP). The country ranked 23<sup>th</sup> out of 31 countries (Schneider 2015).

In conclusion, in France criminal networks are diverse, and they operate in different markets. Most of them also engage in drug trafficking. The country has a low level of corruption, and the informal economy is very limited. Nevertheless, drug consumption is high. This may indicate that illicit distribution networks provide opportunities for illicit trafficking, from drugs to illicit tobacco.





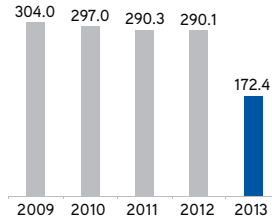
## ENFORCEMENT

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***F**rance has efficient law enforcement with a medium-low number of police personnel, medium rates of judges, and a large prison population. New enforcement actions aim at limiting the flows of illicit tobacco especially through Internet and postal delivery. European cooperation, together with customs collaboration with neighbouring countries, is acting to improve the fight against the unlawful exportation and importation of goods, including tobacco products.*

## Police

Police personnel rate per 100,000 inhabitants  
Source: UNODC



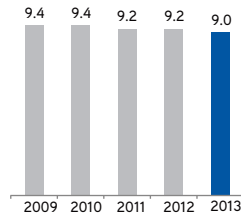
172.4

79 out of 91 countries  
(2013)



## Judiciary

Professional judges rate per 100,000 inhabitants  
Source: UNODC



9.0

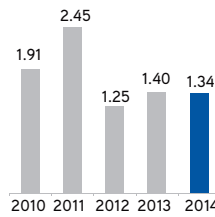
48 out of 82 countries  
(last available year)



## Tobacco Products Seizures

46

Quantity of seized tobacco in tonnes per 100,000 inhabitants  
Source: DGDDI



Tob. 1.34 tn

(2015)

## Penalty for ITTP

Likely maximum penalty for an hypothetical serious case of ITTP  
Source: Transcrime elaboration

10 years of imprisonment

## Anti-ITTP Action\*

Composite indicator measuring the presence of specific policy measures in the country  
Source: Transcrime elaboration



2/5 points

(2015)

\* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

## LAW ENFORCEMENT IN FRANCE

- **The police personnel rate** per 100,000 inhabitants in 2013 was 172.4. This is low compared to other European countries. The country ranks 79<sup>th</sup> out of 91 countries for police personnel rate per 100,000 inhabitants (UNODC 2015b).
- **The police system** includes The National Police (*La Police Nationale Française*) and the National Gendarmerie (*La Gendarmerie Nationale*). Both are under the jurisdiction of the Ministry of the Interior.
- **The rate of judges** per 100,000 inhabitants in 2013 was 9.0. France ranks 48<sup>th</sup> out of 82 countries surveyed by UNODC. The rate has gradually decreased since 2006, when it was 13.1 (UNODC 2015b).
- In 2013, the total number of persons held in **prisons**, penal institutions or correctional institutions per 100,000 inhabitants was 104.3, corresponding to a total amount of 67,075 detained persons. In 2013, France ranked 52<sup>nd</sup> out of 72 countries for prison population (UNODC 2015b).

## THE FIGHT AGAINST THE ITTP IN FRANCE

### •• The main bodies involved in the fight against the ITTP are:

- The DGDDI Directorate General of Customs and Indirect Taxes (*Direction générale des douanes et droits indirects*) is under the Directorate General of Customs and Indirect Taxes, part of the Ministry of the Budget, Public Accounts and Civil Service. It is in charge of detecting and tackling frauds, illicit trafficking, counterfeit products and tobacco trafficking (Europol 2013).
- The National Judicial Customs (SNDJ—*Service national de douane judiciaire*) is authorized to conduct customs judicial investigations for all offences related to counterfeited products and to French domestic taxation regulations (SNDJ 2013).
- The Cyber Customs (*Cyberdouane*), set up in 2009 and part of the DGDDI, specialises in combating online fraud and the sale of counterfeited goods, including tobacco products. Since September 2012, with prior authorization by the prosecutor's office (*Procureur de la République*), Cyber Customs analysts can participate in online transactions using pseudonyms in order to collect data on alleged traders of illicit products (Ministère de l'Économie, des Finances et de l'Industrie, n.d.). The aim of the Cyber Customs is to disable suspect websites and to discover other domain names of connected fraudulent websites (Binetruy, Dumont, and Lazaro 2011 p.82).
- The National Police is in control of the internal security in the country. Further, through the Border Police Central Services (*DCPAF—Direction centrale de la police aux frontières*), it is in charge of cross-border movements. This law enforcement agency deals with cross-border organised crime, financial crime, terrorism and drug trafficking. Furthermore, it coordinates and reinforces European customs and police cooperation among six countries: Germany, Belgium, Spain, Italy, Luxembourg and Switzerland through 10 cooperation centres (CCPD—*Centre de coopération policière et douanière*) (Police Nationale 2011a).

### •• French police have a good level of cooperation with European institutions.

- The French law enforcement agencies cooperate with European institutions through Europol, Schengen and Interpol. The Judicial Police Central Services of the National Police, and the subdivision for International Relations in particular, is responsible for international police cooperation (Police Nationale 2011b; Police Nationale 2011c).

### •• The Intellectual Property Code (*Code de la Propriété Intellectuelle*), the General Tax Law (*Code général des impôts, CGI*), Customs Code and the Penal Code are the main sources that regulate smuggling and counterfeiting (see box *Hypothetical case*, p. 48).

- Low penalties applicable to serious cases of tobacco smuggling make this activity highly profitable, and with relatively low risks (Le Républicain-Lorrain 2012).

It is forbidden to buy and bring counterfeited goods of any kind, regardless of their monetary value, into France. French DGDDI has the power to seize goods and impose on offenders fines pondered on the value of the original non-counterfeited product (Département Communication de crise et communication territoriale de l'État 2013).

## HYPOTHETICAL CASE

A criminal organisation composed of 11 members used a house in the periphery of a large city as an illicit factory for the production and distribution of tobacco products. For at least 16 months, with a clear division of tasks and functions among them, the members of the organisation illegally manufactured tobacco products (cigarettes and hand rolling tobacco); packed them in packaging bearing false trademarks of legitimate brands (produced by the same organisation); distributed the products to various wholesalers and retailers; and sold the illicit products through a network of bars and street sellers. No tax or duty was ever paid on these products. The law enforcement agencies seized a total of 10 tonnes of illegal tobacco products stocked inside the house. All the members of the organisation had previous records for fraud, forgery and illicit trade in tobacco products. The members could not justify their incomes through any form of employment, suggesting that the illicit business was their sole source of income.

### The applicable penalties in France

There are several applicable offences, regulated by different French laws:

#### 1. French Criminal Code (provisions and penalties)

- Article **450–1** (*Association de malfaiteurs*). A criminal organization is any group established to prepare or commit one or more material actions, one or more crimes, or one or more offenses punishable with at least five years of imprisonment. Should the crimes or offenses committed be punishable with 10 years of imprisonment, the participation in a criminal association is punished with 10 years of imprisonment and a €150,000 fine. Should the crimes or offenses committed be punishable with five years of imprisonment, the participation in a criminal association is punished with five years of imprisonment and a €75,000 fine.
- Article **131–21**, the additional penalty of forfeiture is incurred for crimes and offenses punishable with imprisonment for a term exceeding one year, except for press offenses. If it is a crime or an offense punishable by at least five years of imprisonment, then confiscation can occur with the focus on the real or personal property belonging to the offender or to the owner in good faith. If they are not able to justify the goods' origin, they can be ordered to be valued and forfeited.

#### 2. General tax code provides the discipline for the manufacture, transport, distribution and sale of tobacco products. In particular, according to:

- Article **575J**, it is forbidden for anyone to have utensils, machinery or mechanical items such as mills, graters, grinders, impellers, mechanical to shreds, carrot and other presses in any form that can be suitable for the manufacture of tobacco.
- Article **575K** states that it is forbidden for anyone to conduct the professional manufacture of cigarettes for a profit, except when the manufacturing is done in the consumer's home within the limits of his personal needs, by itself, by family members or people in their service.

Any infringement of the provision of the general tax code relating to tobacco products is punished with a fine between €15 and €750, and an additional fine of up to three times the amount of the excise taxes that should have been paid (and a fine between € 500 and € 2,500 and an additional fine of up to five times the amount of the excise tax that should have been paid for the unlawful manufacture, possession, sale and transport of tobacco products) (Articles **1791** to **1791 ter**).

The illegal manufacture, possession with the aim of resale, sale, remote sale, transport, remote acquisition and import through distance selling of tobacco products are punished with imprisonment for up to one year and the confiscation of means of transportation, equipment, machinery, and any packaging materials (Article 1810). These people are considered and punished as illegal manufacturers: individuals possessing manufacturing machinery, tobacco leaves, raw tobacco or more than 10 kg of bulk tobacco without trademarks of the administration; those who profess to make it for others or accidentally manufacture it for a profit, using cigarette smoking tobacco; and warehouse keepers and traders of illegal manufactured tobacco (Article 1810). Moreover, the prison sentence is increased to five years for offenses committed by organised criminal groups (Article 1811).

### 3. Customs Code (provisions and penalties)

Smuggling is any unlawful importation or exportation as well as any violation of laws or regulations relating to the detention and transportation of goods within the customs territory (Article 417 paragraph 1). Imports or exports of goods without a declaration through a customs office is assimilated into smuggling (Article 417 paragraph 3).

Any act of contraband is a crime punished with three years of imprisonment, confiscation of the object of fraud, confiscation of means of transportation, confiscation of objects used to conceal the fraud, confiscation of property and assets that are the direct/indirect product of the offense, and a fine of between one and two times the value of the object of the fraud. The penalty shall be 10 year of imprisonment and up to five times the value of the objects when smuggling is committed within a criminal organization (Article 414).

### 4. Intellectual Property Code (provisions and penalties)

- Article **L716–9** states that any person, who, for the purpose of selling, supplying, offering for sale or lending goods under an infringing mark a) imports, under any customs regime, exports, re-exports or trans-ships goods presented under an infringing mark or b) reproduces industrially goods presented under an infringing mark, shall be liable to four years of imprisonment and a fine of €400,000. Where the offences provided for under this article have been committed within an organised criminal group, the penalties will be increased to five years of imprisonment and a fine of €500,000.
- Article **L716–10**, a person who holds, imports, exports, sells goods presented under an infringing mark; reproduces, imitates, uses a mark in violation of its owner's rights; delivers knowingly a product or provides a service other than that which is required of him under a registered mark shall be liable to a three-year imprisonment and a fine of €300,000. If the offences are committed by an organised criminal group, the penalties shall be increased to five years of imprisonment and a fine of €500,000.
- Article **L716–12**: in the event of repetition of the offenses defined in Articles L716-9 to L716-11, or if the offender had contractual bonds with the aggrieved party, the penalties involved shall be doubled.
- Article **L716–13**: any object used in the trademark infringing process, e.g., the machinery, will be destroyed.

### 5. Applicable penalties

According to the French Criminal Code (Article 132-2), in the case of multiple applicable offences with penalties of the same nature (e.g., different forms of deprivation of liberty or pecuniary penalties), the maximum applicable penalty would be as high as the highest penalty among those provided for the different offences, and if the applicable penalties are of a different nature, they may be applied jointly (e.g., imprisonment and a fine).

Consequently, it seems likely that the maximum applicable penalties in the above-described case would be imprisonment for up to 10 years and a fine up to €500,000 (Article 414 of the Customs Code and Article 450–1 of the French criminal code, Article 716 of the IPC–Intellectual Property Code).

Article 131–21 of the Penal Code allows for the confiscation of additional assets of the perpetrator and thus provides a further sanction. More importantly, in the case of extended assets forfeiture, it is for the defendant to prove that his/her assets were derived from legal sources, i.e., the burden of proof is reversed. Since the members of the criminal organisation did not have other sources of income, their assets could be forfeited as having been derived from unlawful sources of income.

Table 5. Measures against the ITTP in France

Source: Transcrime elaboration

Anti-ITTP action indicator	Value
1) National Action Plan against the ITTP	Yes, 0.5 points
2) Cooperation agreements between national public bodies and tobacco companies to prevent and control the ITTP	Yes, 1 point
3) National public awareness campaign against the various forms of the ITTP	No, 0 points
4) Legal duty for tobacco manufacturers not to facilitate smuggling	Yes, 0.5 points
5) Official estimates of the size of the ITTP	No, 0 points

**Note:** the indicator should not be interpreted as if a higher value is always better than a lower value. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

- **Anti-ITTP action in France is medium-low, with 2.0 points out of 5 on this indicator (Table 5).**
- **France has introduced specific policy actions against the ITTP.**
- In September 2011, the French Budget Minister, Valérie Pécresse, presented a government action plan against cigarette smuggling. The plan involves several measures against the ITTP and aims at increasing illicit tobacco seizures by at least 15% compared with 2010. Several measures are detailed in the plan **(Point 1 in Table 5)**:
  - Automatic licence plate recognition systems (*LAPI-Lecteurs Automatisés de Plaques d’Immatriculation*) and additional trained staff to fight cigarette smugglers transporting illicit tobacco on vehicles.
  - Dismantling the online trafficking of illicit tobacco products through a specific taskforce of expert analysts of the Cyber Customs (*Cyberdouane*).
  - Specific measures for the hotspots of tobacco smuggling. A special provision concerns the outskirts of Marseille and Paris, where the number of law enforcement officers involved in anti-ITTP actions has been doubled due to high volumes of tobacco smuggling.
  - Inclusion of the fight against tobacco trafficking among the priorities of Regional Intervention Groups (*GIR-Groupes d’Intervention Régionaux*) coordinated by the Directorate Central of the Judicial Police.
- The establishment of joint investigation teams in sensitive areas, such as the Franco-Spanish and Franco- Belgian frontiers.
- Launching joint monitoring operations at the European level with the aim of monitoring the railway trafficking of illicit tobacco products.
- Improving identification of the origin of tobacco seized in order to track and trace the supply chain.
- Set up a database and conduct laboratory analysis on seized tobacco. The new system, called ANATAB, should guarantee a better understanding of the origin of products, help in identifying supply channels, and keep records of seizures (Ministre du Budget, des Comptes Publics, et de la Réforme de l’Etat 2011).
- In September 2014, the French Minister of Social Affairs, Health and Women’s Rights, Marisol Touraine, presented the ‘National Tobacco Reduction Program’ (PNRT), focused on fighting tobacco consumption. The program is based on three axis, one of which focused on strengthening the fight against the ITTP and the illegal tobacco marketing via Internet (Axis 3) (Ministère des Affaires sociales, de la Santé et des Droits des femmes 2014b). To achieve these goals, the Minister would present an interdepartmental plan against illicit tobacco trade, involving DGDDI and DGCCRF (*Direction générale de la concurrence, de la consommation et de la répression des frauds*). This plan would concentrate on reinforcing and improving the application of the sanctions against smugglers. In addition, the plan would increase international cooperation in the field of traffic (Ministère des Affaires sociales, de la Santé et des Droits des femmes 2014a). The specific action plan against the ITTP has not yet been presented.



- **Specific agreements between national public bodies and tobacco companies to prevent and control the ITTP.**
- The European Commission has signed legally binding and enforceable agreements with tobacco manufacturers. The four largest tobacco manufacturers have agreed to finance the EU and the countries participating in the agreement to prevent their products from falling into the hands of illicit traffickers. Indeed, manufacturers must supply only the quantities of tobacco required by the legitimate market and ensure that they sell only to legal clients by implementing a tracking system (European Commission 2004; 2007; 2010a; 2010b).
- A Memorandum of Understanding (MoU) between DGDDI and PMI International was signed on 12 October 2005, following PMI's EU agreement with OLAF. The main elements of the MoU were the exchange of information, assistance in the fight against counterfeiting, the training of customs officers in identifying counterfeited products and joint communication (e.g., destruction of seizures).
- In 2007, DGDDI signed another MoU with the British American Tobacco France. The aim of the protocol was to define a framework for cooperation to strengthen the fight against all forms of illicit trade in cigarettes, including the smuggling and counterfeiting of cigarette brands marketed by British American Tobacco France (DGDDI 2007b).
- In 2011, the DGDDI developed several partnerships with Internet sales operators. Two MoU were signed, first with '*Priceminister*' and then with '*2xmoinscher.com*', in order to prevent the illicit trafficking of goods on the Internet (DGDDI 2012a) **(Point 2 in Table 5, p. 50)**.
- **There are no nationwide public awareness campaigns against the ITTP.**
- There is no evidence of nationwide public opinion campaigns on the dangers and risks associated with the consumption of illicit tobacco. Nevertheless, in 2010, the tobacco manufacturer British American Tobacco launched an anti-smuggling campaign through the exposure of posters at tobacco points of sale in the city of Lille, Northern France (La Voix du Nord 2010).
- The signature, in January 2013, and the recent ratification, in November 2015, of the Protocol to Eliminate Illicit Trade in Tobacco Products (WHO-FCTC) further widens the commitment of the French government to 'protecting the health of their citizens, particularly the young and vulnerable' against all forms of illicit trade in tobacco products, including smuggling and illegal manufacturing. This renewed commitment may reduce the availability of tobacco products by curbing the demand for illicit tobacco **(Point 3 in Table 5, p. 50)**.
- **In France, there is no legal duty for tobacco manufacturers not to facilitate smuggling.** However, the four major tobacco companies have signed agreements with the EC, represented by OLAF. The parties aim to eliminate the ITTP on the EU's territory and to assist the law enforcement agencies (WHO 2009, 35; Sieber 2010, 90) **(Point 4 in Table 5, p. 50)**.
- **There are no yearly, publicly available estimates of the ITTP in France.**
- The supply of illicit tobacco in France is not subject to routine monitoring, but several studies have addressed this information gap and assessed the size of the French parallel tobacco market in regard to both its legal (cross-border purchases) and illegal parts (Lalam et al. 2012).
- The DGDDI annually discloses the number of seizures and the quantity of illicit tobacco products seized at French borders and last years' data allow disaggregation between cigarettes and HRT seizures.
- A study conducted by DGDDI of the French Budget Ministry estimated the share of illicit tobacco at 5% of the French market. This share would consist of legal purchases through the network of French retailers (80%), cross-border purchases in neighbouring countries (15%) and tobacco purchases through illicit channels (5%) (Ministre du Budget, des Comptes Publics, et de la Réforme de l'Etat 2011). In 2015, OFDT and INHESJ estimate that 77% of tobacco sales occur within the French network of tobacconists, while 17% outside this network in neighbouring countries (and 1% in non-neighbouring countries) and 5% through illegal channels (Lermenier-Jeannet 2015) **(Point 5 in Table 5, p. 50)**.

Table 6. Seizures of smuggled tobacco (tonnes), 2002–2014

Source: Transcrime calculations on DGDDI (2015a) data

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Tobacco	173	219	185	206	240	203	250	264	347	462	371	430	423

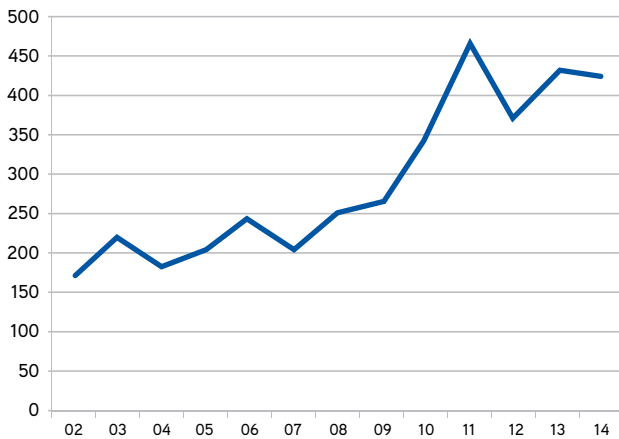
•• **Seizures of smuggled tobacco have significantly increased in the past decade (Table 6 and Figure 15).**

- Tobacco seizures increased until 2011 when they reached 462 tonnes. In 2012, they decreased to 371 tonnes, but they increased again in the last two years (+14.0%) (DGDDI 2015a).

- In January 2013, France signed the Protocol to Eliminate the Illicit Trade in Tobacco Products and ratified it in November 2015 (WHO FCTC 2013).
- The French government cooperates with European institutions (Interpol, Europol and Schengen) in tackling illicit flows of goods within the European Union. This demonstrates France’s determination to limit the unintended consequences of cross-border flows of goods.

Figure 15. Seizures of tobacco (tonnes), 2002–2014

Source: Transcrime calculations on DGDDI (2015a) data



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In conclusion, France has an effective law enforcement system, a medium-low number of police personnel, a medium rate of judges and a large prison population. Specific actions against the ITTP are enforced, and innovative approaches, such as the *Cyberdouane*, are taken in order to limit the flows of illicit tobacco through Internet sale channels. European cooperation, together with border customs collaboration, is enacted to improve the fight against the cross-border exportation and importation of goods.

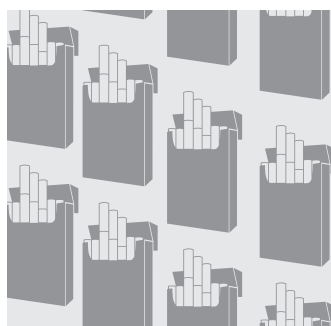
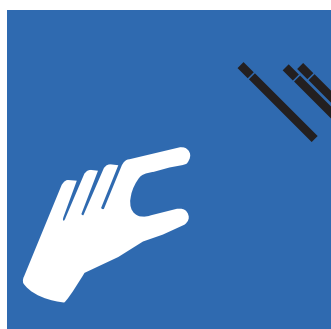
•• **France is active at the international law level promoting actions on tobacco control and on the ITTP.**

- Since 27 February 2005, France has been a member of the WHO Framework Convention on Tobacco Control (FCTC). According to Article 15.1 of the Convention, ‘parties recognize that elimination of all forms of illicit trade and development and implementation of related national law are essential components of tobacco control’, thus France ‘shall promote and strengthen public awareness of tobacco control issues, using all available communication tools’ (WHO 2003). Every two years, the French government reports to the Conference of the Parties on progress in implementing the FCTC.



# Chapter 2

*The four components*



## THE DEMAND

- **Low price is the main driver of the demand for illicit tobacco. On average, illicit cigarettes in France cost €2 less than legal cigarettes (Vidalie 2015).**
- The demand for illicit tobacco is mainly due to its affordability, particularly compared with legal products sold in retailers. The lower the affordability of legal tobacco (expressed in price relative to income – % of per capita GDP to buy 100 packs), the higher the incentives to trade down to illicit products.
- The average price of a pack of illicit cigarettes in France is €5, which is €2 cheaper than in special tobaccoists, where 20 cigarettes cost around €7 on average (Vidalie 2015).
- Contraband cigarettes cartons are bought from containers at main ports, sold to intermediaries for around €30 per carton and then re-sold on the streets at an average price of €50 (Tellier 2015).
- Cigarettes prices have increased during the past decade (from €3.20 in 2000 to €7.00 in 2015 for the most sold brand) and this has boosted the demand for cheaper tobacco. This trend is evidenced, in particular, by the increase in cross-border purchases both at the Belgium-Luxembourg and the Spanish-Andorran borders. However, according to a study by the French Customs, only a small proportion of cross-border purchases are illicit (15% of all cross-border purchases). In fact, fraudulent travellers may import a quantity of tobacco exceeding the amount allowed by the law (see box *Reasons why people buy illicit tobacco*, p. 56) (DGDDI 2011b).

## REASONS WHY PEOPLE BUY ILLICIT TOBACCO

A specialist tobacconist in Toulouse: *'Customers who buy smuggled cigarettes can't afford to buy cigarettes from tobacco specialists. When smugglers aren't on the streets, their customers come to us and buy packs of cigarettes. Nevertheless, when they buy contraband cigarettes, they usually buy a whole carton instead of a single pack'* (Cardet 2012).

A female purchaser in Paris: *'They're convenient because you buy several cartons at once, so you have them in the cupboard. For some people this may mean that they smoke more, but for me, I smoke the same amount, so it's good that I have them there'* (Mery 2009, p.33).

A male purchaser in Paris: *'Sometimes you smoke these counterfeit cigarettes, or contraband ones, other times you buy from the tobacconist. It depends what you have, what is there, and of course the normal ones are kinder to your throat, you don't cough so much'* (Mery 2009, p. 33).

A female purchaser of illicit whites: *'I was walking along the street where they're sold. I'd never heard of the brand: the eagle, the pack, I didn't know where they came from. But at that price...I bought a pack to try them'* (Hillairet and Mazoyer 2012, p. 20).

A male purchaser of illicit whites: *'A colleague told me about American Legend. It was the brand that he was smoking because he lives close to the street where they're sold. He persuaded me try them, because I wasn't really confident about them. Now, he buys them for me and the rest of the team'* (Hillairet and Mazoyer 2012, p. 19).

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- **There is no apparent connection between the consumption of illicit tobacco and drug use.**
  - Despite the habit among drug users of procuring illicit goods, the purchasing behaviour of tobacco smokers attending drug rehabilitation centres in Paris showed a prevalence of purchases at specialist tobacconists (81.4%). A small minority (14.0%) bought tobacco products on the streets (Lermienier 2011).
- **The illicit tobacco consumer in France is predominately male and belongs to all occupational categories.**
  - The average consumer has no particular occupation and is generally a man. Although there appears to be no correlation between deprived social conditions and the consumption of illicit tobacco, street smuggling is mainly concentrated in disadvantaged neighbourhoods (Lalam et al. 2012).
- **The demand for cheaper tobacco and the incidence of cross-border purchases are higher in border regions and among average income groups.**
  - Cross-border shoppers are significantly more numerous in North-Eastern and South-Western France. At the departmental level, they concentrate particularly in border areas (39% versus 12% in non-border departments). Smokers with average incomes, between €900 and €1500 per month, are twice as likely to resort to cross-border shopping than low-income smokers, whereas smokers with high incomes occupy an intermediate position (Ben Lakhdar, Lermienier, and Vaillant 2011).
  - There is no significant relationship between daily tobacco consumption and cross-border shopping, but in 2010 18% of regular smokers<sup>5</sup> had bought their last pack of cigarettes in a neighbouring country, compared with 13% of smokers with little or no addiction. In fact, addicted smokers often use cross-border shopping and the parallel market, and they more often buy abroad and in larger quantities than smokers with little or no addiction (Ben Lakhdar, Lermienier, and Vaillant 2011).

5. In this investigation, conducted by BVA in 2010, tobacco dependence was calculated using a simplified version of the Fagerström test designed around two questions on the daily consumption of cigarettes and the delay between awakening and the first cigarette smoked.

•• **The demand for illicit tobacco is higher in specific neighbourhoods of metropolitan areas.**

- In Marseille, in the Place Noailles neighbourhood, the illicit trade in tobacco products is a well-established practice (Lalam et al. 2012). In the 2011-2015 EPSs, Marseille recorded the highest percentage of illicit whites among French cities (from 52.7% of the non-domestic products found in Marseille in 2011 to 21.3% in 2015).<sup>6</sup>
- On-street selling in Paris is concentrated in popular neighbourhoods such as the *Goutte d'Or* or *Barbès*, close to the Paris railway stations (Lalam et al. 2012). Lorraine, Bourgogne and Alsace are crossing points for criminal organisations conveying millions of packs of cigarettes to Paris and to European countries with higher prices for tobacco products (L'Est Républicain 2012).
- In Lyon, Rhône-Alpes region, evidence of the street trafficking of tobacco has been found in Place Gabriel Péri, commonly known as Place du Pont (L'Union 2013).
- There is evidence of illicit tobacco trafficking in Toulouse, the fourth-largest metropolitan area in France after Paris, Lyon and Marseille. Square Arnaud Bernard is named 'Le Barbès Toulousain', the Toulouse version of Paris 'Barbès' (Cardet 2012).

•• **Another important element contributing to the demand is the availability of illicit tobacco.**

- Illicit tobacco is not difficult to find. Illicit products are sometimes available on the streets from black-market suppliers. The most frequent retail channels are street sellers, 24/7 grocery stores and, in some cases, private apartments (see box *Supply and demand: the case of a French student*) (Le Monde du Tabac 2012f).

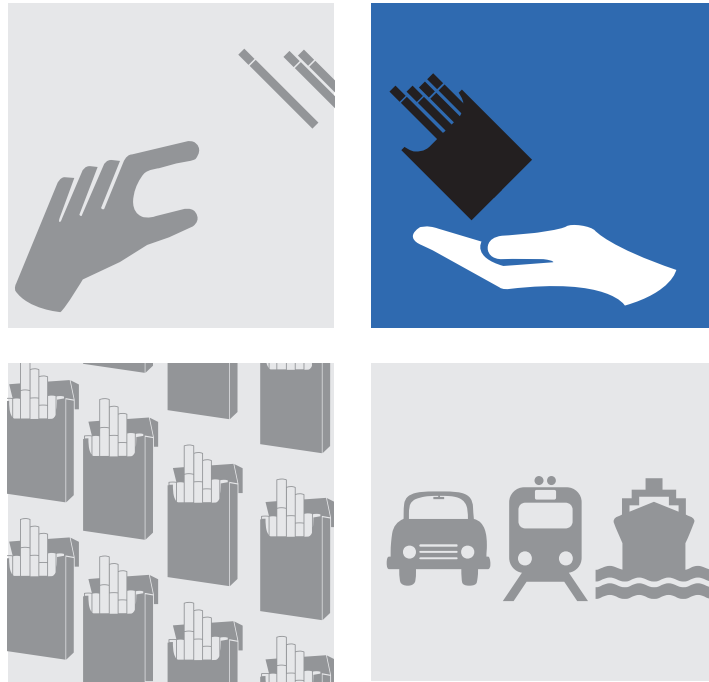
- Consumers often use personal networks and acquaintances to buy illicit tobacco. In this regard, a consumer survey in Paris and Marseille highlighted a difference between the two cities. Whilst Parisians over-report their tendency to purchase via personal networks, in Marseille the need to rely on personal networks is limited. This may be due to a greater availability of illicit tobacco (Mery 2009).

### SUPPLY AND DEMAND: THE CASE OF A FRENCH STUDENT

Christine is a student from Carcassonne (Languedoc-Roussillon region) who used to buy illicit cigarettes in Berriac every month on the same day of the week before her illicit suppliers were arrested in June 2012. She paid between €3.5 and €4.0 for either a pack of Gauloises Blondes, Pall Mall, Camel or Marlboro. The illicit 'tobacconists' had set up their small business in an apartment kitchen and sold cigarettes and HRT of any brand. Notwithstanding a good and prompt supply service, in some cases Christine was told by the illicit sellers that if petrol prices went up in neighbouring countries, tobacco delivery by truck was not guaranteed. In June 2012, Investigation Clop11 led to the dismantling of this organisation.

The head of the organisation was a young Serbian woman controlling a supply chain of transporters and retailers. The frequency of tobacco transport was once or twice a day, and the source country was Andorra. DGDDI officials estimated the organisation's profit at around €300,000 in three months. Eight cars were seized together with €40,000 in cash and 1,000 cartons of cigarettes (LaDépêche.fr 2012).

6. The tobacco industry regularly conducts empty pack surveys (EPS) to estimate the number of non-domestic cigarette packs found in the main cities of France. Use of EPS data requires especial caution when investigating the ITTP. Firstly, the survey focuses on cigarettes and excludes HRT. Secondly, it analyses packs and excludes single butts. EPSs identify non-domestic products, which include legitimately purchased cigarettes (e.g., cross-border purchases). Furthermore, EPSs do not identify domestic contraband cigarettes. This may lead to underestimation of the real size of the illicit tobacco market. Notwithstanding these limitations, EPSs may provide data useful for analysing the illicit cigarettes market. Indeed, they provide estimates at the city level, which are hardly available from other sources.



## THE SUPPLY

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- **The supply of illicit tobacco is due to its profitability deriving from the evasion of the high taxation on tobacco products.**
- The tax level expressed in monetary terms (total taxes per 1,000 cigarettes) may provide incentives for suppliers of illicit tobacco at the international level. This is most relevant to large smuggling (counterfeits and illicit whites). The higher the taxes, the greater the profit potential for smugglers.
- The tax incidence (tax as a percentage of the final retail price) provides incentives for the suppliers of illicit tobacco at the national level. This is most relevant to the illicit manufacturing and wholesale/retail distribution of illicit tobacco products within national borders.
- **The suppliers of illicit tobacco in France range from private individuals and street sellers to organised groups.**
- According to the literature on tobacco smuggling, most types of illicit trade in tobacco can be run by individuals without their having to belong to a structured and continuative organised group (Hobbs 2013).
- The street selling of illicit tobacco, referred to as 'hidden tobacco retail' (*vente à la sauvette*), is fragmented and without a single leadership. In fact, street sellers exhibit a certain degree of independence from each other (Lalam et al. 2012).
- According to DGDDI and National Gendarmerie, illicit tobacco trafficking is managed by well-organised groups, especially Serbian groups. These groups control the illegal importation of tobacco into France, its storage in clandestine places/apartments and the final distribution to on-street sellers (see box *Examples of organised groups involved in the ITTP*, p. 59) (DGDDI 2010; National Gendarmerie 2015).



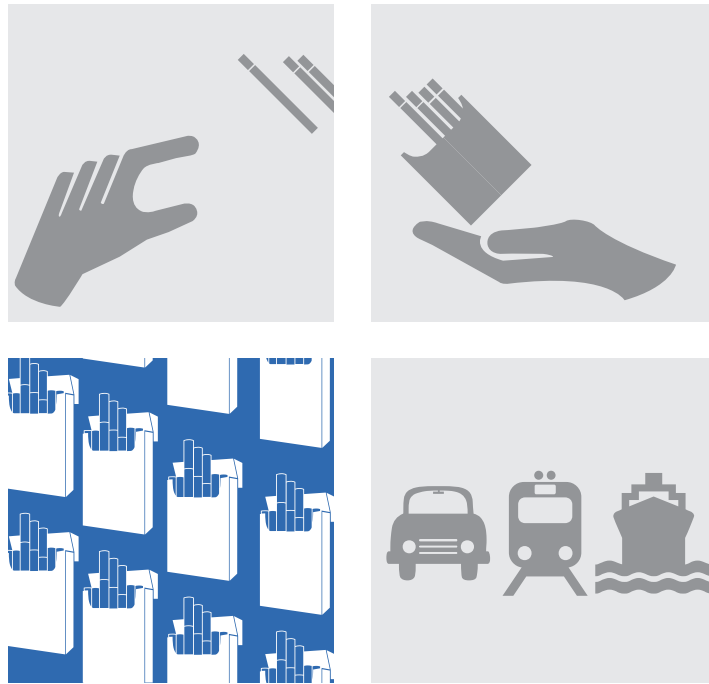
## EXAMPLES OF ORGANISED GROUPS INVOLVED IN THE ITTP

- The organised criminal group used both a cyber cafe and a grocery to cover its illicit sales of tobacco. Between 50 and 80 packs of cigarettes were sold every day, with prices ranging from €4.5 to €5.0 per pack. Tobacco was stored in an apartment in Nîmes (Languedoc-Roussillon region) and was discovered by the Police in December 2012, together with €40,000 in cash and two weapons. The tobacco seized originated from Spain and from Eastern Europe (Le Monde du Tabac 2012i).
  - Organised groups purchase cigarettes in Andorra, store them in Spain, and then transport them into France on commercial trucks. At the French-Andorran border, illicit circuits are well structured (Lalam et al. 2012).
  - Nine traffickers of Moroccan, Algerian, Georgian and French nationality were arrested following the seizure of 250 kilos of tobacco in April 2011. A thorough investigation dismantled the criminal network, which purchased counterfeit cigarettes from ship containers coming from China in Antwerp (Belgium) and re-sold them to intermediaries in Aubervilliers. The latter supplied street sellers in Paris (Le Monde du Tabac 2013a).
  - In July 2014, the DGDDI arrested four people during the seizure of 10.5 tonnes of contraband cigarettes in Vitrolles, in the Marseille region. This is one of the largest catches of cigarettes made in recent years in this region (DGDDI Office of Information and Communication 2014).
- The recent use of techniques commonly employed by drug traffickers suggests that tobacco smugglers may be involved in other criminal activities for which they use their expertise in tobacco smuggling. The ‘Go fast’ technique is used by traffickers to avoid police controls when transporting illicit tobacco to distribution destinations. In this technique, a group of cars lures police controls by forcing police checkpoints at high speed, while another car takes the tobacco to its final destination (Le Monde du Tabac 2012g).
  - The Andorran-French connection in tobacco smuggling involves criminal organisations. It appears that Georgian and Chechen criminal groups are involved in tobacco smuggling along this route (Le Monde du Tabac 2012g).
  - Local crime networks in Marseille engage in several types of crime: prostitution, gambling, money counterfeiting, kidnapping for ransom, and cross-border smuggling of drugs, cigarettes and other goods (Alvarez 2003).
- **Illicit tobacco is sold through various channels: street sellers, grocery stores, private apartments, markets and the Internet.**
- French press releases and law enforcement documents show that Internet cafés, 24/7 grocery stores, and international call shops may be used for illicit tobacco trafficking (Le Monde du Tabac 2012f). Nevertheless, DGDDI considers French tobacco retailers to be reliable, with a maximum of five cases of proven fraudulent retailers per year (Binetruy, Dumont, and Lazaro 2011, 70).
  - Internet sales of tobacco products are an emerging trend. They accounted for nearly 10% of total tobacco seizures in 2012 (Direction générale des douanes et droits indirects 2011a).
  - Sellers of illicit tobacco may also commercialise other types of goods. For instance, Polish tobacco street sellers in Paris distribute alcoholic beverages, such as vodka and beer, in addition to discounted Polish cigarettes (Le Monde du Tabac 2012h).
- **According to law enforcement agencies, organised crime groups engaged in illicit tobacco trafficking are also engaged in other criminal activities.**

- **At the retail level, the illicit tobacco market consists mainly of small sellers, who vary by sex and ethnicity.**
- It is not possible to identify specific ethnic groups involved in the ITTP supply chain. **There is no single tobacco smuggler profile.** Indeed, diverse nationalities—Polish, Chinese, Georgian, and North African—are mentioned in reports on law enforcement investigations.
- However, in some instances, recent immigrants from Maghreb engage in tobacco smuggling. They do not have legal documents and do not speak fluent French. Street selling generally leads to relatively modest tobacco seizures by law enforcement officers (Lalam et al. 2012).
- Women may be involved in tobacco smuggling as well as men, and according to the ‘*Clop 11*’ investigation of June 2012, women may also occupy leadership positions (LaDépêche.fr 2012).

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- **Retail practices may be influenced by enforcement countermeasures.**
- According to Article 1825 of *Code général des impôts* (CGI), shops selling tobacco products evading tax may be sanctioned with administrative closure for up to eight days. In December 2012, discussed and approved by the French Senate was a 2012 Supplementary Budget Bill (*Projet de loi de finances rectificative pour 2012*) that proposed a longer closure time of three months (Sénat 2012; Vie Publique- Au coeur du débat publique 2012).
- In Marseille, owing to the higher level of street crime and a greater police presence, transactions are rapid and lack the social dimension of transactions in Paris. Whereas in Paris people often purchase regularly from the same sellers and develop relationships with them, in Marseille consumers tend to vary sellers, owing to greater availability, and they conduct briefer transactions, restricting the opportunity for relationships to develop (Mery 2009).



## THE PRODUCTS

- In 2011, DGDDI provided an official estimate of the size of the ITTP in France. Furthermore, various estimates have been produced by private agencies and scholars.
- DGDDI estimates that one among five cigarettes in France is purchased outside the legal network of French retailers, either in foreign countries or through illicit channels (DGDDI 2011b).
- The lack of yearly estimates of the illicit tobacco market in France makes it difficult to assess the extent and the evolution of the ITTP. Nevertheless there are a few unofficial estimates available (Table 7 and Figure 16, p. 62).
- Euromonitor International estimates the volume of illicit cigarettes as a share of the total cigarette market.<sup>7</sup> The ITTP grew between 2001 and 2014, rising from 2.7% in 2001 to **17.0% in 2014**. The growth rate for the period 2006–2014 shows an increase of around 54.5%. Forecasting data for 2015 shows that the ITTP reaches 22.7% (Euromonitor International 2015a).
- **KPMG estimates** that around **15%** of the cigarettes consumed in France in 2014 were either counterfeit or contraband. The amount increased by 3 p.p. since 2006, when it was around 12% (KPMG 2015).<sup>8</sup>

7. Euromonitor sources for estimating the illicit trade include the trade press, customs offices, interviews with manufacturers and retailers, as well as local knowledge of the market; for example how porous borders are, how high unit prices are, whether a market is a conduit for cigarettes versus actual consumption.

8. KPMG analyses many different sources, including tobacco sales data, consumer surveys and EPSs.

Table 7. Estimates of the size of the French illicit cigarette market. Percentage of the total market, 2006–2014

Source: Transcrime elaboration on Euromonitor international (2015a) and KPMG (2015) data

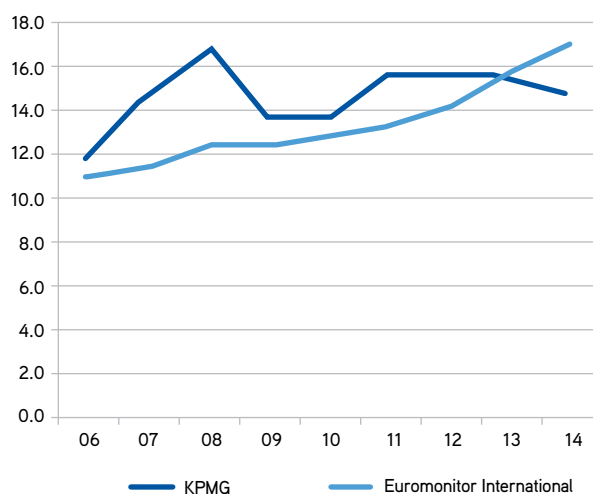
Source	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Euromonitor International</b>	11.0	11.6	12.3	12.4	12.8	13.3	14.2	15.7	17.0
<b>KPMG</b>	11.9	14.6	16.7	13.8	13.7	15.8	15.7	15.4	14.7

Euromonitor estimates refer to the cigarette market only.

- In 2007, a study estimated the size of smuggling and cross-border purchases. It used three different approaches: firstly, it made a simulation on cigarette sales in France to simulate what cigarette sales would have been if cross-border purchases or other forms of tobacco smuggling had not taken place; secondly, it made a comparison between cigarette sales in France and the reported cigarette consumption by French citizens; thirdly, it relied on the collection of empty cigarette packs from a waste collection centre to assess the non-domestic cigarettes share among all discarded packs. Notwithstanding the difficulty of quantifying smuggling and cross-border purchases, the study confirmed the existence of a disparity between tobacco sales in bordering regions and central regions, and between total sales and reported consumption. According to the first approach, smuggling and cross-border purchases were between 14%–17% of total annual cigarette sales (2004–2006). According to the second approach, they corresponded to approximately 20% of legal sales. According to the third approach, 18.6% of the packs collected were of foreign origin (Lakhdar 2008).
- A study on the ITTP conducted in 2012 on 18 countries in Europe, estimated that 2.1% of the French tobacco market is illicit. Nevertheless, the study may have possible limitations as it relies on self-reported data provided by approximately 300 smokers (Joossens et al. 2012).

Figure 16. Estimates of the size of the French illicit cigarette market. Percentage of the total market, 2006–2014

Source: Transcrime elaboration on Euromonitor International (2015a) and KPMG (2015b) data



## Contraband & others<sup>9</sup>

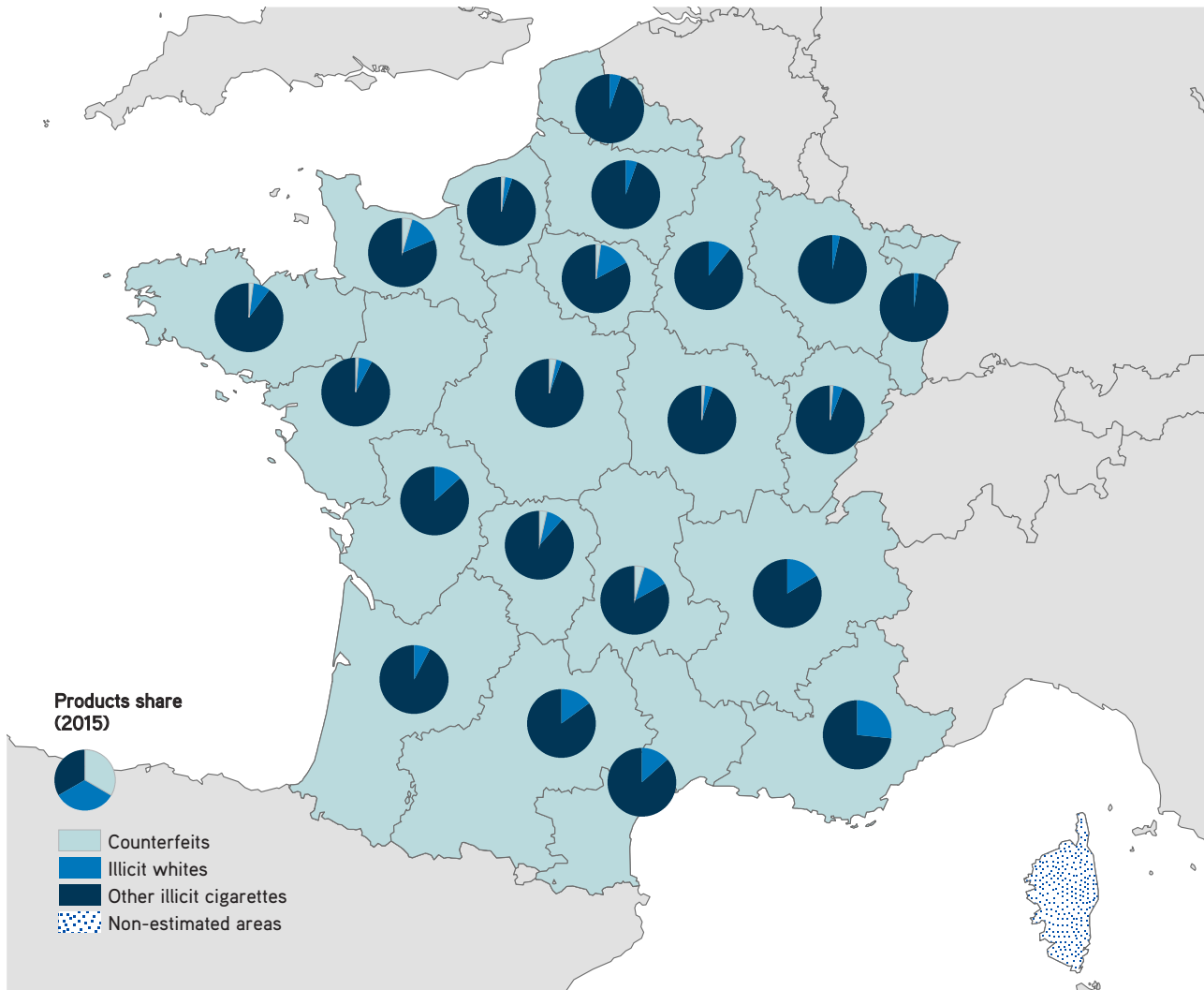
- **The structure of the illicit tobacco market in France shows a prevalence of contraband & others in 2015, according to Transcrime estimates (Figure 17, p. 63).<sup>10</sup>**
- The illicit tobacco market in France consists mainly of contraband & others. In 2015, they accounted for 86.5% of the illicit cigarettes market.
- In 2015, these products have the highest concentration in **Alsace** (97.2% of the illicit market), **Lorraine** (96.5%) and **Haute-Normandie** (95.0%). The first two border with Belgium, Germany and Luxembourg, where cigarettes are cheaper compared to France.

9. Contraband & others include contraband, bootlegged and illegally manufactured cigarettes.

10. For the methodology, see the Methodological Annex of the European Outlook (Transcrime 2015b).

Figure 17. Products share in French regions, 2015

Source: Transcrime estimates



- In 2015, **contraband & others** arrived mainly from **Algeria** (26.3% of contraband & others), **Belgium** (12.5%) and **Spain** (11.0%). Algeria has strong connection with France and has a low cigarettes price (€0.7 for the cheapest brand in 2015). Belgium and Spain border with France and have a lower cigarettes price (in 2015 €4.9 and €4.0, respectively, for the cheapest brand, compared with €6.3 in France).
- In 2011, DGDDI conducted a study on illicit tobacco in France, with the focus on cross-border purchases from Belgium, Luxembourg and Spain. According to this study, illegal sales of tobacco accounted for nearly 5% of the tobacco market (between 4.5% and 5.9%). Legal cross-border purchases represented 15% of the market, while the French network of tobacco retailers accounted for the bulk of sales, 80% of the market (Ministre du Budget, des Comptes Publics, et de la Réforme de l'Etat 2011).
- Compared with Euromonitor and KPMG estimates, the DGDDI study estimated a lower penetration of illicit tobacco into the French tobacco market. The share of the ITTP in total tobacco consumption consisted of illicit cross-border purchases (2.43%); Internet sales (0.1%), street selling (1%), personal networks (0.8%) and illicit retailers (0.87%) (DGDDI 2011b). Although DGDDI's study adopted a detailed methodology for assessment of illegal cross-border purchases, it relied on a consumer survey. This method is likely to underestimate the importance of illicit distribution channels.<sup>11</sup>

<sup>11</sup> The BVA survey was conducted between February and April 2011 to investigate purchasing behaviours by tobacco smokers in central French regions and in regions close to the borders with Belgium, Luxembourg, Spain and Andorra.

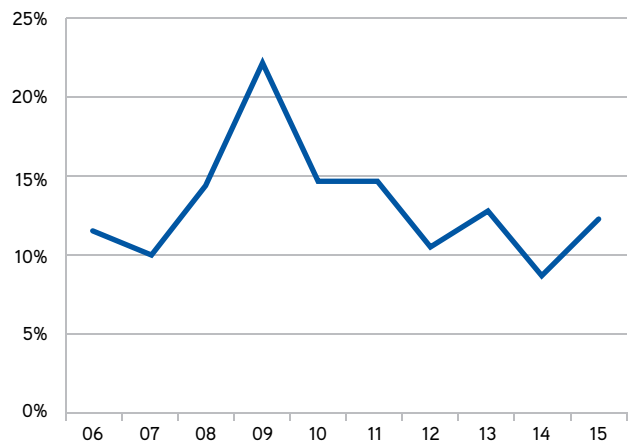
## Illicit whites

- **Illicit whites are the second most important type of illicit product (Figure 18).<sup>12</sup>**
- The incidence of illicit whites products passed from 22.1% in 2009 to 12.2% in 2015. According to KPMG estimates, the inflows of illicit whites in France decreased by 54% between 2009 and 2014 (KPMG 2015).
- **Provence-Alpes-Côte d’Azur (26.4%) and Rhône-Alpes (16.0%)** register the highest share in 2015.
- The port of Marseille, a crucial junction for illicit cigarettes arriving from Algeria, is located in Provence-Alpes-Côte d’Azur. Rhône-Alpes borders with Provence-Alpes-Côte d’Azur and with Italy and Switzerland.
- In 2015, illicit whites arriving in France mainly originate from Greece (73.3% of the illicit whites), Spain (7.3%) and Luxembourg (7.2%).
- **There is no official estimate of the consumption of illicit whites among the French population (Lalam et al. 2012). Nevertheless, American Legend is the illicit white brand most frequently sold in France.**
- In 2014, illicit white volumes increased to 37.4% of total EU counterfeit and contraband flows, exceeding 21 bn cigarettes. General flows of American Legend in France represent 1.8 bn cigarettes. This was 8.5% of the total European illicit white volume. American Legend declined by 450 mn cigarettes in 2009 to 240 mn in 2014 (KPMG 2015).

- The average price of a carton of American Legend is between €40 and €50, cheaper than the price of a carton of other brands of legal cigarettes (Tellier 2015; Vidalie 2015). The price can be bargained from one place to another and from one seller to another. According to a consumer survey conducted in 2009, this gave respondents a perception of extra freedom (Hillairet and Mazoyer 2012).

Figure 18. Illicit whites incidence in France, 2006–2015

Source: Transcrime estimates



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- **American Legend incidence is higher in the city of Marseille.**
- According to EPSs, the incidence of American Legend in Marseille is the highest among all French cities. Indeed, 38.0% of all the American Legend cigarettes in 2015 were found in Marseille, in the Provence-Alpes-Côte D’Azur region. The prevalence was the highest in 2011, with 74.5% of all American Legend cigarettes found in that city.
- **The market penetration of illicit whites may create demand among consumers and favour the future penetration of illicit white brands into the legal market (Lalam et al. 2012, 10).**
- Testimonies from tobacco retailers in Southern France show that in some cases tobacco smokers ask tobacconists for packs of American Legend in the belief that they are legal products (Husson 2012).

<sup>12</sup> Illicit whites are cigarettes produced by manufacturers that do not normally supply to the legal market in a given country (Allen 2011; Joossens and Raw 2012).

Table 8. Seizures of HRT and waterpipe tobacco (tonnes), 2010–2014

Source: Transcrime calculations on DGDDI (2015b) data

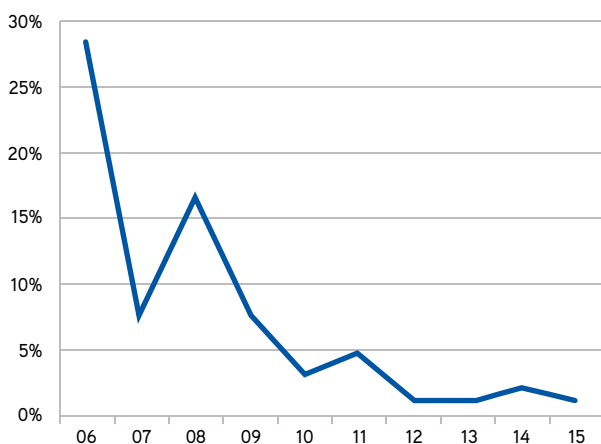
Year	2010	2011	2012	2013	2014
HRT	14.6	19.5	60.1	39.1	36.8
Waterpipe tobacco	28.3	33.4	38.8	59.6	75.0
Tobacco	347.4	462.1	371.2	430.0	422.7
HRT share (%)	4.2%	4.2%	16.2%	9.1%	8.7%
Waterpipe tobacco share (%)	59.6%	57.6%	36.0%	40.0%	62.8%

## Counterfeit cigarettes

- Counterfeits have decreased in recent years. They strongly decreased from 2008 when they were 16.5% of the illegal market to 2015 when they reached 1.3% (Figure 19).
- The regions with the highest concentration of counterfeits are located in Auvergne (4.5% of the illicit market), Lower Normandy (4.4%) and Limousin (3.5%).
- Consumers of counterfeit cigarettes are not certain of the origin of the products. Smokers in Marseilles think that the products are from North Africa, while those in Paris believe that they come from Eastern Europe or Asia (Mery 2009).
- In April 2013, 7.84 million counterfeit cigarettes were burnt at the incineration plant in Bellegarde-sur-Valserine, in Haute Savoie region. The counterfeit cigarettes, bearing Marlboro trademark, were seized by the DGDDI in Chamonix in August 2012 (Le Monde du Tabac 2013b).

Figure 19. Counterfeit incidence, 2006–2015

Source: Transcrime estimates



## Illicit Tobacco

- **HRT and waterpipe tobacco are emerging issues for French Customs.**
  - Since 2005, DGDDI has highlighted the emergence of illicit HRT as a new concern for French Customs. Indeed, prior to that year, cigarettes were almost the only smuggled tobacco product seized in France (DGDDI 2007a).
  - DGDDI reports the total amount of illicit tobacco seized per year. In the last years, it also specifies available data on the share of illicit HRT in total tobacco seized (DGDDI 2015b) (Table 8).
  - According to a study conducted by INHESJ and OFDT in 2011, the amount of HRT bought outside the French network of tobacconists is significant. Indeed, on comparing the consumption of HRT by French people with the volume of sales in 2010, it appears that almost twice the amount of HRT consumed in France is bought outside the official network of French tobacco retailers. Indeed, 49% of the total estimated consumption of 14,974 tonnes in 2010 may have derived either from cross-border duty-free purchases or from illicit channels (Internet, contraband or street selling). Nevertheless, it is difficult to determine whether this HRT is purchased illicitly or purchased legally in neighbouring countries (Lalam et al. 2012).
  - Applying the same proportion of illegal cross-border purchases of cigarettes (15% according to DGDDI), the amount of illicit HRT would be around 5,000 tonnes, almost 34% of total HRT consumption (Lalam et al. 2012, 22).



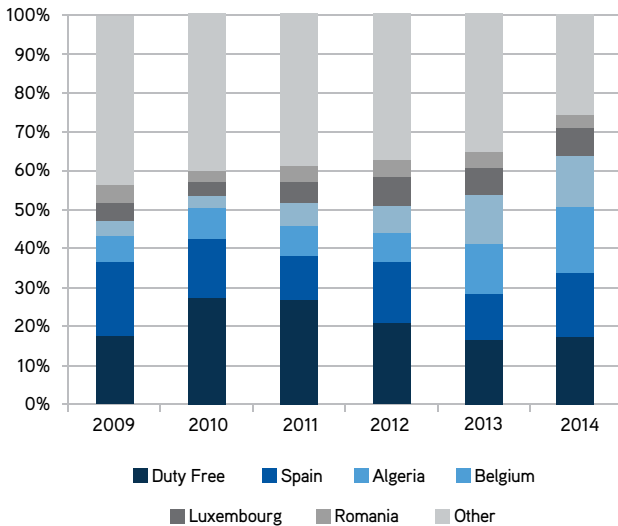
- In France, there have been also cases of illicit importation of **waterpipe tobacco** mainly directed to waterpipe bars in the Paris region (Négroni 2012). This signalling that the ITTP also supplies specific products from foreign countries. Indeed, the seizures of these products increased by 165% between 2010 and 2014 (DGDDI 2015b).

## Price and origin of illegal tobacco products

- **The illegal market offers tobacco products at low prices that make them particularly attractive to consumers. Indeed, the cost of contraband cigarettes is €2 less than that of original ones.**
- According to media releases on police investigations and consumer testimonies, the price of a pack of illicit cigarettes is €5.0 on average.
- **There are several countries of origin for contraband cigarettes in France (Figure 20).**

Figure 20. Contraband cigarettes by country of origin, 2009–2014

Source: Transcrime calculations on KPMG (2015) data



- KPMG data show the increasing importance of Algeria and Belgium as source countries for contraband cigarettes and the stable involvement of Spain and Luxembourg (KPMG 2015).

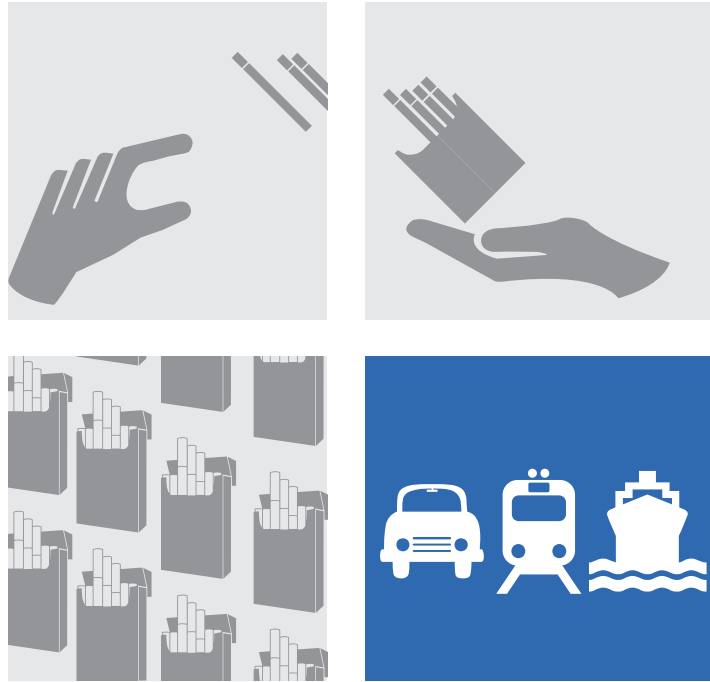
- Other source countries for French illicit cigarettes are Eastern European countries (Poland, Romania, Russia and Ukraine), Maghreb countries (Morocco and Tunisia) and the UAE (Transcrime 2015a).
- French press releases identify other source countries for illicit tobacco, such as: Andorra, China, Singapore and South-East Asia (see box *ITTP in France and source countries*).

## ITTP IN FRANCE AND SOURCE COUNTRIES

- A network of cigarette dealers was dismantled in the nineteenth arrondissement of Paris. Counterfeited cigarettes were being shipped from China and sold on the streets by members of the Paris Chinese community (Le Monde du Tabac 2012a).
- Discovered among the thousands of containers unloaded in Le Havre were 800 boxes containing contraband cigarettes, the equivalent of 400,000 packs of different brands: 'Mac', 'Premier Gold' and 'Palace'. The container came from Singapore (DGDDI 2012b).
- In May 2012, an international operation conducted by DGDDI in collaboration with Spanish Customs led to the seizure of more than 12 tonnes of cigarettes aboard a yacht from Morocco. Four Lithuanians were arrested (DGDDI 2012c).
- In October 2015, customs officers seized 14 mn cigarettes in Le Havre. The cigarettes were illicit whites, branded Jin Ling. They were hidden in two containers, originating from Malaysia and loaded on a ship in Singapore (Le Monde du Tabac 2015b).







## MODUS OPERANDI AND GEOGRAPHICAL DISTRIBUTION

### The *modus operandi*

- The *modus operandi* of the illicit tobacco trade varies according to the type of trade, the destination, the availability of transport connections and the need to evade countermeasures.
- Data on seizures made by DGDDI show that in 2013 land-based seizures represented 49% of the total seizures, with an increase in seizures related to online purchases (+6.3%). In 2014, seizures connected with online purchases represented 4.2% of seizures (DGDDI 2014; 2015a).
- The largest seizures often occur during the dismantlement of major international criminal organisations, especially when the target is seaborne freight. In 2010, the majority of seizures (86%) occurred on trucks (50%) and containers (36%) (DGDDI 2011c). Indeed, criminal groups smuggle cigarettes mainly via sea and street routes (GEOS Business Intelligence 2015).

- Transcrime estimates that in 2006–2013 cigarettes were mainly smuggled via cars and trucks (34.4% and 32.3% of the seizures, respectively). Also containers and ships were a used mean of transport (11.8%) (Transcrime 2015a) (Figure 21).

Figure 21. Cigarettes seizures per transportation means, 2006-2013  
Source: Transcrime elaboration

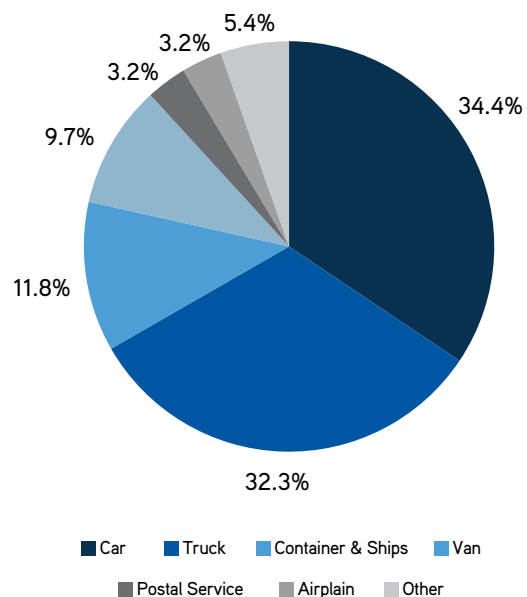
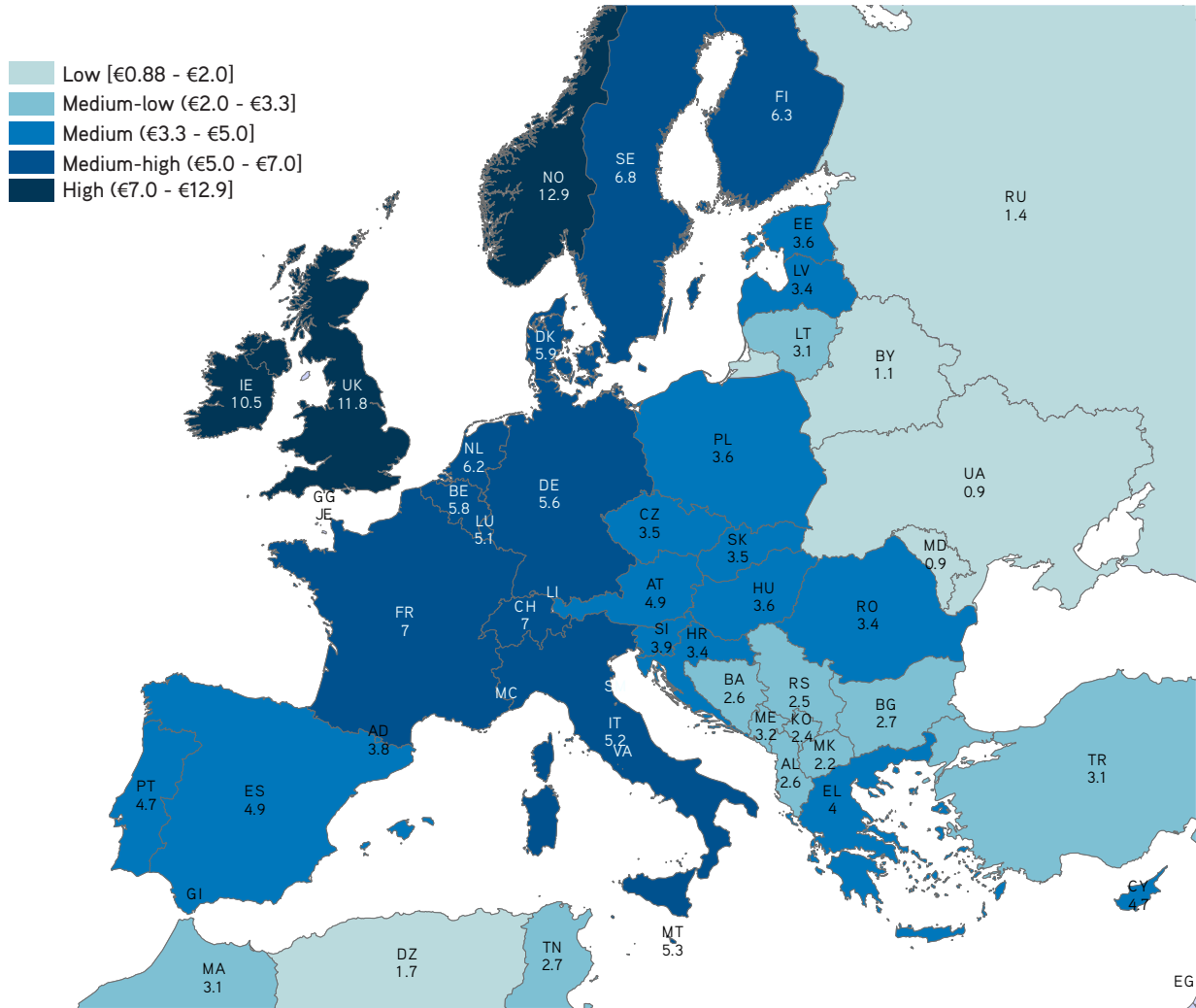


Figure 22. Retail selling price differences in Europe in October 2015

Source: Transcrime calculations on PMI (2015) data

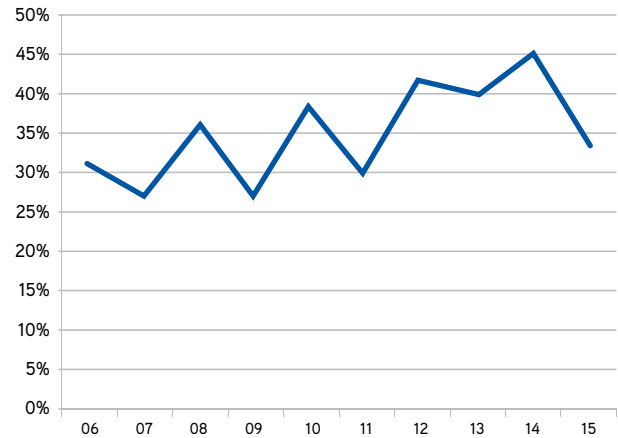


- In 2009, 63% of tobacco seizures were made in Northern France, at Dunkirk, Le Havre, Bretagne and close to Paris, in the Roissy region (DGDDI 2010).
- Street connections are often used by traffickers to transport illicit tobacco: 65.8 tonnes of illicit tobacco products seized in 2009 (25% of seizures). Smuggling through maritime and air connections account respectively for 50.8 tonnes (19.2% of seizures) and 38.6 tonnes (14% of seizures) of tobacco confiscated in 2009 (DGDDI 2010).
- KPMG shows an increasing percentage of contraband & counterfeit cigarettes in France, from 13.8% in 2010 to 14.7% in 2014 (KPMG 2015). Cross-border purchases, i.e., buying less expensive cigarettes beyond the French border and bringing them into France, has an impact on data on non-domestic cigarettes. In 2015, according to EPSs, the highest non-domestic incidence was found at the borders with Belgium (e.g., the city of Wattlelos, 54.9%), Luxembourg (e.g., Thionville-38.3%) and Spain (e.g., Perpignan-52.0%) where cross-border shopping is at its highest peaks (Figure 23, p. 70).
- **Cross-border purchasers of tobacco may exceed the amount allowed by the law.**

- **The price of cigarettes is higher in France than in neighbouring countries.** This encourages cross-border purchases of tobacco products (Figure 22, p. 69 and Figure 23).
- Notwithstanding the legal limits on the importation of tobacco from EU and non-EU countries, it is difficult to assess the exact amount of illegal cross-border purchases. This is one of the main challenges for French researchers (Lalam et al. 2012, 36).
- DGDDI estimates that 14.5% of the French tobacco market is made up of illicit cross-border purchases, i.e., those made by people who import tobacco in excess of the amount allowed by the law (DGDDI 2011b). In 2015, the OFDT and INHESJ estimate that 17% of tobacco in France arrives from neighbouring countries (and 1% in non-neighbouring countries) (Lermenier-Jeannet 2015).
- According to EPSs, the **share of products originating from neighbouring countries increased in the last years**, passing from 30.9% of the non-domestic cigarettes in 2006 to 33.5% in 2015 (Figure 23). The share of cigarettes originating from the Spanish-Andorran border remained stable in this period (13.3%), while products from the Belgian-Luxembourgian border increased (from 8.1% to 17.0%). In many cases, bootleggers smuggle illicit cigarettes from neighbouring countries (GEOS Business Intelligence 2015).
- Operation '*Tabac Légal*', conducted in 2009 by DGDDI in regions bordering on Andorra, Spain, Italy, Luxembourg and Belgium, showed that the Franco-Spanish border is particularly sensitive in terms of traffic in illicit cigarettes. This operation allowed to Customs to seize in a single week 1.2 tons of cigarettes and 270 kg of tobacco, of which 60% on the Franco-Spanish border area. Nevertheless, the Belgium-Luxembourg border is also particularly important for individual cross-border purchases in terms of volume. This may attract also criminal organisations (DGDDI 2011c).

Figure 23. Incidence of non-domestic cigarettes purchased from neighbouring countries, 2006–2015

Source: Transcrime calculations on EPSs (2006-2015) data



•• **France is a transit country for illicit tobacco directed to Northern Europe, especially to the UK.**

- According to the DGDDI, the Eastern French region of Lorraine is a transit region for trucks containing illicit tobacco and headed for the UK and the Netherlands. Illicit cigarettes enter the EU either through Greece, or East European countries and then follow different routes to the final consumption markets. Generally, they transit through Italy and Germany before being directed to Northern Europe (Le Pays 2012; GEOS Business Intelligence 2015).
- France is a country of transit for trafficked cigarettes, including traffic bound for the UK market. The quantities of cigarettes seized are most important in large cities on the coastline of the English Channel (Le Havre in particular) and in the south of France (Bouche-du-Rhône region and bordering region on Spain and Andorra). Cigarettes are transported to the UK mainly by ferry, train and trucks (DGDDI 2011c).

•• **A number of important French ports are crucial junctions for the ITTP.**

Table 9. French ports, main source countries of non-domestic cigarettes, 2010–2015

Source: Transcrime calculations on EPSs data

French ports	2010	2011	2012	2013	2014	2015
<b>Bayonne</b>	Spain	no data	Spain	Spain	Spain	Spain
<b>Bordeaux</b>	Spain	Spain	Spain	Spain	Spain	Spain
<b>Boulogne-sur-Mer</b>	no data	no data	Belgium	Belgium	Belgium	Belgium
<b>Brest</b>	Spain	Spain	Spain Duty Free	Belgium	Spain	Canary Islands
<b>Caen</b>	Spain	Duty Free labelling	Duty Free labelling	Belgium	Romania	Luxembourg
<b>Calais</b>	no data	no data	Duty Free labelling	Belgium	Belgium	Algeria
<b>Dunkerque</b>	no data	no data	Belgium	Belgium	Belgium	Luxembourg
<b>Le Havre</b>	Czech Republic	Duty Free labelling	France	Belgium	France Duty Free labelling	Belgium
<b>Lorient</b>	no data	no data	Duty Free labelling	Romania	Spain	Algeria
<b>Marseille</b>	Greece	Greece	Greece	Algeria	Algeria	Greece
<b>Nantes</b>	Greece	Spain	Duty Free labelling	Algeria	Spain	Spain
<b>Nice</b>	Spain	Russia	Duty Free labelling	Algeria	Italy	Italy
<b>Rouen</b>	Spain	Spain Belgium	Belgium	Belgium	Russia	Duty Free labelling
<b>Toulon</b>	Spain	Duty Free labelling	Spain	Algeria	Algeria	Spain

- Ports with good connections with other transport infrastructures and close to the largest markets are likely to be used to import illicit tobacco products. Indeed, seizures occur especially in large commercial ports such as **Le Havre**, **Marseille** and **Dunkirk**, where illicit tobacco is concealed among licit goods in large containers (see box *Seizures at French main ports*, p. 72) (Lalam et al. 2012). Other seizures take place in the ports of **Calais**, **Cherbourg** and **Dieppe** on motor vehicles embarking on ferries to Ireland and the UK (GEOS Business Intelligence 2015; Transcrime 2015a).
- The main source countries for trade exports to France are Andorra, Belgium, Luxembourg and Spain. This demonstrates that many illicit products come from cross-purchases with bordering countries due to the price differential. Other origin countries are Eastern European countries (Poland, Romania, Russia and Ukraine), Maghreb countries (Algeria, Morocco and Tunisia) and the UAE (Transcrime 2015a). France is also an ending point for illicit whites produced in Greece (KPMG 2014) (Table 9).
- According to DGDDI Director, Vincent Guivarch, goods vessels from Turkey typically dock in Port de la Seyne-Brégaillon. Nevertheless, Corsica and Maghreb are also frequent source countries owing to their lower-priced tobacco products (Var-Matin 2012).

## SEIZURES AT FRENCH MAIN PORTS

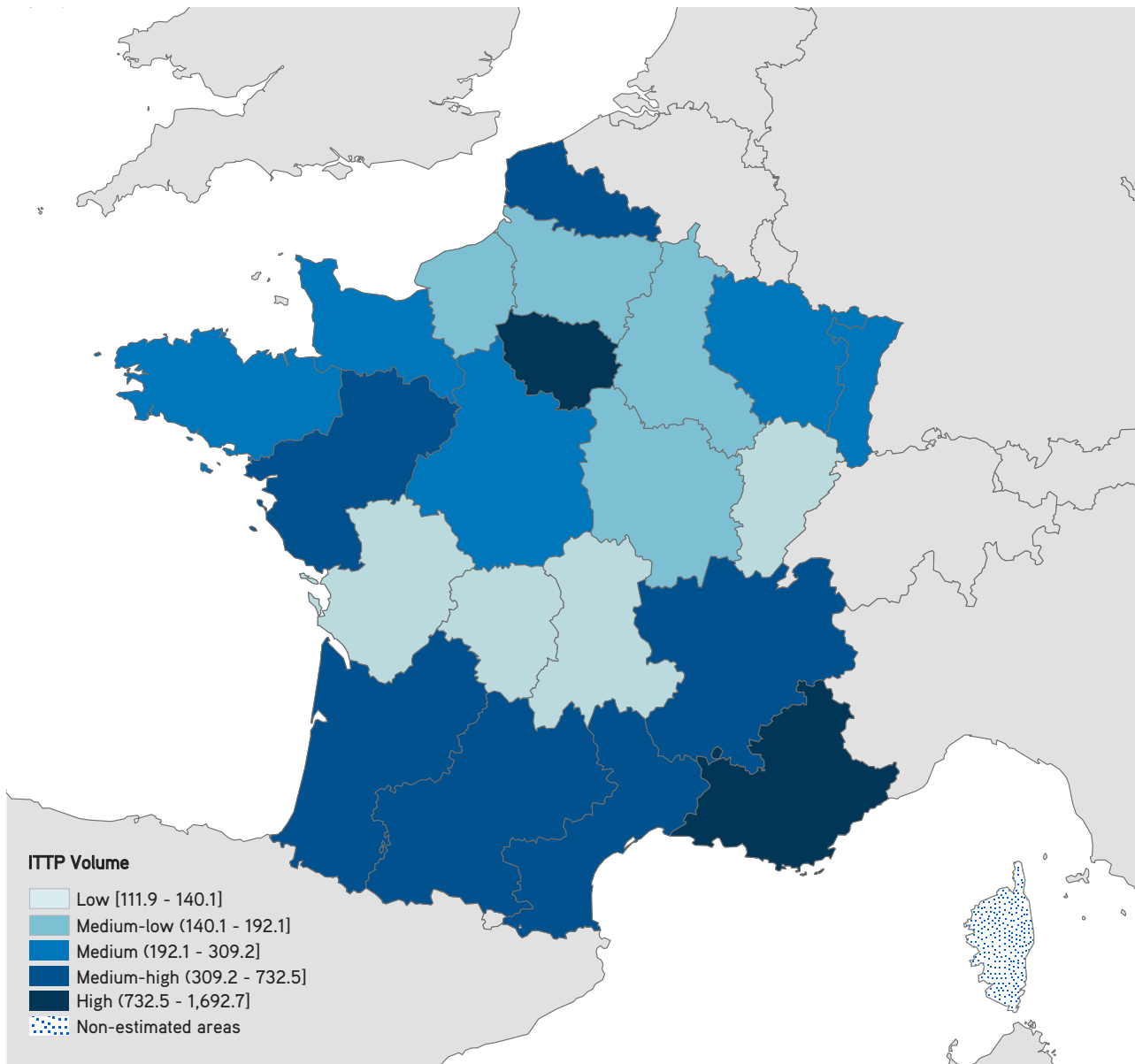
- In August 2012, the Brigade Anti-Crime (BAC) of North Marseille seized 6,850 cartons (1,370,000 sticks) of American Legend. The cigarettes were hidden in a car parked near the port of Marseille (Le Monde du Tabac 2012c).
- Nearly eight tonnes of contraband cigarettes (400,000 packs, valued at €1.8 mn) were seized at Le Havre port in August 2012. The illicit tobacco was concealed among licit goods inside a commercial container shipped from Singapore (Le Monde du Tabac 2012d).
- In August 2014, the DGDDI seized 1.7 tonnes of contraband cigarettes at the port of Calais. Cigarettes were concealed among other products in a truck registered in Hungary, waiting to be boarded on a ferry to the UK (France 3 2014).

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- Transcrime has surveyed a number of French press releases concerning assaults on trucks transporting tobacco to legal retailers. In particular, Altadis Distribution France's trucks were assaulted several times in 2012 (Le Monde du Tabac 2012b). In 2014, Logista declared that the number of assaults of its trucks was still increasing (Le Monde du Tabac 2014). In 2015, there are different cases of assaults to trucks transporting cigarettes (Le Parisien 2015; FranceSoir.fr 2015). This may indicate that tobacco products are stolen and then re-sold on the illicit market, evading taxes.
- **On-street selling: Barbès (Paris), Noailles (Marseille), Place Arnaud Bernard (Toulouse).**
  - On-street selling (*vente à la sauvette*) occurs in some city districts in particular, mainly Goutte d'Or and Barbès in Paris, Place Noailles in Marseille, and Place Arnaud Bernard in Toulouse (Lalam et al. 2012, 15).
  - Tobacco smugglers engage in outdoor trafficking. In Place Arnaud Bernard, they wait at street corners and offer cigarettes to passers-by (Cardet 2012). Similarly, in Boulevard Barbès—Paris's 'Marlboro street'—and in the Goutte d'Or district, smugglers offer cheap cigarettes and stash the cartons in rubbish bins. They thus carry only a small quantity of illicit tobacco on their persons, and their risk of detection diminishes as a consequence (Nébias and Heriot 2008).
- **The Internet retail of tobacco products is illegal in France. Nevertheless, this practice is increasing (Binetruy, Dumont, and Lazaro 2011, 79).**
  - The expansion of fraud through postal deliveries is linked to the rise of tobacco retail online. There are around 30 different countries of origin for the tobacco delivered in France through this channel (DGDDI 2009).
  - DGDDI declares that in 2014 4.2% of the cigarettes seized were ordered via Internet (DGDDI 2015a). Between 2008 and 2010, there was a 51% increase in seizures of tobacco products purchased from online websites. Indeed, in 2010 DGDDI seized 36.1 tonnes of tobacco compared with the 23.9 tonnes seized in 2008 (DGDDI 2011b). According to industry sources, in 2012, 30 among 327 tonnes of contraband tobacco seized by DGDDI, derived from Internet sales and were sent by post.
- **Illicit tobacco products smuggled via sea routes are transported along motorways by trucks and cars.**
  - Motorways are frequently used by tobacco traffickers as crucial links between ports and final consumption markets. In particular, the A1 motorway connecting Lille to Paris and the A6 connecting Paris to Lyon are used to transport tobacco to Southern France. Media releases report a prevalence of seizures at service stations on the A1 and A6, indicating that these are specific routes for tobacco smuggling (France 3 2012; GEOS Business Intelligence 2015).
  - There is evidence of increasing use of air transport to import illegal tobacco into France. In November 2013, the DGDDI made the record seizures of 815 cartons of cigarettes at Roissy airport carried by passengers (DGDDI 2014). Nevertheless, this is still the least used means for transporting tobacco (DGDDI 2010).
- **Assaults on trucks transporting cigarettes and robberies of large retailers are frequent in France.**

Figure 24. ITTP volumes per region, 2015

Source: Transcrime estimates



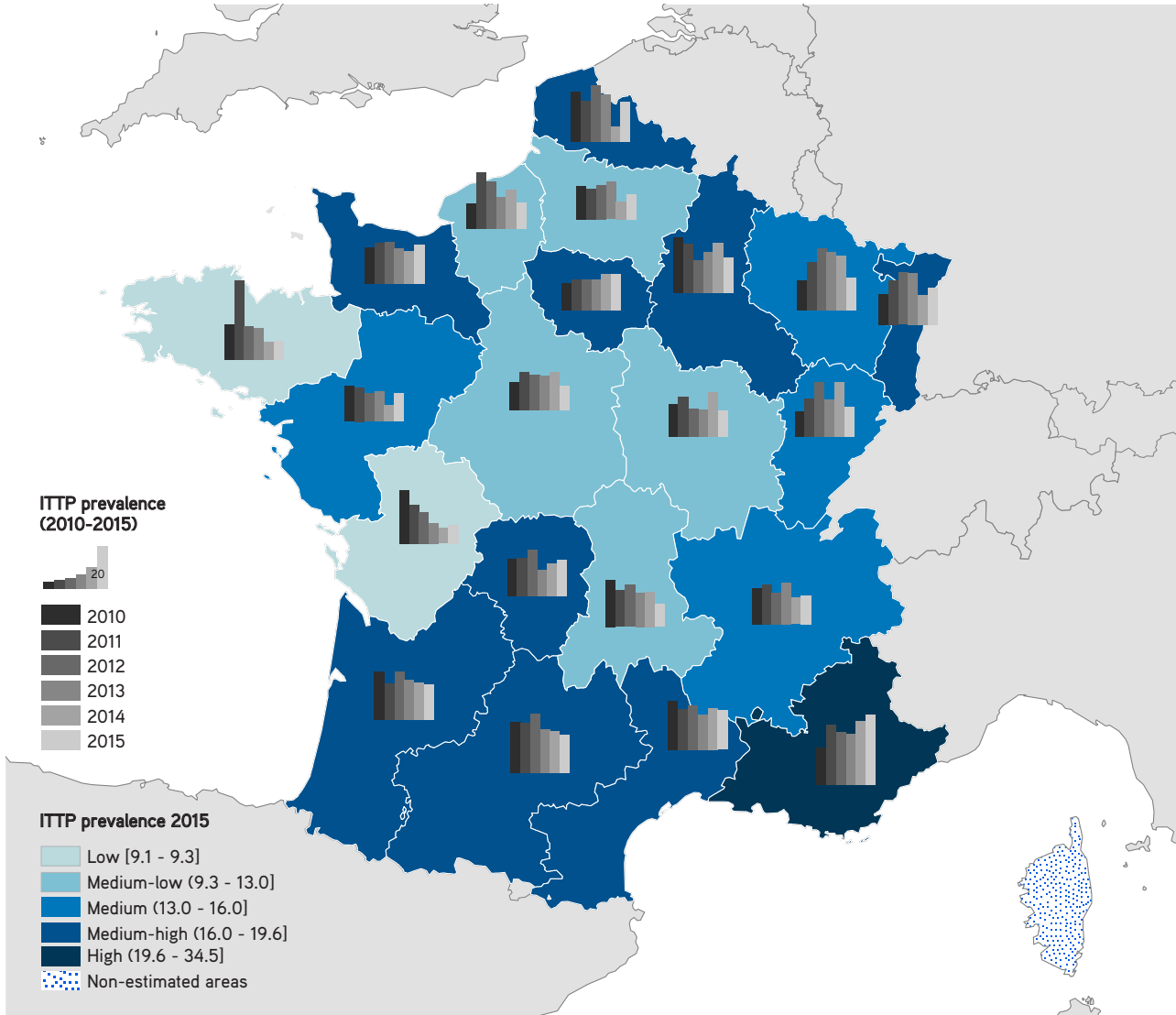
- In the city of Le Mans, in north-western France, Internet websites are advertised by leaflets distributed on the streets. The prices charged by the online tobacco retailer, based in Belgium, were 25% lower than French prices (Le Monde du Tabac 2012e; Le Monde du Tabac 2015c).

### The geographical distribution

- Transcrime estimates the volume of the ITTP at regional level in France (Figure 24).
- In 2015, **Île de France**, **Provence-Alpes-Côte d'Azur** and **Rhône-Alpes** registered the highest ITTP volumes (1,692.7 mn sticks, 1,416.0 mn and 732.5 mn, respectively). These regions have the highest population density in France.

Figure 25. ITTP prevalence in French regions, 2010–2015

Source: Transcrime estimates



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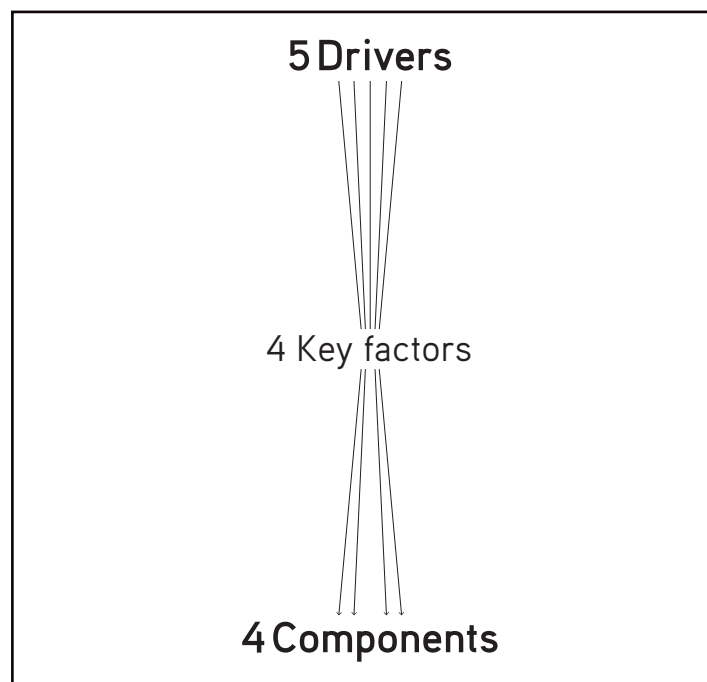
- The ITTP prevalence (mn illicit cigarettes per 100,000 inhabitants) varies across French regions (Figure 25).
- In 2015, **Provence-Alpes-Côte d’Azur**, **Nord-Pas-de-Calais** and **Languedoc-Roussillon** registered the highest prevalence. All these three areas are bordering regions and comprise important ports. Indeed, **Marseille** is the main city of Provence-Alpes-Côte d’Azur (34.4 mn sticks). Its port is a crucial junction for the national ITTP (Transcrime 2015a). Nord-Pas-de-Calais (19.6 mn sticks) borders Belgium and comprises **Calais**, one of the main arrival points for illicit cigarettes. Languedoc-Roussillon, with 19.3 mn sticks, **borders Spain and Andorra**.
- The highest increase in the prevalence between 2006 and 2015 is registered by Provence-Alpes-Côte d’Azur (+113%), Basse-Normandie (+50%) and Île de France (+40%).





# Chapter 3

*Framing the components  
in the drivers*



## THE FOUR KEY FACTORS OF THE ITTP

### INTRODUCTION: THE FOUR KEY FACTORS

This chapter draws on the results of the previous analyses and identifies the key factors of the ITTP. They constitute the **opportunities that can affect the ITTP**. As any other market, also the tobacco market may create illegal opportunities. **The key factors are the link between the drivers and the components of the ITTP: the drivers impact or may impact the different components of the ITTP through four key factors**. Therefore, it is necessary to identify the possible interactions between drivers and components to remove possible opportunities/vulnerabilities which may ease the action of criminal players and shape the illicit trade in tobacco products.

The four key factors of the ITTP are:

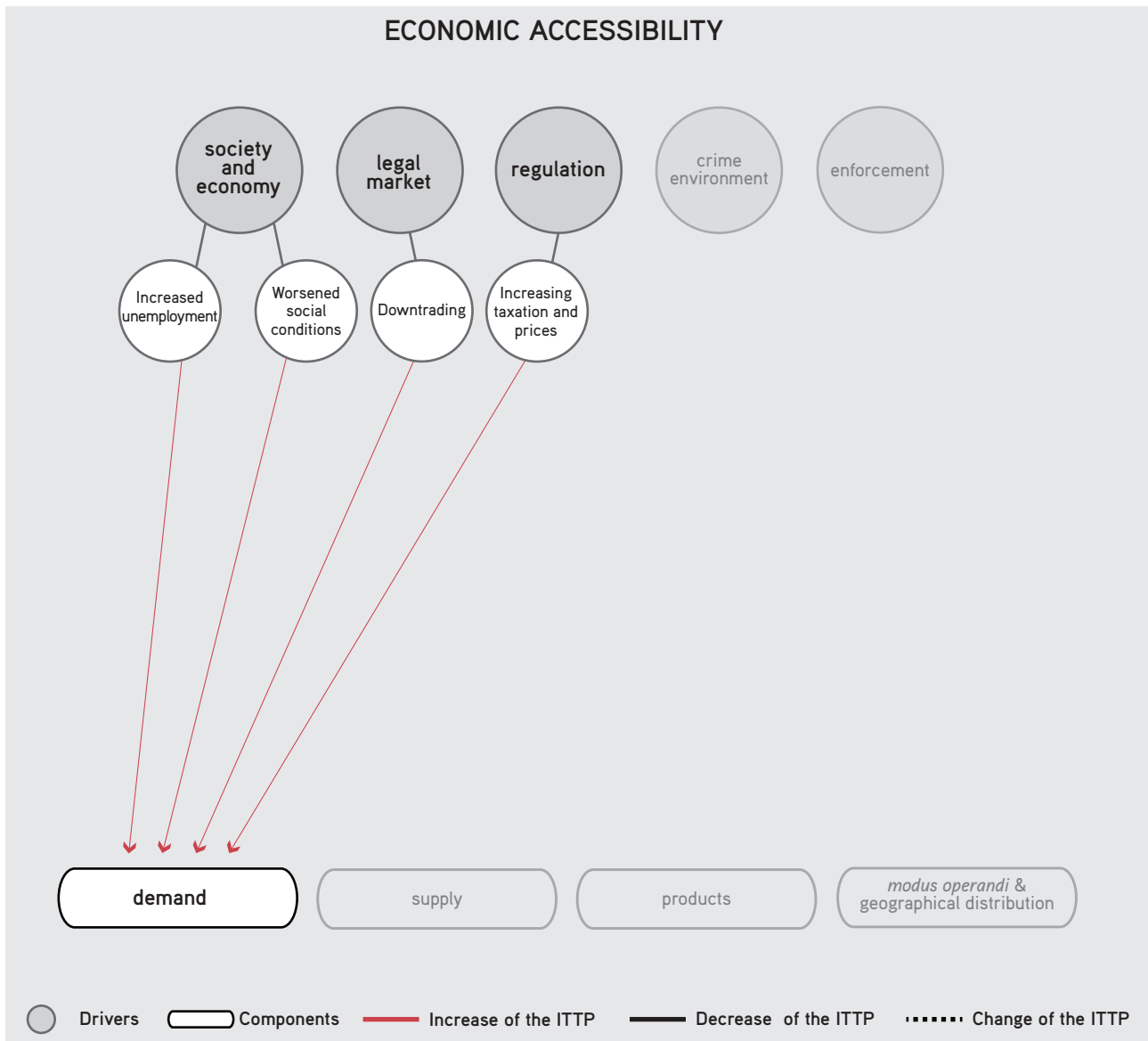
- **Economic accessibility: The price of illicit tobacco and particularly its relative price compared to the price of legal products.**

- **Availability: The ease with which both smugglers and consumers to obtain illicit tobacco products.**
- **Profitability: The ability of the ITTP to generate profits that exceed its operational costs.**
- **Risk: The threat of detection/accusation/conviction and the sanctions imposable to the actors involved in the ITTP.**

Hereafter, four subsections analyse how the various elements of the drivers influence the demand, supply, products, *modus operandi* and geographical distribution of the ITTP.

Figure 26. Framing the components in the drivers through the economic accessibility

Source: Transcrime elaboration



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## ECONOMIC ACCESSIBILITY

(Figure 26)

- **High level of taxation and high prices make illicit cigarettes more economically accessible to consumers.**
- Taxation is a key factor in determining the accessibility of tobacco products because it is one of the main reasons for the growing prices of tobacco products (see Regulation, p. 29). Higher taxation on legal tobacco inevitably increases the relative accessibility of illicit tobacco and boosts the demand for it. The overall taxation on cigarettes is high.

- Given the dual nature of the tobacco market (it is composed of a legal and an illegal part; see above *Why focus on the ITTP in France?* p. 13), 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 excise duty on tobacco was raised and cigarette prices rose significantly, from €3.60 in 2002 to €5.00 in 2004.
- **High unemployment rates and worsened social conditions may amplify the demand for illicit tobacco, a more economically accessible product.**

- The unemployment rate in France reached 10.1% in 2015 (Banque de France 2015) and the global recession and the economic crisis severely hit France. Worsened social conditions and high unemployment rates may induce smokers to maintain their smoking habits by switching to illicit less expensive tobacco products.
- In 2008, the proportion of immigrant descendants in France was among the highest in Europe, counting 6.7 million people and representing 11% of the population. The median standard of living of immigrants and immigrant descendants is lower than that of the general population. The increased accessibility of illicit tobacco may encourage the demand for illicit tobacco among economically disadvantaged groups (INSEE 2012).
- **Preferences and downtrading trends may increase the demand for cheaper illicit tobacco through its economic accessibility.**
- The French market is experiencing a downtrading trend. Consumption of cigarettes and cigars is decreasing while HRT has increased (Euromonitor International 2015a). Indeed, from 2009 to 2014, the change in sales volume of HRT sales was +11.1%.
- France is a transit point for illicit tobacco bound for the UK market. This impacts the geographical distribution of the illicit trade in France. Indeed, the quantities of cigarettes seized are most substantial in large cities on the coastline of the English Channel and in Southern France on the Mediterranean Sea (DGDDI 2011c; Transcrime 2015a).
- The high incidence of non-domestic cigarettes at French ports suggests that international trade practices favour the importation of illicit tobacco products. The largest seizures occur during the dismantling of major international criminal organisations, especially when targeting seaborne freight. In fact, seizures occur especially in large commercial ports, such as Le Havre, Marseille, Dunkirk, Calais, Cherbourg and Dieppe, where illicit tobacco is concealed among licit goods in large containers (Lalam et al. 2012; Transcrime 2015a).
- **The availability of illicit tobacco in street markets increases the demand for illicit tobacco through the relative easiness of finding them.**
- 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 found especially in specific neighbourhoods of metropolitan areas in Paris, Lyon, Toulouse and Marseille. Illicit products are available on the streets from black-market suppliers. The availability of illicit tobacco is an important factor in its demand (Le Monde du Tabac 2012f).

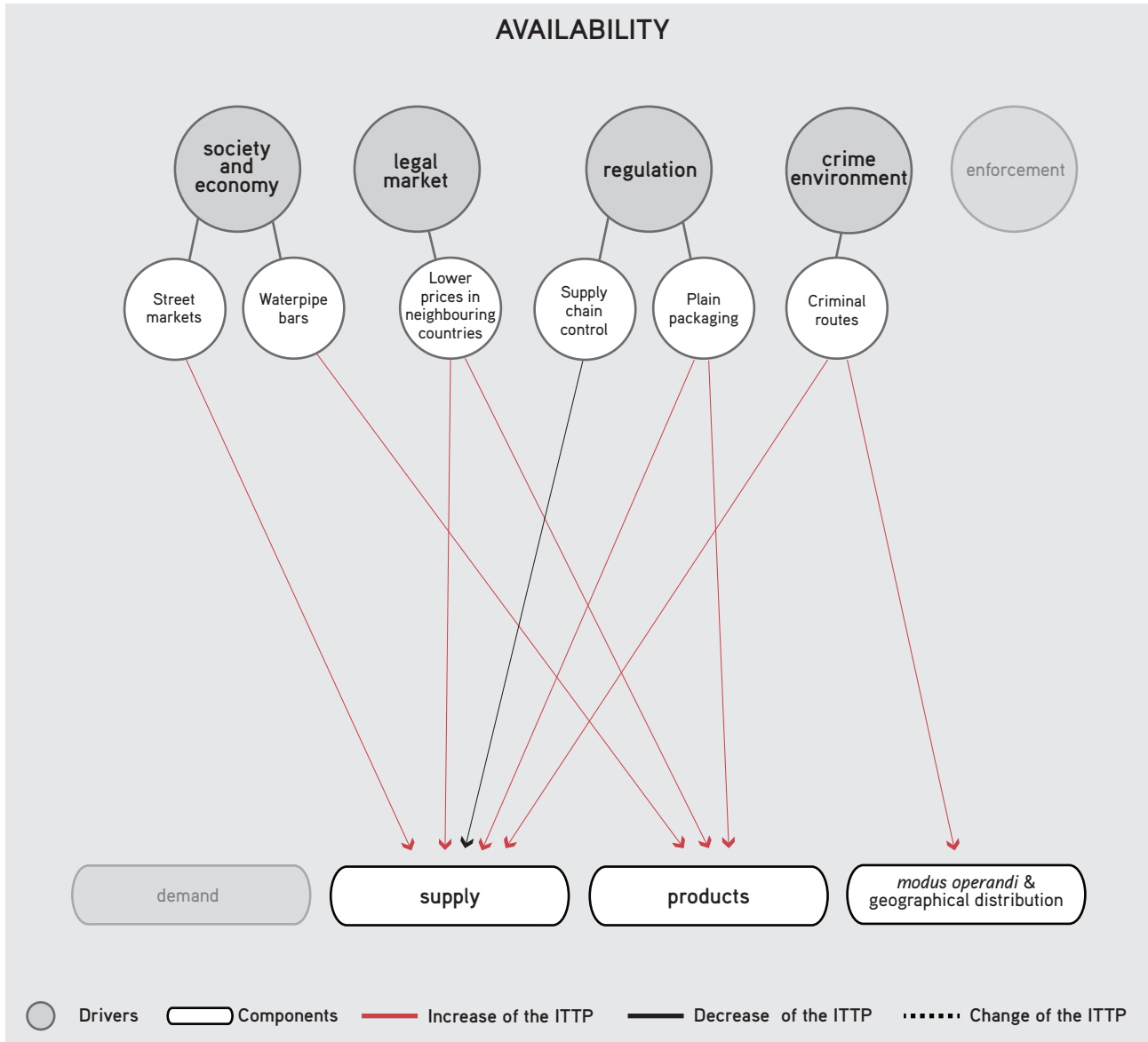
## AVAILABILITY

(Figure 27, p.80)

- **The proximity of France to countries with cheaper tobacco products affects the availability of foreign cheaper tobacco within French borders.**
- 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, tobacco products can be legally imported from neighbouring countries at cheaper prices and, in some instances, in excess of the quantities allowed by the law.
- **Being at the centre of important East-West routes may increase the supply of illicit products by increasing the availability of illicit tobacco products.**
- Areas of the informal economy, such as street markets, may facilitate the availability and distribution of illicit tobacco products. Smugglers may sell illicit tobacco together with other smuggled products. Polish tobacco street sellers in Paris distribute alcoholic beverages, such as vodka and beer, in addition to discounted Polish cigarettes (Le Monde du Tabac 2012h).
- **The demand for specific tobacco products, such as waterpipe tobacco, may favour its availability on the black market.**

Figure 27. Framing the components in the drivers through the availability

Source: Transcrime elaboration

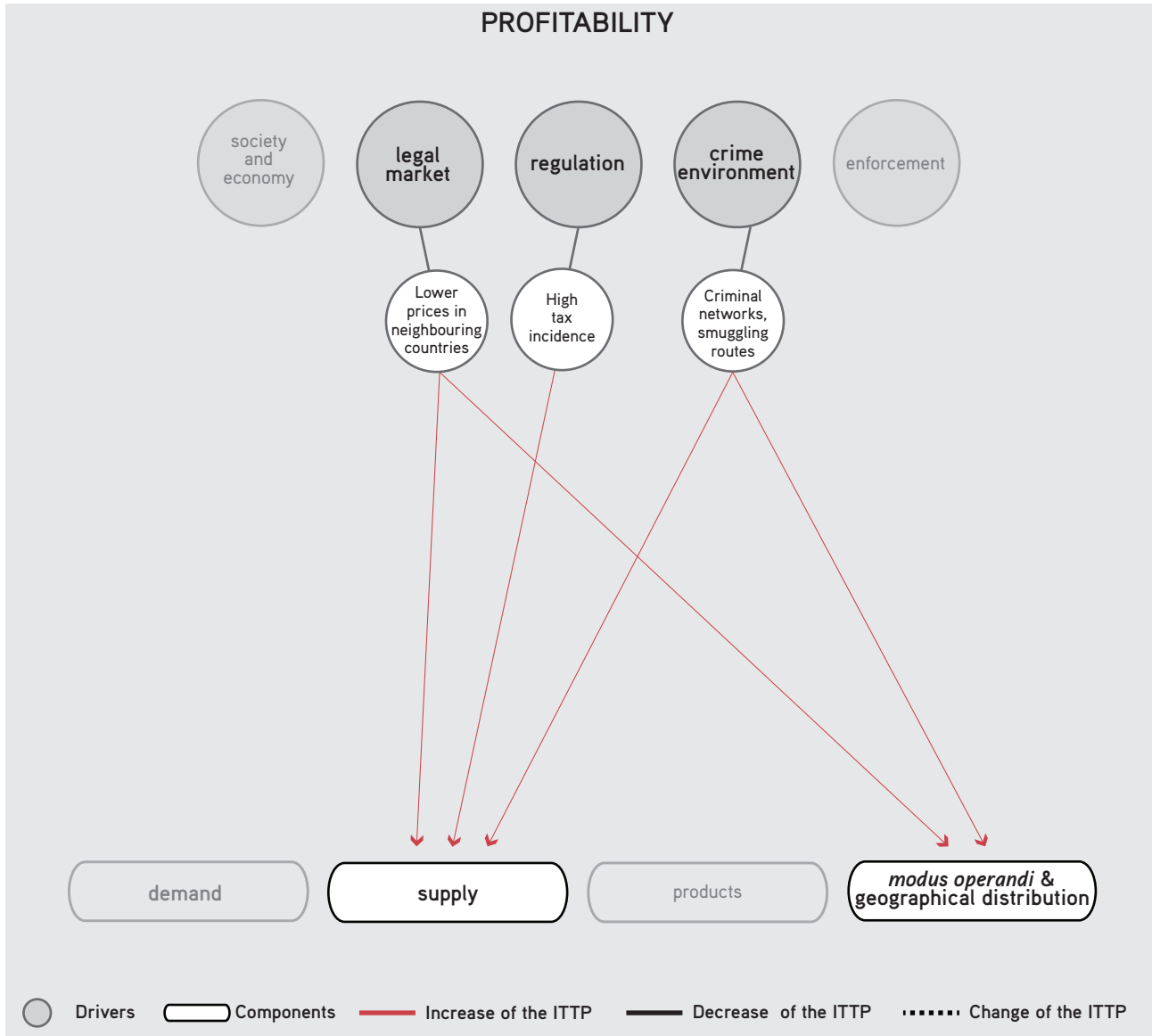


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- The increase of waterpipe tobacco seizures (+165% between 2010 and 2014) in France signal that the ITTP also supplies specific products from foreign countries. Waterpipe tobacco is mainly directed to waterpipe bars in the Paris region (Négroni 2012; DGDDI 2015b).
- **Supply chain control measures impact on the ITTP by decreasing the availability of illicit tobacco products.**
- Supply chain control measures, such as tracking and tracing systems, mandatory licensing for tobacco retailers and manufacturers, and customer identification, decrease the availability of illicit tobacco within French borders.
- **The introduction of plain packaging could increase the availability of illicit products.**
- The National Assembly approved on the 25<sup>th</sup> November 2015 the introduction of plain packaging of cigarettes from May 2016. This could simplify the production of counterfeit products, increasing their availability on the illicit market (Transcrime 2012, 26).

Figure 28. Framing the components in the drivers through the profitability

Source: Transcrime elaboration



## PROFITABILITY

(Figure 28)

- Taxes account for a large share of the final retail price of tobacco, making it a highly profitable product to smuggle (Merriman, Yurekli, and Chaloupka 2000).

- 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). According to experts, cigarette counterfeiting may yield a return on investment amounting to more than 40 times the capital invested (Van Heuckelom 2010 and Gutauskas 2011, 72). Nevertheless, according to EPSs, counterfeiting is not a primary concern in the French illicit tobacco market, with an incidence of 1.3% among non-domestic cigarettes in 2015.

- In 2015, tax incidence in France was approximately 80.3% of the final retail price of the most popular brand. The country ranked 7<sup>th</sup> out of 28 EU countries for cigarette taxation (European Commission 2015). A high tax incidence may create profit potentials for smugglers.
- **The lower retail prices of tobacco products in neighbouring countries stimulate bootlegging and smuggling through its profitability.**
- Illegal cigarettes in France cost generally €2 less than legal ones. This leaves high margins for the ITTP.
- Smugglers exploit cross-border tax differentials. The price of cigarettes in France is higher than in neighbouring countries, and this may increase the supply of illicit tobacco and the profitability of the ITTP.
- Importing cheaper tobacco products from neighbouring countries is a consolidated practice in France. French people, especially those living in border departments, frequently purchase cheaper cigarettes abroad. In 2015, the OFDT and INHESJ estimate that 17% of tobacco in France arrives from neighbouring countries (and 1% in non-neighbouring countries) (Lermenier-Jeannet 2015). The low prices of tobacco products in neighbouring countries may also encourage bootlegging.
- **The presence of organised criminal groups and consolidated smuggling routes may favour the ITTP and increase the profitability of this activity. Indeed, OC groups may exploit scope economies among different goods.**
- The drug market is the largest French illegal market (National Gendarmerie 2015). Consolidated illicit routes used for drug trafficking increase the opportunities for smugglers to traffic illicit tobacco.

## RISK

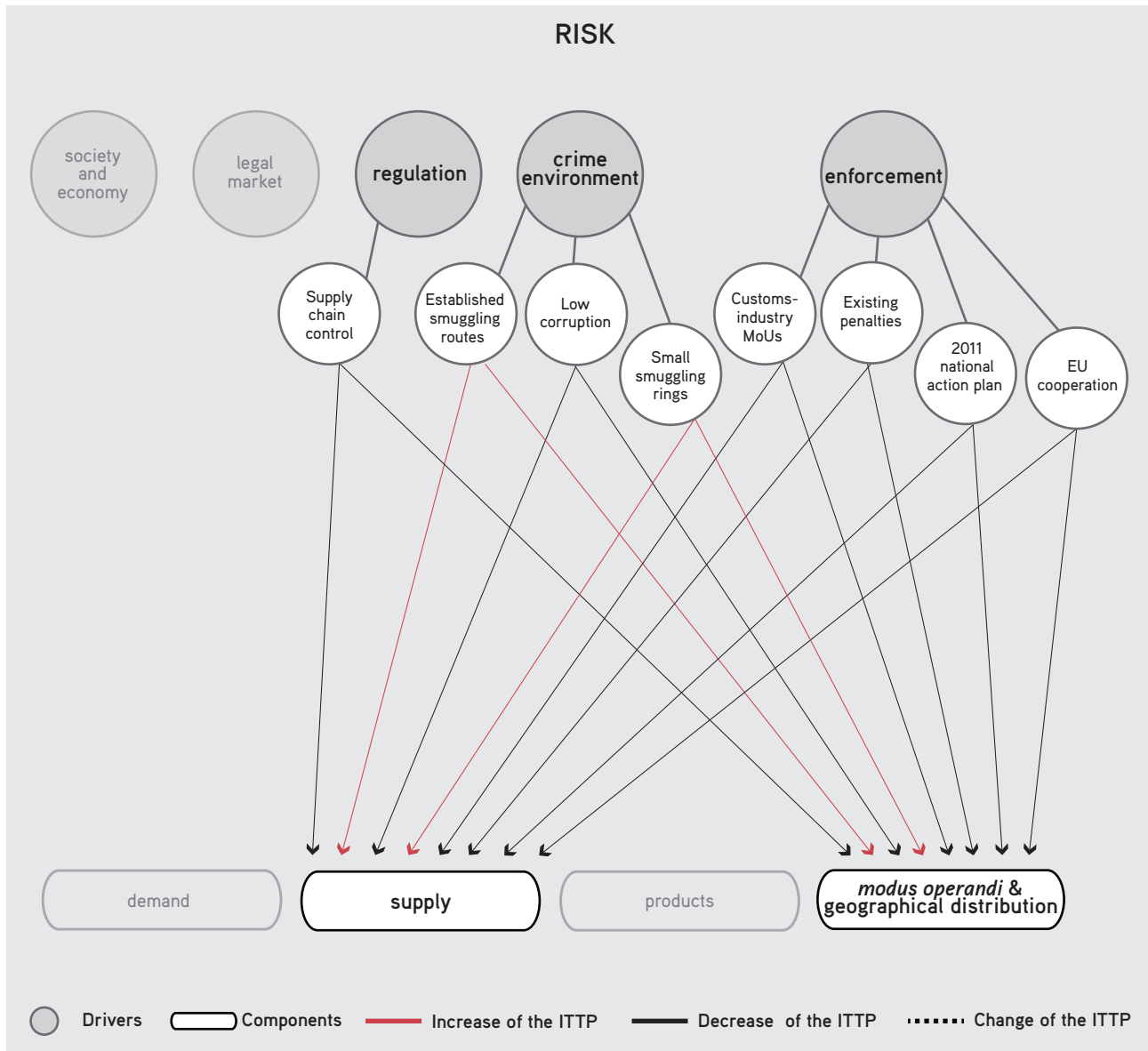
(Figure 29, p. 83)

- **Law enforcement cooperation, or lack of cooperation, in the fight against illicit tobacco may have a significant impact on the ITTP, by increasing or decreasing the risks for the actors involved.**
- Large seizures of illicit tobacco induce smugglers to reduce the size of their loads. They transport small batches of cigarettes so as not to lose the entire load and to reduce damage in the case of detection and confiscation (Melzer 2010).
- France's participation in the European Excise Movement and Control System (EMCS) project, which provides the electronic monitoring of movements of excise goods, including tobacco, may increase the risks for tobacco smugglers.
- The establishment in February 2009 of the Cyber Customs (*Cyberdouane*), aimed at dismantling the online trafficking of illicit tobacco, and the imposition of stricter controls over the shipment of tobacco products by express freight companies (art. 568 ter *Code Général des impôts*, modified in 2014), may curb the demand for illicit tobacco by increasing the risks for purchasers of tobacco products through online channels.
- **The signing of several MoUs between French Customs and the tobacco industry increases the risks for smugglers and impacts the supply of illicit tobacco and the *modus operandi* of traffickers.**
- In the past decade, several MoUs have been signed between DGDDI and tobacco manufacturers to combat the illicit tobacco trade and cigarette counterfeiting and to share intelligence information. In 2005 and 2007, Philip Morris International and British American Tobacco France signed agreements with French DGDDI in this regard. In 2011, because of the growing importance of Internet retail for tobacco products, DGDDI signed two MoUs with Internet sales operators.



Figure 29. Framing the components in the drivers through the risk

Source: Transcrime elaboration



- **The French national action plan against cigarette smuggling may reduce the supply of illicit tobacco by increasing the risks for smugglers.**
- France introduced in 2011 specific policy actions against the ITTP. The action plan against cigarette smuggling may increase the risks for smugglers and reduce the availability of illicit tobacco. It intends to increase illicit tobacco seizures by at least 15%. The plan aims at dismantling online trafficking, targeting hotspots of tobacco smuggling and improving identification of the origin of seized tobacco through laboratory analysis and the creation of a specific database on seized tobacco.
- **Established smuggling routes may boost the supply of the ITTP by diminishing the risks for criminals.**
- The geographical features of France may reduce the risks for cross-border smugglers. France is surrounded by countries with cheaper tobacco products and, considering the high number of French people crossing the north-eastern and south-western borders, the risk of detection for smugglers decreases accordingly.

•• **Existing penalties against tobacco smuggling in France impact the supply and *modus operandi* of the ITTP by increasing the risks for the players.**

- 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 association, tax evasion, etc. The likely penalties for these crimes, either confiscations, fines or imprisonment, constitute deterrents against the growth of the ITTP (see box *Hypothetical case*, in Enforcement, p. 48).
- Under the General Tax Law, art. 1791 *ter*: ‘in the case of manufacture, possession, sale or transportation of illicit tobacco, a fine corresponding to one to five times the amount of duty evaded is imposed on offenders’. Nevertheless, according to a consumer survey of 2009, the penalties are too high for purchasers and tend to apply to sellers alone. Hence, consumers feel they will never be sanctioned for buying illicit tobacco (Mery 2009).

- Proximity to lower-price markets has fostered cross-border purchases of tobacco. The use of personal networks for purchases reduces the risks for the actors involved.

•• **Supply chain control measures impact the ITTP by increasing the risks for smugglers.**

- Supply chain control measures include tracking and tracing systems, mandatory licensing for tobacco retailers and manufacturers, and customer identification during tobacco sales transactions. They may increase the risks for smugglers.

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•• **A low level of corruption impacts the supply side of the ITTP by increasing the risks for the actors involved in the ITTP.**

- Low levels of corruption increase the likelihood of detection/accusation/conviction. The low level of corruption recorded in France, together with a relatively limited presence of organised crime activity (see Crime Environment, p. 39), deters smugglers by increasing the likelihood of detection/accusation/conviction.

•• **The small structure and *modus operandi* of smuggling rings in France impacts the supply of illicit tobacco by reducing the risks for the actors involved.**

- Street sellers of illicit tobacco show a certain degree of independence from each other (Lalam et al. 2012). This autonomy and fragmentation may augment the supply of illicit tobacco by reducing the risk of detection for smugglers.

# CONCLUSIONS

**This report provides the French country profile of the project *The Factbook on the Illicit Trade in Tobacco Products*.** The ITTP is a complex phenomenon comprising a variety of activities, products and actors. The analysis of the illicit trade must take account of a number of factors that may significantly influence it.

**This report has analysed the multiple facets of the ITTP in France.** The information gathered originates from academic literature, grey literature (official reports, studies and papers), open sources and contact with experts and stakeholders.

## THE FIVE DRIVERS

**Chapter 1** (The five drivers) analysed in detail the five drivers of the ITTP: society and economy, regulation, legal market, crime environment and enforcement. The five drivers are areas whose structures positively or negatively affect the various components of the ITTP.

- **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 compared with other high-income OECD members, and the GDP per capita has increased in the past decade. Nevertheless, the unemployment rates have grown until 2014. France spends a large share of GDP on education and health.

- **Legal market:** The French tobacco market is one of the largest in Europe, Middle East and North Africa, despite the decreasing trend in tobacco sales. Whereas France is an important European producer of tobacco leaf, its market is mainly based on imports. Tobacco consumption in France is high in comparison with the global average. The price of cigarettes has increased significantly in the past decade. As a consequence, an increasing number of smokers buy tobacco products in neighbouring countries or downtrade to HRT.

- **Regulation:** The regulation of the tobacco market is high in France, with a high control on the supply chain and on tobacco consumption, and a medium-high control on tobacco advertising. 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.

- **Crime environment:** France has low levels of crime, corruption and shadow economy. Criminal organisations are mainly established in Corsica and Marseille and they often operate in the drug market. Drug use in the country is high and cannabis is the most used drug.

- **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 strengthened by agreements between the European Commission and the main tobacco companies operating in France. Moreover, specific agreements in the form of MoUs have been signed by the French Customs and the tobacco industry to tackle tobacco smuggling. There are partnerships also with European institutions to improve the fight against the unlawful importation of goods, including tobacco products.

## THE FOUR COMPONENTS OF THE ITTP

**Chapter 2** (The four components of the ITTP) discussed the characteristics of the ITTP in France by breaking the illicit tobacco market down into its four components: demand, supply, products and *modus operandi* and geographical distribution.

- **The demand:** Low price is the key factor of the demand for illicit tobacco. Avoiding taxes and buying tobacco products for €2 less than legal price increases the accessibility of these products, and represents an opportunity for tobacco consumers. In France, illicit tobacco products can be found on the streets in specific metropolitan areas.
- **The supply:** The supply of illicit tobacco is mainly driven by the opportunity to make very high profits with relatively low risks. In France diverse actors are involved in the ITTP supply chain, from private individuals and street sellers to more organised groups. Illicit tobacco is mainly sold through grocery stores, private apartments, markets and the Internet.
- **The products:** DGDDI provided the only official estimate of the illicit tobacco market in 2011. However, there are unofficial estimates provided by Euromonitor International and KPMG (17.0% and 14.7%, respectively). The main illicit tobacco products are other illicit cigarettes and illicit whites.

- **Modus operandi and geographical distribution:** Tobacco seizures mainly occur at ports in Northern France. Illicit tobacco products are then transported on motorways by cars and trucks. The Internet retail of tobacco products is increasing in France, with growing seizures by French Customs. Cross-border purchasing, the practice of buying cheaper tobacco products beyond the border, may be an unlawful conduct if purchasers exceed the amount allowed by the law. The ITTP prevalence (mn sticks per 100,000 inhabitants) is higher in Provence-Alpes-Côte d'Azur, Nord-Pas-de-Calais and Languedoc-Roussillon.

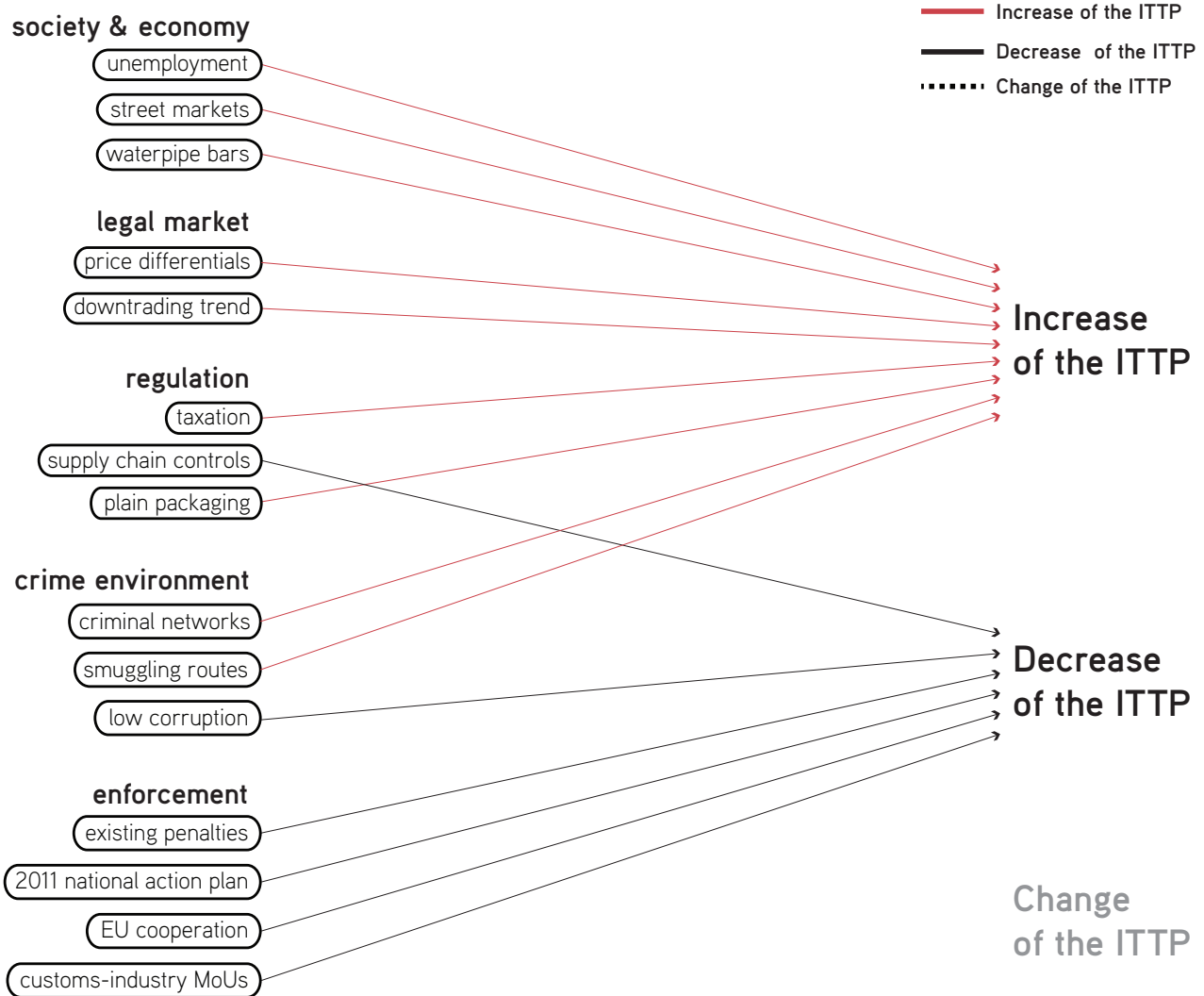
## FRAMING THE COMPONENTS IN THE DRIVERS

**Chapter 3** (Framing the components in the drivers) addressed the interactions between the drivers and the components of the ITTP. The analysis identified five key factors with a fundamental role in shaping the illicit market (economic accessibility, availability, profitability and risk).

- **Economic accessibility:** The growth in the price differential between legal and illegal products has increased the relative economic accessibility of illicit tobacco and stimulated the ITTP. In France, this occurred between 2002 and 2004, when excise duty on tobacco was raised and cigarette prices increased significantly.
- **Availability:** 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 are easily available in the metropolitan areas of Paris, Lyon, Toulouse and Marseille. Moreover, France's geographical position in Western Europe, the presence of consolidated smuggling routes and neighbouring countries with cheaper tobacco products may increase the availability of ITTP in border regions. Further, the introduction of plain packaging from May 2016 could increase the availability of counterfeit tobacco products. Conversely, the existence of supply chain control measures can decrease the availability of illicit tobacco.

Figure 30. Main interactions between the drivers and the ITTP in France

Source: Transcrime elaboration



- **Profitability:** In 2015, tax incidence in France was approximately 80.3% of the final retail price of the most popular brand and the country ranked 7<sup>th</sup> out of 28 EU countries for cigarette taxation. High taxation yields high profits for illicit tobacco traders and increases the profitability of the ITTP.
- **Risk:** Increasing law enforcement actions against the ITTP in France, a low level of corruption, supply chain control measures and European cooperation against the ITTP, all increase the risks for the actors involved in tobacco smuggling.

**Socio-economic** conditions in France shape the dimension of the ITTP. Indeed, high unemployment and economic difficulties may induce smokers to maintain their smoking habits by switching to less expensive tobacco products. Moreover, illicit tobacco products are easy to find, they are available on the streets from black-market suppliers. The increase in the demand for waterpipe tobacco and HRT may also have an impact on its supply on the black market. **Notably, these aspects impact mainly on demand and supply through economic accessibility and availability.**

As pointed out, the ITTP is a complex phenomenon with several determinants. After close analysis on the ITTP in France, there follow the main findings of the Factbook (Figure 30).

The French **legal tobacco market**, whose prices are higher than in the neighbouring countries, is crucial in determining the extent of the ITTP and the demand for cheaper tobacco products among French people. Indeed, the French tobacco market is experiencing a downtrading trend with more and more French people switching to less expensive tobacco products, such as HRT. Lower price of legal cigarettes in neighbouring countries also favours the smuggling and bootlegging of genuine products into France. **Notably, these characteristics mainly impact demand through economic accessibility and supply through profitability and availability.**

**Regulatory** interventions, such as plans to raise taxation on cigarettes, affect the relative price of illegal products when compared to legal ones. In France, overall taxation on tobacco products is high, both as tax incidence on the final retail price and as taxation per 1,000 sticks. **These aspects mainly impact demand and supply through economic accessibility and profitability of illicit tobacco products.** The presence of tobacco supply chain control measures and customer identification systems have a negative impact on the ITTP by increasing the risks for those who wish to engage in tobacco smuggling.

The features of French **‘Crime Environment’**, characterised by a low level of corruption, the presence of criminal networks with consolidated smuggling routes and illicit street selling of tobacco (in certain French cities) shape the extent and dimension of the ITTP. **Notably, these features affect mainly the supply and modus operandi of the ITTP by increasing or reducing the risk of engaging in the ITTP.**

The **‘Law enforcement’** driver has a significant impact on the dimension and geographical distribution of the ITTP in France. Indeed, existing penalties against tobacco smuggling increase considerably the risks for those involved in this activity. Moreover, the recent adoption of a national action plan against the ITTP (2011), the presence of European law enforcement cooperation and the MoUs signed between the tobacco industry and French Customs, all widen the anti-ITTP commitment of France. **Notably, these characteristics mainly impact the modus operandi and supply of the ITTP by increasing the risk of taking part in the ITTP.**

## RECOMMENDATIONS FOR FURTHER RESEARCH

Considering the relative lack of data, the results of this study are provisional. They offer a **first analysis of the ITTP in France** and show that more research and data are needed in this field.

- The importance of illicit HRT requires further exploration and attention. Indeed, the disparity between national consumption and sales of HRT, and the rising number of HRT seizures in France, suggest that the consumption of illicit HRT may be an increasing trend.
- There are no public surveys or studies on the demand for illicit tobacco products. Identifying the socio-economic characteristics of consumers and the reasons for illicit purchasing is fundamental for building effective strategies, preventing illicit behaviours and reducing the demand for illicit tobacco.
- The French government has increased its efforts against the ITTP by launching a national action plan against the ITTP in 2011. Assessment of the impact of this action plans on the various components of the ITTP may provide information crucial for improving future national strategies.
- A better assessment of non-domestic legal and illegal cigarettes would furnish better understanding of the dynamics of cross-border purchases.

In conclusion, the results of the study have shown that the ITTP is a complex and multifaceted phenomenon. Individual factors, such as socio-demographic status and income, but also structural conditions—for example, France’s proximity to countries with lower-priced tobacco products—should be considered when developing anti-ITTP policies.

Given the complexity and the multitude of factors involved, **it is necessary to develop effective law enforcement and criminal justice policies. In addition, it is necessary also to adopt non-criminal measures to prevent illicit consumption and to reduce smuggling.** Finally, the government should tackle the ITTP, especially in the border regions and commercial ports regions, with comprehensive strategies including criminal, non-criminal/administrative, and other indirect measures, for example, through a wide-ranging situational crime prevention approach.

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