

# Tackling illicit trade, counterfeiting and intellectual property theft

## POSITION PAPER



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### Illicit trade, and why the duty-tax-free industry is a target

Illicit trade is defined as any exchange of goods or services that a national government or international lawmaker deems to be illegal.

The term refers to criminal activities including counterfeiting, intentional and fraudulent mislabelling, piracy, and intellectual property theft. These forms of illegality result in millions of lost sales opportunities every year for industries across a broad range of sectors, including the duty-and tax-free industry, across the world. As such, illicit trade presents a significant challenge for the wider international economy. The World Economic Forum estimates that illicit trade costs \$2.2 trillion every year in lost sales<sup>1</sup>. Using this measure, if illicit trade were a country, its economy would be larger than that of Italy, Brazil or Canada.

“ **illicit trade costs \$2.2 trillion every year in lost sales** ”

Illicit trade has accelerated as a result of the COVID-19 pandemic<sup>2</sup>. Disruption to global supply chains and shipping routes, in combination with the rise of e-commerce, have provided traders of illicit goods with many new opportunities and channels to exploit. A recent report from Europol and the European Union Intellectual Property Office (EUIPO) estimated that up to 5.8% of all goods entering the EU – across all channels – are illicit.

### Why is the duty-and tax-free industry a target?

Premium products such as luxury goods, cosmetics and perfumes, alcohol and tobacco have long been among the items of choice for illicit traders. These are also the duty-and tax-free industry's core categories.

The duty-and tax-free industry is highly regulated and its activities support business and travel hubs, generating hundreds of thousands of travel retail jobs worldwide. Illicit trade is a serious issue that harms economies at a macro-level and has the potential to impact individual consumers. The duty-and tax-free industry is one of the markets seriously affected by it.

In recent years, there has been a growing trend amongst criminals to fraudulently mislabel counterfeit and tax-evaded goods as 'duty-free' in order to make the products seem more authentic and to justify the lower prices that the products sell for. This is often done through adding markings, stamps or labels designed to resemble those placed on genuine duty-free goods. Unscrupulous individuals may also legally manufacture goods then deliberately mislabel them as duty-free, when the goods were originally intended for the domestic market. This deliberate mislabelling is of increasing concern to the duty-and tax-free industry.

It is vital that consumers are reminded that if a product claiming to be duty-or tax-free is being sold outside of a store in a secure travel environment or at an authorised downtown duty-free store, it is likely to be illicit, no matter how visually convincing.

<sup>1</sup> Illicit trade endangers the environment, the law and the SDGs. We need a global response", World Economic Forum (2019), <https://www.weforum.org/agenda/2019/07/illicit-trade-sdgs-environment-global-danger/>

<sup>2</sup> Coronavirus Accelerates Demand for Illicit Trade, Euromonitor International (2021), <https://www.euromonitor.com/article/coronavirus-accelerates-demand-for-illicit-trade>



### LUXURY GOODS

- Accounts for between 60-70% of all illicit trade of counterfeit items globally<sup>3</sup>
- \$1.2 trillion of the global total trade in luxury goods lost as a result<sup>4</sup>
- Counterfeit product manufacturing can often involve forced and child labour during manufacturing<sup>5</sup>



### COSMETICS & PERFUMES

- In the US alone, trade of 'fake' cosmetics is worth \$75 million a year
- According to Europol and EU IPO, presents a "substantial threat" to the safety of consumers as a result of unsafe chemical substitutes and lack of regulation<sup>6</sup>
- Costs companies millions every year in lawsuits and technological innovation



### ALCOHOL

- 25.8% of global alcohol consumption involves illicit products<sup>7</sup>
- Sales of illicit alcohol costs the liquor industry more than \$19.4 billion in lost revenues every year<sup>8</sup>
- Worsened by public policy initiatives that make cheaper (illicit) alternatives more attractive, such as high tax burdens and over regulation, according to the UN<sup>9</sup>



### TOBACCO

- 1 in 10 cigarettes around the world are illegal – 500 billion cigarettes worth over \$50 billion – each year
- In 2020, more than 3.2 billion sticks of illegal tobacco seized, and 49 factories shut down<sup>10</sup>
- UK HM Revenue & Customs (HMRC) estimates that since 2000, total tax revenue lost due to illicit tobacco sales is over £43.5 billion in the UK alone<sup>11</sup>

<sup>3</sup> "How Luxury Brands Can Beat Counterfeiters", Harvard Business Review, (2019), <https://hbr.org/2019/05/how-luxury-brands-can-beat-counterfeiters>

<sup>4</sup> "How Luxury Brands Can Beat Counterfeiters", Harvard Business Review (2019), <https://hbr.org/2019/05/how-luxury-brands-can-beat-counterfeiters>

<sup>5</sup> "How Luxury Brands Can Beat Counterfeiters", Harvard Business Review (2019), <https://hbr.org/2019/05/how-luxury-brands-can-beat-counterfeiters>

<sup>6</sup> "Faking it: Beware the dangers of buying counterfeit goods", ECC Ireland (2022), [https://www.eccireland.ie/wp-content/uploads/2022/06/RTE\\_Faking-it\\_The-dangers-of-buying-counterfeit-goods.pdf](https://www.eccireland.ie/wp-content/uploads/2022/06/RTE_Faking-it_The-dangers-of-buying-counterfeit-goods.pdf)

<sup>7</sup> "Size and Shape of the Global Illicit Alcohol Market", Euromonitor International (2018)

<sup>8</sup> "The role of the private sector in combatting illicit trade", UNCTAD Illicit Trader Forum (2020)

<sup>9</sup> "The role of the private sector in combatting illicit trade", UNCTAD Illicit Trader Forum (2020)

<sup>10</sup> "What We're Doing To Fight Illegal Trade", JTI, <https://www.jti.com/news-views/what-were-doing-to-fight-illegal-trade>

<sup>11</sup> Measuring Tax Gaps: Tobacco Tax Gap Estimates for 2016-17, HM Revenues & Customs (2019)



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Legitimate duty-free goods	Illicit goods, including those falsely labelled as duty-free
<ul style="list-style-type: none"> <li>✓ Sales take place in highly regulated travel environments – such as airside at an international airport – often with purchase restrictions based on customs allowances and with forms of customer identification often required.</li> </ul>	<ul style="list-style-type: none"> <li>– Sales not subject to any regulatory oversight, devaluing the product and offering no consumer protections.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Products kept in security-controlled retail areas, such as stores at international airports, ports and ferry terminals.</li> </ul>	<ul style="list-style-type: none"> <li>– Products available at informal locations, such as street stalls, markets and small independent stores, pubs and clubs, and railway and metro stations.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Items purchased at a discounted price as a result of legal duty and tax exemptions.</li> </ul>	<ul style="list-style-type: none"> <li>– Items sold at very cheap prices because they don't comply with regulatory requirements, and evade taxes.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Products come from trusted household names, that are both legitimate and safe, as they are subject to all the same safety requirements as domestic goods.</li> </ul>	<ul style="list-style-type: none"> <li>– Though often convincing, illicit products are untested and unsafe, with EU customs data showing 34% have the potential to harm consumers<sup>12</sup>.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Revenues support hundreds of thousands of travel retail jobs worldwide.</li> </ul>	<ul style="list-style-type: none"> <li>– Illegal sales impact national economies, with the UK alone estimated to have lost 60,000 jobs as a result of the impact of illicit trade<sup>13</sup>.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Transparent and secure supply chains, with penalties imposed by enforcement authorities in the unlikely event products are lost, unaccounted for or stolen.</li> </ul>	<ul style="list-style-type: none"> <li>– No visibility of supply chains, high profit and low sanctions for illegal manufacturers, concealing issues such as forced and child labour, and funding other serious illegal activity.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Legitimate duty-and tax-free sales support businesses and travel hubs, acting as a financial cushion during their recovery from the COVID-19 pandemic.</li> </ul>	<ul style="list-style-type: none"> <li>– Sales of fraudulently mislabelled 'duty free' goods, illicit products labelled as duty free, and other illicit items support criminal networks, terrorist networks and money laundering.</li> </ul>
<ul style="list-style-type: none"> <li>✓ Industry proactively engages with governments and enforcement authorities to stamp out illegality and protect consumers.</li> </ul>	<ul style="list-style-type: none"> <li>– Illicit manufacturers and sellers knowingly break domestic and international laws, evade enforcement authorities and damage the economy.</li> </ul>

<sup>12</sup> The Dangers of Fakes", The Anti-Counterfeiting Group, [https://www.a-cg.org/useful\\_info/the-dangers-of-fakes](https://www.a-cg.org/useful_info/the-dangers-of-fakes)  
<https://www.weforum.org/agenda/2019/07/illlicit-trade-sdgs-environment-global-danger/>

<sup>13</sup> "Police Launch National Reset Campaign", GOV.UK (2019) [https://www.highland.gov.uk/news/article/12205/police\\_launch\\_national\\_reset\\_campaign](https://www.highland.gov.uk/news/article/12205/police_launch_national_reset_campaign)



## Our recommendations

In order to eradicate the disproportionate and unfair impact illicit trade has on the duty-and tax-free industry, on other industry sectors and the wider economy, the Duty Free World Council (DFWC) calls upon national governments and enforcement agencies to:

### **Better regulate informal and casual retail channels**

Illicit trade thrives in poorly regulated settings, such as street stalls and markets, as opposed to highly secure and regulated environments such as duty-and tax-free stores. National governments and enforcement agencies must ensure the robust implementation of existing rules and regulations on informal retail channels and consider increasing the penalties for illicit traders and retailers of illicit goods.

### **Greater control over Free Trade & Special Economic Zones**

The duty-and tax-free industry is often mistakenly or casually associated with Free Trade Zones (FTZs). In fact the two concepts are very distinct – FTZs offer access to trade within a specific customs regulation environment generally not subject to customs duties, while duty-and tax-free retail sales can only occur inside a highly regulated and closely monitored travel network.

OECD research has indicated there are more than 3,500 free trade zones spread across 130 countries, up from 79 in 1975. Governments hosting Free Trade Zones should also consider better regulation, as recommended by the OECD<sup>14</sup>. A common approach to FTZs among enforcement agencies would also be beneficial, and ensure the zones enhance legitimate trade and prevent illicit trade hotspots from emerging.

### **Help educate consumers**

To eradicate the demand for illicit goods, it is crucial that consumers are educated on their dangers, how to identify them, what to do if they suspect their purchases are not legitimate, and what penalties might be inflicted on them.

This has traditionally been done through industry-led consumer awareness activities, such as the website [www.dutyfreefacts.com](http://www.dutyfreefacts.com), or through consumer facing communication tools in airports and ports (such as at Nice and Paris CDG airports). Though these campaigns are welcomed and effective, governments and enforcement agencies should assume a greater role, and work with key industries to ensure these messages are communicated more widely.

### **Investigate duty-free specific issues, such as fraudulent mislabelling**

Counterfeit and tax-evaded products being mislabelled as duty-free by criminals in order to improve authenticity is a growing problem. When seizures of such products are made, it is vital that the enforcement bodies carry out the necessary checks to differentiate counterfeit from genuine products, and make every effort to investigate the source of counterfeit products. The duty-and tax-free industry, retailers, and our suppliers would welcome the opportunity to work with enforcement bodies to help them in this regard.

### **Enhanced cooperation between industry & enforcement bodies**

Working together against our common enemy is in all our interests. The global duty-and tax-free industry stands ready to work with police, judicial and customs authorities to help defeat this growing threat.

<sup>14</sup> Recommendation of the Council on Countering Illicit Trade: Enhancing Transparency in Free Trade Zones, OECD (2019)