

# tobacco

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亚洲烟草

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## Illicit Tide

### In India

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Illicit tobacco products are available on almost every street corner in India. Pictured here are the wares of an informal street stall in New Delhi, comprising an eclectic selection of smuggled (i.e. tax non-paid) international cigarette brands.

# The Tide is High For Illicits in India

*Primarily driven by excessive taxation and extreme regulations, India is experiencing a mindboggling surge in illicit tobacco products, foremost cigarettes.*

By Thomas Schmid

Like in many other countries around the world, illicit tobacco is an increasingly serious problem in India. Global research firm Euromonitor International ranks the country among the top five nations with the highest incidence in terms of illicit cigarette volumes. Data provided by Euromonitor International show that a staggering 28.1 billion illicit cigarette sticks were consumed in India in 2020, representing a share of 27.6% of the total tobacco product market. In the same report, Euromonitor ranked India at fourth place worldwide in terms of illicit cigarette volume after China, Brazil, and Pakistan.

Unsurprisingly, the causal factors for India's situation are exactly the same ones that lead to illicit tobacco surges elsewhere around the world: continuous, excessive tax hikes and overly stringent control regulations. It appears that despite all evidence to the contrary, governments simply ignoring that pricing legal products out of consumers' financial reach will not decrease consumption by any meaningful figure but unwittingly promote the illegal market instead. "[India's] high cigarette taxation and stringent tobacco control regulations such as the mandatory pictorial warnings that must cover 85% of cigarette packaging have provided a huge boost to the illicit cigarette trade," Sharad Tandan, the director of the Tobacco Institute of India (TII; see side bar), told *Tobacco Asia* during a recent interview.

Data estimates collected from various industry sources suggest that illegal cigarette volumes in India experienced an incredible 44% jump due to

a series of almost annually occurring further tax hikes that began in 2012/2013. As a result of that steep taxation, legal cigarettes in India are now the least affordable in the world, a fact also corroborated in the World Health Organization (WHO) 2021 *Global Tobacco Epidemic* report. In addition, the country's tobacco control measures are far more stringent than in the three largest cigarette consuming markets, namely the US, China, and Japan, which account for around half of global cigarette consumption. Since April 2016 it is mandatory for cigarette packaging to carry pictorial health warnings covering 85% of the front and back of tobacco product packs. By comparison, the global average warning size is less than 45% of the packaging surface.

Interestingly, a survey conducted by the Indian Market Research Bureau (IMRB) shortly after the new health warning regulations came into effect found that consumer behavior noticeably shifted towards smuggled cigarettes that did **not** carry such warnings. Apparently, gory warnings do have a deterrent effect after all – at least in India. It's a Pyrrhic victory, though. As smokers shy away from legal products, it only plays into the hands of illegal operators who, seeing a huge opportunity, flood the country with attractive cigarette packaging devoid of the off-putting warnings. To make matters worse, criminal gangs also benefit from the Covid-19 pandemic, which caused widespread supply chain disruptions for legal manufacturers, and which continue to persist to a certain degree.

Illicit cigarette products are divided into two distinct categories. The first comprises smuggled premium international brands, plus a vast range of lesser-known, foreign-manufactured brands in the value segment. The second category covers domestically manufactured products that evade taxes and licensing requirements, thus being available at lower prices than fully compliant legal brands. More than a handful of these domestic "gray market" products even constitute de-facto counterfeits of well-known legal local brands. They blatantly and consistently violate trademarks by emulating logos, colors, and packaging designs of popular legal brands, only slightly changing the original brand names in an effort of passing themselves off as genuine offerings.

## It's All in the Spelling

Counterfeit cigarettes often take advantage of a juristic loophole, whereas they are emulating legal brands' logos and packaging designs almost exactly while only slightly changing the brand name.

Genuine Brand Name	Counterfeit Brand Name
Gold Flake Premium	Gold Vimal Premium
Red & White	Red Wine / Red Knight
Cavanders	Calendar / Caliber

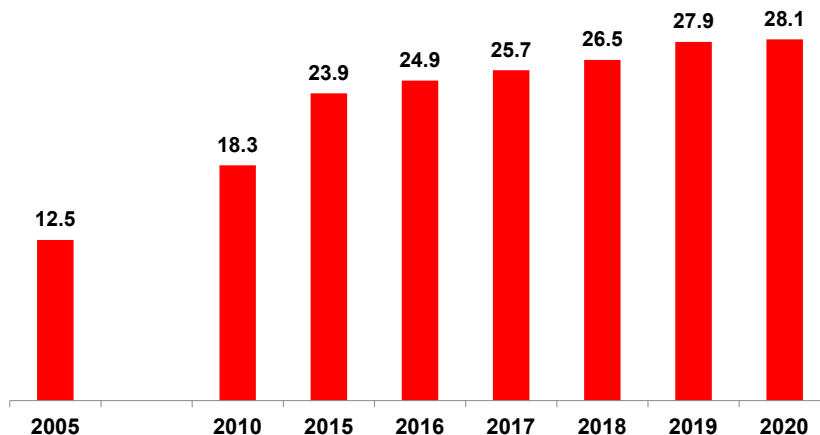
Source: TII

In India, cigarettes come in pack sizes of either 10 or 20 sticks, but also sell routinely by the single stick. Illicit local cigarettes only cost INR1-2 per stick in the value segment and smuggled premium brands sell for INR10 per stick. Meanwhile, the lowest retail price for legal value segment brands is a minimum of INR4 per stick while premium brands command over INR15 per stick. The considerable price differentials between illicit and legit products are very apparent.

Prior to July 2017, cigarettes had specific rates of federal excise tax based on cigarette type and format (length), and state-level ad valorem value-added tax (VAT) and other local taxes at varying rates. Since July 1, 2017, cigarettes came under the ambit of the goods and services tax (GST) and a specific ad valorem, type-and-format dependent duty structure. Presently and regardless of format (i.e. stick length in mm), both unfiltered and filtered cigarettes have the highest GST rate bracket of 28%, applied on the factory price. To that, so-called GST compensation cess (GSTCC) is added, consisting of a flat rate as well as an ad valorem element. And if that weren't enough, there also are a basic excise duty rate (BED) and a national calamity contingent duty (NCCD). Although so far there are no announcements of further tax adjustments in the foreseeable future, the current system (*see table*) already puts India's cigarette industry under enough pressure as is. After all, the tax burden obviously passes on to end consumers, giving illegal operators a most welcome invitation to expand their activities.

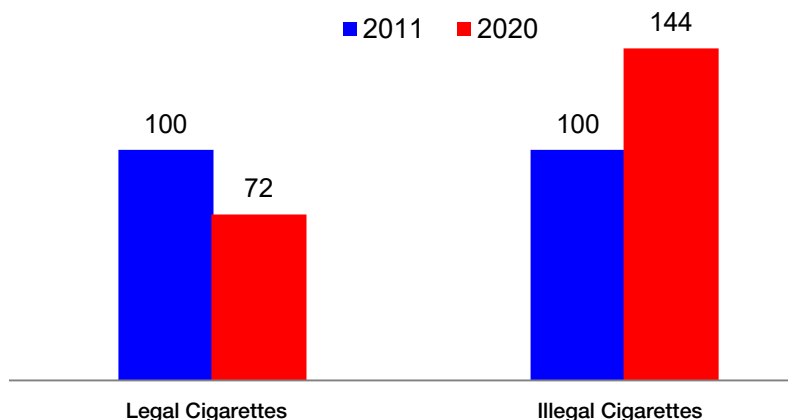
How bad the illicit surge truly is can be easily gleaned from national and provincial newspapers. They carry almost daily reports about contraband seizures at the country's long and porous borders and during warehouse raids that often yield astounding volumes of illicit tobacco. Yet, law enforcement agencies do a commendable job in trying to curb the tide to the best of their ability. Speaking on behalf of TII's member companies, Sharad Tandan highly praised the law enforcement efforts. However, given the sheer amount of illicit products, it all seems a rather uphill battle. Unfortunately, law enforcement also is hampered by India's long and tenuous court procedures, which often see convicted violators getting away

## Illegal Cigarette Volumes in India (Billion Sticks)



Source: Euromonitor International, 2021

## Index of Legal and Illegal Cigarette Volumes



Source: Legal Volume – Industry Estimates  
Illegal Cigarettes - Euromonitor International

## Applicable Cigarette Tax Structure 2021

Cigarette Format	GST <sup>1</sup>	GSTCC <sup>2</sup>	BED <sup>3</sup>	NCCD <sup>4</sup>
<b>UNFILTERED</b>				
up to 65mm	28%	5% + INR2,076 per 1,000 sticks	INR5 p. 1,000 sticks	INR200 per 1,000 sticks
>65 to 70mm	28%	5% + INR3,668 per 1,000 sticks	INR5 p. 1,000 sticks	INR250 per 1,000 sticks
<b>FILTERED</b>				
up to 65mm	28%	5% + INR2,076 per 1,000 sticks	INR5 p. 1,000 sticks	INR440 per 1,000 sticks
>65 to 70mm	28%	5% + INR2,747 per 1,000 sticks	INR5 p. 1,000 sticks	INR 440 per 1,000 sticks
>70 to 75mm	28%	5% + INR3,668 per 1,000 sticks	INR5 p. 1,000 sticks	INR545 per 1,000 sticks
Others (>75mm)	28%	36% + INR4,170 per 1,000 sticks	INR10 p. 1,000 sticks	INR735 per 1,000 sticks

1 = goods and services tax, applied on factory price

2 = goods and services compensation cess, 5% - 36% applied ad valorem + flat amount as indicated

3 = basic excise duty

4 = national calamity contingent duty

Source: TII

**TTI**  
**(Tobacco**  
**Institute**  
**of India)**  
**always pursues**  
**close dialogue**  
**with concerned**  
**ministries**  
**and... law**  
**enforcement.**

with “slaps on the wrist,” figuratively speaking. A sustainable, long-term solution to the illicit trade therefore lies in a more balanced taxation policy that minimizes tax arbitrage. Furthermore, harsher and quicker punishment as a deterrent against cigarette smuggling is equally important.

TTI plays a valuable role in this. As a representative body of India’s tobacco industry, the institute always pursues close dialogue with concerned ministries and various law enforcement agencies, routinely calling for steps to contain the unrestrained growth of the illegal cigarette trade. The institute consistently highlights not only the adverse consequences of the issue, such as the huge revenue losses sustained by government and legal manufacturers alike, but also the loss of livelihood and earnings for domestic tobacco industry farmers and workers. Additionally, the organization publishes and circulates among policy makers and thought leaders various periodicals that – among many other industry topics – regularly cover the surging illicit trade. “These publications as well as our dialogue with the government provide insight into the extent, growth, driving factors and impact of the illegal cigarette trade, bringing the issue into focus of surveillance,” said Sharad Tandan. ➡

## India in Figures

Total population: 1.39 billion (estimate), of which about 70% are aged 15 years and above.

Of the adult population (i.e. age 15+), 28.6% are tobacco users (both combustible and smokeless products); 10.7% are users of various smoking tobacco products, while an estimated 4% are cigarette-only smokers.

Of the total smoking tobacco consumer population, 91% are males (cigarette smokers 93%) and 9% are females (cigarette smokers 7%), according to the Global Adult Tobacco Survey - India 2016-17, as published by the ministry of health and family welfare, Government of India.

India is the world’s second largest producer of tobacco, providing livelihoods to 45.7 million people across the entire value chain.

Domestically, tobacco products generate annual tax revenues of approximately \$7.2 billion.

Foreign exchange earnings through tobacco and tobacco product exports account for just under US\$1 billion per annum.

According to a study by industry body ASSOCHAM, the total cumulative intrinsic economic value of India’s tobacco sector is US\$159 billion.

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