



**Center for Global & Strategic Studies
(CGSS), Islamabad**

**ROUNDTABLE
DISCUSSION
REPORT**



**ILLICIT TOBACCO TRADE:
NEED FOR IMPLEMENTATION OF LAW
& REGULATORY REGIMES**

16th JUNE 2021



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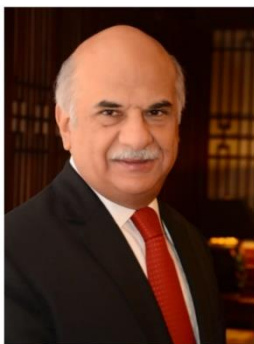
DETAILS OF EXPERTS

- **Major General Hafiz Masroor Ahmed (Retd), Vice President, Center for Global & Strategic Studies (CGSS), Islamabad**



Major General Masroor holds Postgraduate degree in Defence & Strategic Studies and War Studies from the National Defence University of Islamabad and the Balochistan University, respectively. He is also a Graduate of the Command and General Staff College of Fort Leavenworth in the United States. He is the founding member and Head of Center for Global & Strategic Studies. He has represented Pakistan in many national/international Conferences. He also supervises all the academic/research work of CGSS.

- **Mohammad Jehanzeb Khan, Deputy Chairman, Planning Commission of Pakistan - Guest of Honor**



Mr. Muhammad Jehanzeb Khan is a serving Government Officer, presently he is serving as Deputy Chairman Planning Commission. Previously, he has held dual charge of Chairman Planning & Development and Additional Chief Secretary - Energy, Government of Punjab. He did his MBBS from University of Peshawar and MBA (Public Service) University of Birmingham, UK. He held various positions in Government and has 24 years diversified professional experience. His professional expertise include Public sector Financial management.

- **Ms. Maryam Raza, Research Associate, CGSS**



Ms. Maryam Raza is an International Relations expert with special focus on regional and international political affairs. She holds an MPhil Degree in International Relations from National Defense University (NDU) Islamabad, Pakistan.

- **Mr. Zahid Latif, Chairman, Islamabad Stock Exchange**



Mr. Zahid Latif Khan is the Chairman of ISE Towers REIT Management Company Limited. He is also Chairman and Chief Executive Officer of M/s Zahid Latif Khan Securities (Private) Limited. Besides running a corporate brokerage entity, Mr. Zahid also has the distinction of serving as Board member of other capital market institutions such as Islamabad Stock Exchange, Pakistan Mercantile Exchange Limited (PMEX), National Clearing Company of Pakistan (NCCPL), NCEL Building Management Limited.

- **Prof. Dr. Saleem Mazhar, Pro-Vice Chancellor, University of the Punjab, Lahore**



Prof. Dr. Muhammad Saleem Mazhar is currently serving as the Pro-Vice-Chancellor, University of the Punjab, Lahore, Pakistan. He is also Professor Department of Persian, University of the Punjab, Lahore.

He completed Post Doctorate Degree in Persian Language & Literature from School of Oriental & African Studies (SOAS), University of London. U.K.

- **Dr. Aman Ullah, Professor Law College, University of the Punjab, Lahore**



Prof. Dr. Aman Ullah Malik joined University of the Punjab, Lahore in 1995 with LL.B. (Hons.) (Law and Sharia) from International Islamic University, Islamabad in 1992. He completed his LL.M from the Punjab University in 1999. Ph.D. London, Faculty Advisor, Moot Court Society, 1996-97,

attended Seminars. He also remained Solicitor of England and Wales and Former Associate Professor of South Asia University, New Dehli.

- **Ms. Fatima Azim, Senior Vice President, Islamabad Chamber of Commerce and Industry**



Ms. Fatima Azim is the Senior Vice President of Islamabad Chamber of Commerce and Industry

- **Mr. Tahir Alam, Former Inspector General of Police, Islamabad**



Mr. Tahir Alam spent his early career in Punjab Police, that included several cities such as Lahore, Sargodha, Dera Ghazi Khan, Shekhupura. He was the first DPO of district Nankana Sahab and has been the DPO of Gujrat. He has also been on a United Nations Mission in Mozambique, Africa.

- **Dr. Mehmood Rehmani, Assistant Professor, Department of Business Administration, University of Sialkot**



Dr. Mehmood Rehmani has also served as Deputy Manager at Pakistan Engineering Council and as Media & Liaison Officer at Islamic Relief Worldwide

- **Prof Sohail Shahzad, Former Vice Chancellor, Hazara University and Prof Law College, University of Peshawar**



Prof Dr. Sohail Shahzad is the former Former Vice Chancellor of Hazara University and Prof Law College, University of Peshawar. He took over the charge as Vice Chancellor of Hazara University Mansehra on 21 Feb, 2014.

- **Mr. Tariq Bakhtawar, Former Director Anti-Money Laundering at the Securities and Exchange Commission of Pakistan**



Mr. Tariq is a Chartered Accountant (FCA) with specialization of Certified Anti-Money Laundering Specialist (CAMS), having diversified work experience, expanding over more than two decades of working with industry, development sector, regulator and running my own consultancy.

- **Barrister Waqas Aziz Qureshi, Senior Law Expert & Managing Partner, Transact Advisory Service**



Barrister Waqas is the Member Board of Experts, CGSS, Islamabad. He is the Chairman of the Transact Advisory Services where he had the honor to provide Legal Consultation to the Government of KP for Industrial Cooperation Projects under the CPEC Framework.

- **Mian Abdul Rauf, Former Advocate General Islamabad High Court**



Mian Abdul Rauf Heads Mian Abdul Rauf Law Associates, a litigation and legal services concern in the capital of Pakistan. As an Advocate Supreme Court of Pakistan, he provides his litigation and advisory services to clients and corporations alike in constitutional law, commercial/investment issues, administrative law, Human Rights, Election disputes, criminal litigation, civil litigation, environmental law, accountability, corporate, banking, regulatory law and compliance, Industrial Development, Labour and Services.

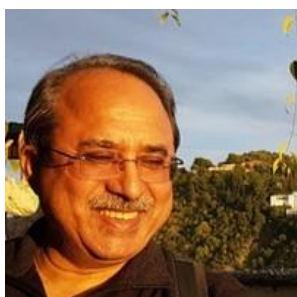
- **Prof. Dr. Shabbir Ahmed, Director, Area Study Center (Russia, China and Central Asia), University of Peshawar**



Prof. Dr. Shabbir Ahmad Khan is the Director of Area Study Centre, (Russia, China & Central Asia) University of Peshawar, Pakistan. He has various research publications in HEC recognized Journals to his credit. He also translated Noor Sultan Nazarbayov, Kazakh President's Book "V Patok-e- Istoriie" Almaati 1999, from Russian into Urdu. He

has taught various courses to M.Phil and Ph.D students. He has participated and organized several national and international Conference and Seminars. He is also Member Board of Experts of Center for Global & Strategic Studies (CGSS), Islamabad.

- **Mr. Kamal Ud Din Tipu, Former Inspector General, Islamabad Police**



Mr. Kamal Ud Din Tipu is the Former Inspector General of Islamabad Police and is the General Secretary Association of Former Inspectors General Police Pakistan

- **Mr. Ashfaq Ahmed Tola, Founder and President of Tola Associates**



Mr. Tola, who by academia is a Fellow Chartered Accountant, is the Founder and President of Tola Associates. He is an accomplished professional who has experience worth over 25 years in diversified areas such as financial and forensic auditing, management consultancy, tax advisory and corporate structuring.

Moreover, Mr. Tola holds a keen interest in matters pertaining to the Economy of Pakistan, which is portrayed by his contributions towards policymaking, reflected through various memberships of technocratic governmental bodies, such as the Tax Reforms Implementation Committee, and the Privatization Commission of Pakistan.

- **Dr. Yusuf Zafar, Former Chairman, Pakistan Research Council (PARC)**



Dr. Yusuf has served as Head of Division Plant Biotech and Director, National Institute for Biotechnology and Genetic Engineering at Pakistan Atomic Energy from 1992 to 2007. Later, he was appointed as the Director General of Pakistan Atomic Energy. He also served as Chairman Pakistan Agricultural Research Council (From 2015 to 2019). Currently he is the senior Member Board of Advisors of Center for Global & Strategic Studies (CGSS), Islamabad.



Introduction

Center for Global & Strategic Studies (CGSS), Islamabad, Pakistan organized the Roundtable discussion “Illicit Tobacco Trade: Need for Implementation of Law & Regulatory Regimes” on 16 June 2021. The roundtable discussion brought together a distinguished panel of veteran subject experts, leading academicians, prominent business leaders, law experts, entrepreneurs-tax consultants and member of the chamber of commerce & industry to discuss the causes and impacts of the Illegal Tobacco trade, and its overall economic and social implications. This roundtable integrated experts to analyze the gravity of these emerging issues, highlight the flaws of existing illegal trade control laws & regimes and proposed possible solutions to curb tax evasion and illegal trade in Tobacco. The report represents a detailed analysis of the collective views and speeches of the panelists presented during the roundtable discussion. The roundtable focused on multiple dimensions. The experts identified a wide range of core areas, i.e., limitations of relevant departments and agencies in dealing with the illicit tobacco trade, proposed the right set of instruments/options to implement the laws and provided valuable policy recommendations. The profound discussion has built a comprehensive analysis and cohesive measures to counter the illicit Tobacco trade in Pakistan.

Explaining the Illicit Tobacco Trade:

Illicit tobacco trade refers to any practice related to distributing, selling, or buying tobacco products prohibited by law, including local tax evasion (sale of tobacco products manufactured in Pakistan without paying applicable taxes), counterfeiting, disguising the origin of products, and smuggling. Illicit trade can be undertaken by illicit players who are not registered with relevant government agencies and legitimate entities whose business operations are contrary to applicable laws and regulations. Illegal trade is made up of various activities. In this aspect, smuggling is conducted for one or both of the

following reasons. One to avoid excise taxes and second to evade rules prohibiting the sale of such goods.

Associated Risks

- The illicit trade in tobacco has crosscutting implications for governments, private businesses, law enforcement agencies, healthcare providers and the public.



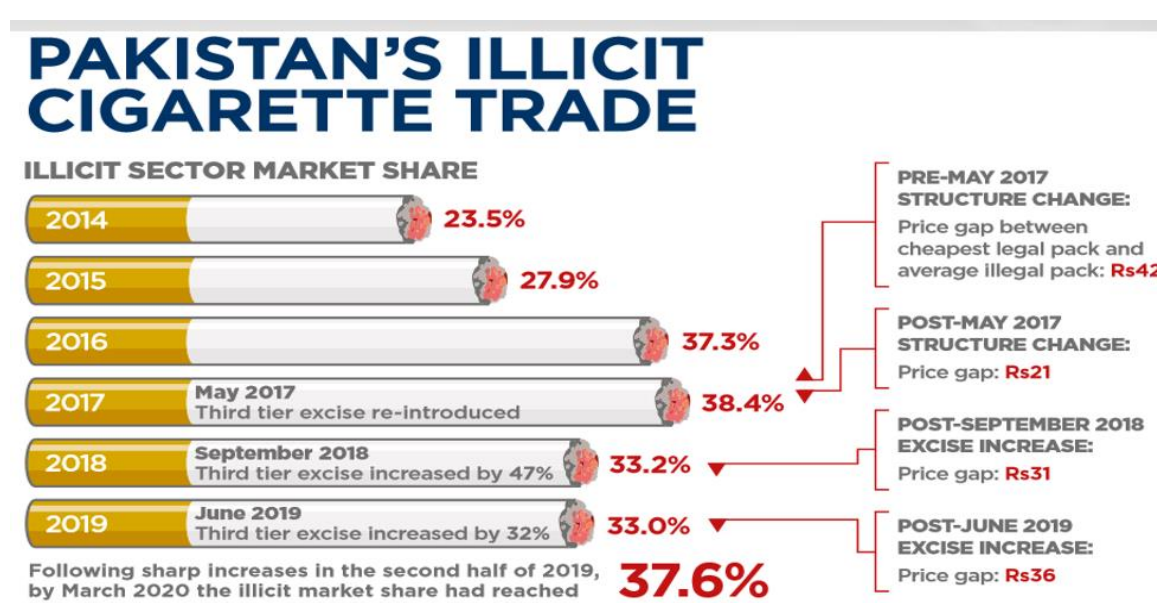
The main problem with illicit cigarette is due to local tax evasion on cigarette brands. The reason can be inefficiency of the tax administration and check & balance mechanism. Another associated problem is cigarette smuggling. The complexity of the smuggling depends upon the size target of the groups involved and the nature of the commodity. For example, some Organised Crime Groups (OCGs) will manage all aspects of the production process, from sourcing raw tobacco products to developing specific tobacco packaging that will generate suitable market interest or appear legitimate if counterfeit product. Other networks can rely on the key facilitators, often based overseas and engage with smaller illicit tobacco manufacturers to source the tobacco goods and associated packaging. Moreover, illicit Tobacco trade has cross-cutting implications for governments, businesses, law enforcement agencies, healthcare providers, the environment and the public.

Moreover, challenges related to fiscal and health agenda has been compromised by the illicit trade. The threats are amid lack of resources for enforcement, spike in counterfeit of brands, operations in non-tariff area of Pakistan, growing incidence of Duty not Paid (DNP).



Repercussions of Illicit Tobacco Trade: A Case Study of Pakistan

Pakistan is in the grip of a growing illicit trade in cigarettes. The availability of cheap, illegal cigarettes attracts consumers priced out of the legitimate market due to rising taxes and stagnant or falling incomes. The illicit cigarette trade deprives the government of much-needed excise and sales tax revenues by avoiding legitimate channels. Moreover, it creates an unwelcoming environment for the legitimate cigarette manufacturers operating in the country.



According to the Oxford Economics 2020 report, even before the Covid-19 Pandemic, the economic growth rate in Pakistan was slow. From a high of 5.5% in 2018, Gross Domestic Product (GDP) grew by 3.3% in real terms in 2019. The growth was forecast to slow by 2.4% in 2020. Falling tax collection has seen government revenues decline sharply. Illicit trade in cigarettes is a particularly pressing problem. In this aspect, various policy levers have been utilized to reduce its share of the market, through varying degrees of success. However, illegal cigarettes remain a major part of tobacco consumption, with many implications for the country.



The roundtable deliberations highlighted that Pakistan is home to growing tobacco leaf and major international cigarette manufacturers. A persistent and increasing illicit trade may result in these multinational companies questioning the viability of their operations in the country (as has been the



case in other countries suffering from a large and enduring illegal cigarette problem).

According to the Oxford Economics 2020 data, illegal cigarettes accounted for 37.6% of total consumption in Pakistan in March 2020. The total amount of tax evaded by illegal cigarettes in Pakistan in 2019-20 from oxford economics report was Rs77.3 billion.

According to the 2021 report by Ipsos Global, there are five major sectors where the tax evasion ratio is high. The sectors include Tea, Tobacco, Tyres & Auto Lubricants, Pharmaceutical and Real Estate.

- **Tea:** Small traders who hold 40-50% market share contribute massively to tax evasion.
- **Tobacco:** Tax evasion is carried out through the illegal activities and has three main strands. Each element has its estimation of losses to the national exchequer and additional violations of several other laws in the country. The Ipsos Global report mentioned that tax evasion due to illegal tobacco trade in Pakistan is a huge Rs80 billion annually. Illicit trade in cigarettes comprises close to 40 percent of the total cigarette market.¹

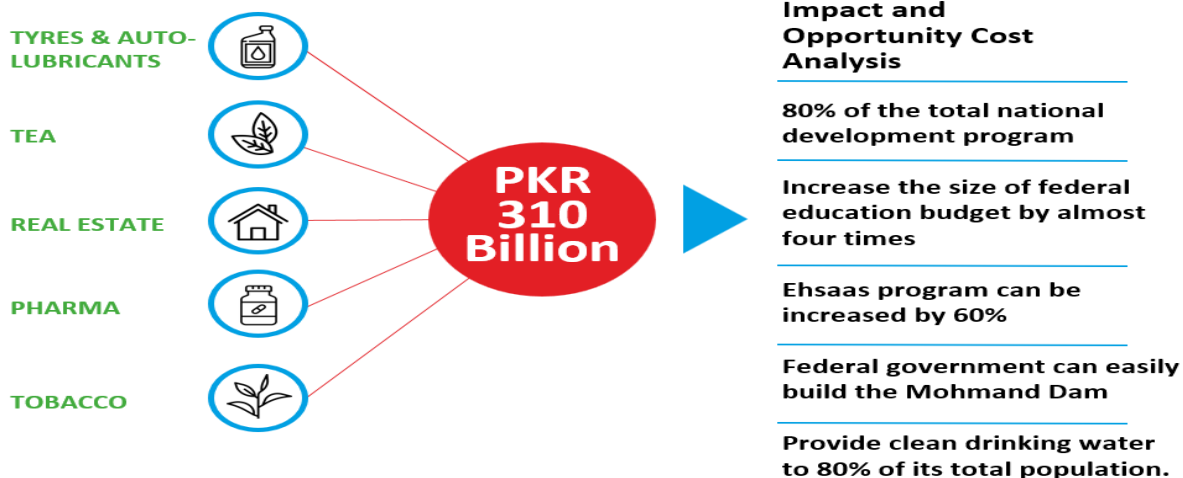
¹ <https://www.brecorder.com/news/40096277>



- Prime Minister Imran Khan has also made a statement during a cabinet meeting that "98 percent of the tax in the tobacco industry is paid by two companies who have 60 percent share in the tobacco industry, while there is nearly no collection of tax on the remaining 40 percent market share holders.²
- **Tyres & Auto Lubricants:** 65% of all tyres in Pakistan are smuggled.
- **Pharmaceutical:** Counterfeit medical drugs and illegally smuggled medicines have been the biggest challenge for law-enforcement agencies to combat
- **Real Estate:** Real estate in Pakistan is where the tax evaded/black money gets parked.

OVERALL TAX EVASION

KEY FINDINGS OF 5 SECTOR STUDY BY IPSOS



The total estimated annual tax evasion in the abovementioned sectors is PKR310 billion. If the tax evasion is curtailed, then that amount can add up to 80% of the national development programs, 60% lucrative profit to the government's Ehsaas program, federal government can easily build Mohmand Dam and provide 80% of safe drinking

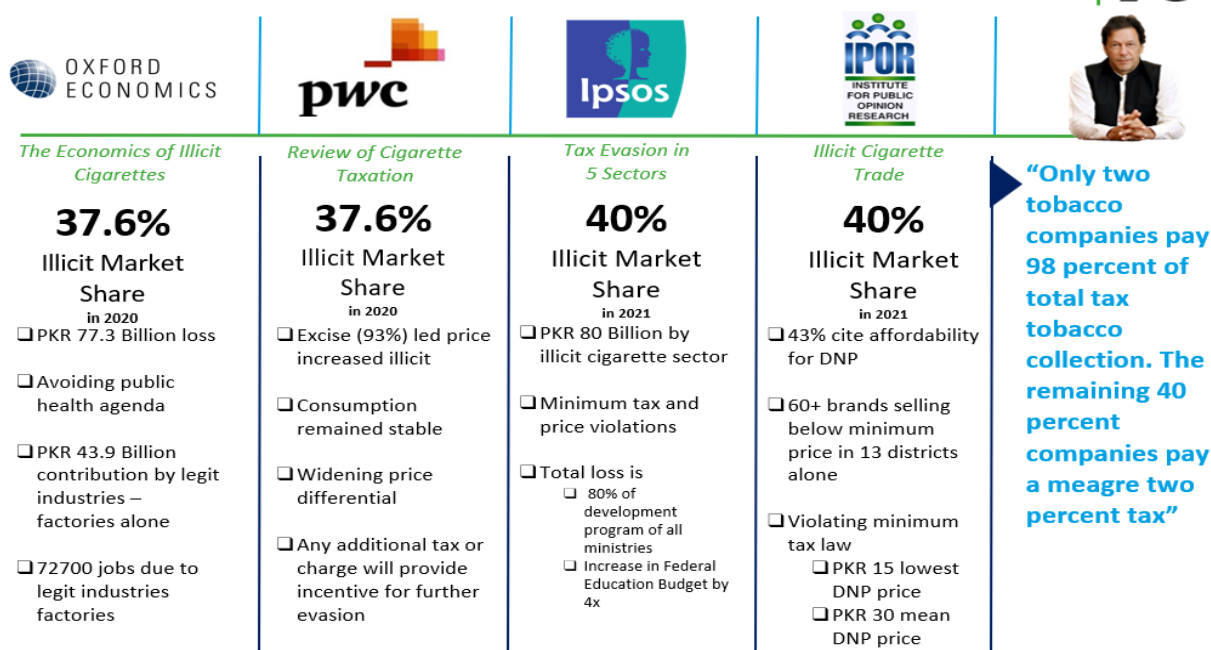
² <https://www.brecorder.com/news/40096277>



water to the population. According to the recent study conducted by Institute for Public Opinion and Research (IPOR), the illicit Cigarette's market share accounts for almost 40%. As per the analysis, more than sixty cigarette brands are selling below the minimum price in thirteen districts of Pakistan, violating numerous tax laws. When taken on a national level there more than 200 brands are selling below the minimum tax of Rs 42.12. The condition of Pakistan's local markets is also vulnerable, violating laws, evading taxes, and jeopardizing health. Only two tobacco companies pay 98 per cent of total tax tobacco collection. The remaining 40 per cent of companies pay a meagre two per cent tax.

THE ILLICIT TOBACCO TRADE

ZOOMING IN ON THE TOBACCO INDUSTRY



Regulatory regimes need efficiency and implementation of laws. The fundamental reason to confront illicit trade in tobacco products involves its public health impact. Illicit cigarettes generally sell for considerably less than their tax-paid equivalents. They inflict the greatest harm to the most price-sensitive population group, reducing prices and encouraging consumption by, in particular, young people and those with low incomes.



This causes huge implications on public welfare. Illicit tobacco trade is not only inconsistent with the rule of law but also affects Governance (e.g., through corruption and the presence of organized criminal networks).

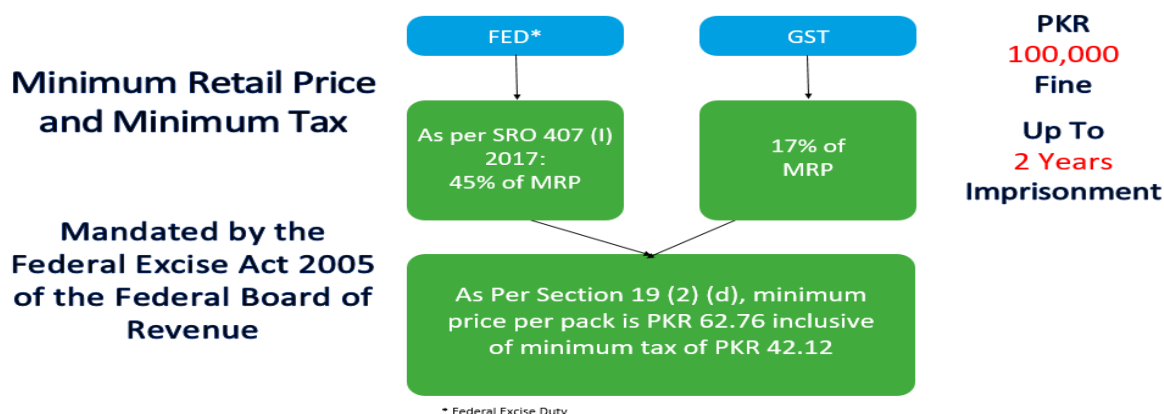
Regulations in Pakistan: Crop to Consumer

The regulation in crop to consumer in seven aspects goes in the lateral manner. It includes crops (Pakistan Tobacco Board Ordinance and MLO 487 protect farmers), green leaf Threshing Units (GLT documentation and tax), material (filter rods excise, cigarette paper import limitations) factory (excise structure, clearance), distribution (compulsory tax invoice), retail (health warning, pack retail price, retailer license), and law enforcement agencies (fine of tax evasion, stock-machinery seizer, stock destruction).

Key Regulatory Regimes Governing Tobacco Industry:

THE TOBACCO INDUSTRY

KEY REGULATORY REGIMES GOVERNING TOBACCO INDUSTRY



As per Pakistan Tobacco Board (PTB) Ordinance 1968, Section 24, there is maximum three years of imprisonment and a fine of PKR100, 000 for violating the following laws:

- Violation of maximum or minimum prices fixed by the PTB about selling and buying Tobacco (Section 8).



- Violation of section 18 of PTB ordinance, 1968 (export of tobacco products and seeds without the permission of PTB/Federal Government)
- Violation of imposed conditions on transportation, storage, buying and selling of tobacco by the exporters.

Moreover, the Mandate by the Federal Excise Act 2005 of the Federal Board of Revenue, Section 19 (2) (d), states that the minimum price per pack is PKR 62.76 inclusive of a minimum tax of PKR 42.12.

a. Health Ordinance by the Minister of National Health Services, Regulation and Coordination (NHSRC):

THE TOBACCO INDUSTRY

KEY REGULATORY REGIMES GOVERNING TOBACCO INDUSTRY



**60% Printed Health
Warning on all packets**

**Mandated by The
Cigarettes (Printing of
Warning) Ordinance
1979 of the Ministry of
NHSRC**

Section 4: No Person shall
a) Manufacture
b) Sell or
c) Possess
packets of cigarettes on
which the warning is not
printed as required

**PKR
100,000
Fine
Up To
2 Years
Imprisonment**

According to the health ordinance 1979, Section 4, No Person shall manufacture, sell or possess packets of cigarettes on which the warning is not printed as required. If caught, then there will be up to two years of imprisonment and a fine of PKR 100,000.



THE TOBACCO INDUSTRY

KEY REGULATORY REGIMES GOVERNING TOBACCO INDUSTRY



Tobacco Advertising, Promotion and Sponsorship Prohibition

Section 7: No Person or Company shall advertise cigarettes in any way of form including:

PKR
100,000
Fine

Pursuant to the Prohibition of Smoking and Protection of Non-Smokers Health Ordinance 2002 of the Ministry of NHSRC

- a) CASH PRIZES
- b) DISCOUNTS
- c) HUMAN ELEMENTS
- d) POSTERS
- e) FREE GOODS

As per the health ordinance 2002, Section 7, Tobacco advertising, promotion and sponsorship is prohibited. No person or company shall advertise cigarettes in any form, including cash prizes, discounts, human elements, posters, and free goods with the fine of PKR 100,000.

b. New Regulatory Regimes Proposed in the Federal Budget 21/22:

Amendment to Section 2(s) of Customs Act 1969 defines a “**Retailer**” as a person selling legally produced/imported goods. Amendment Section 156(1) s. no. 89 of Customs Act 1969 to include that the ‘**Retailer**’ must give evidence to the effect that goods being sold at the retail level have been legally imported.

Amendment to Section 157 of Customs Act 1969, to discourage unscrupulous elements having dedicated conveyances for smuggling so that if a vehicle is apprehended for the third time for a charge of smuggling, it should not be released against a redemption fine.

Measures to Control Illicit Tobacco Trade in Pakistan/Policy Recommendations:

Following recommendations to control illicit tobacco trade and mitigate its adverse impacts are emanated from the expert deliberations during the roundtable discussion.



- Statutory monitoring under the law should be complemented with monitoring & control by independent personnel (i.e., industry experts)
- Detect and prevent the undocumented sale of processed Tobacco. Thereby, check on the Tobacco plantation at the preharvest stage is crucial.
- Strict border control mechanisms and their implementation are a stark need of time to control drug trafficking via illegal outside sources.
- The Government needs to avoid levying any additional tax, levy or charge [in any form] on cigarette sector as this will provide incentive for further evasion and increase in market share of duty not paid cigarettes.
- There is limited transparency of the movement of raw materials and finished products throughout the supply chain as evident from increase in duty not paid market share.
- Monitoring of GLT units, as envisaged under the law should be made more effective to identify points of likely fiscal leakages. This can be accomplished more effectively by adopting the mechanism introduced for sugar industry wherein personnel of Chartered Accountant firms were deputed alongside officers of tax authorities.
- Furthermore, the dispatch slips from GLT units to cigarette manufacturing companies can easily be reconciled with the sales volume reported by cigarette companies to identify any underreporting of sales.
- Efficient and effective enforcement is bound to reduce the Duty Not Paid (DNP) cigarette market share and help government achieve its settled objectives.
- Prioritizing and coordinating control of the entire supply chain and enforcement of tobacco regulations have proven to be effective measures in reducing tax evasion along with the consumption of tobacco products.



- The approaches to control the illicit tobacco trade need to be subject to regular surveillance, monitoring, and evaluation due to the illicit market's inherently dynamic and adaptive nature.
- There must be intelligence squads to collect information on tax evaders, smugglers, and counterfeit cigarettes.
- There is a need to overcome poor coordination among government departments, which can be overcome through clear communication & reporting lines. Through this, an across-the-board implementation of policies would be well received and a foolproof system of check and balance be created.
- Every tobacco grower should be registered under a strict monitoring mechanism on the quantity and quality of crops by the Pakistan Tobacco Board (PTB).
- Government, civil society, and academic institutions should actively participate in motivational conferences, webinars and walk to create awareness against the illicit Tobacco trade.
- Suitable punishment between criminalization and decriminalization should be implemented.

Picture Gallery





