



**TRANSNATIONAL ALLIANCE
TO COMBAT ILLICIT TRADE**

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**INFLATION, PRODUCT
AFFORDABILITY, AND
ILLICIT TRADE**

SPOTLIGHT ON TURKIYE

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ABOUT TRACIT

The Transnational Alliance to Combat Illicit Trade (TRACIT) is an independent, private sector initiative to drive change to mitigate the economic and social damages of illicit trade by strengthening government enforcement mechanisms and mobilizing businesses across industry sectors most impacted by illicit trade.

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TABLE OF CONTENTS

I. Introduction	2
II. Inflation, product affordability, and illicit trade	3
III. Turkiye’s structural capability to address illicit trade.....	6
IV. Illicit trade in Turkiye	8
<i>Illicit trade by sector</i>	9
V. Policy recommendations to combat illicit trade	14
Notes.....	18

I. INTRODUCTION

With inflation at its highest levels since 2008, the international economy finds itself amid a *cost-of-living crisis*. In many countries, inflation has reached multi-decade highs, with both headline and core inflation continuing to rise and broaden beyond food and energy prices. Inflation has also been intensified by post-COVID economics and the Russian invasion of Ukraine – both of which have driven global commodity prices higher.

Among the cascading effects of inflation on the global economy is the negative impact it has on the market dynamics that drive illicit trade. Specifically, high levels of inflation can have a disastrous impact on consumer purchasing power. In turn, reduced purchasing power coupled with increased poverty reduces consumer “product affordability,” which is widely regarded as the primary driver for illicit trade. When prices rise faster than incomes, people can afford to buy fewer goods and services and cheaper goods including illicit and black-market products become more tempting.

Given these dynamics, where inflation incentivizes consumers to choose cheaper, illicit alternatives, governments will necessarily need to be more vigilant in their efforts to defend their economies from illicit trade.

In this light, Turkiye presents a valuable opportunity to raise awareness on the relationship between inflation and growth in illicit trade.

- Turkiye is experiencing high inflation rates. In October 2022, inflation climbed to a 25-year high of 85.5 %. Consequently, the

impacts of soaring inflation leading to price increases have created a notable erosion of consumer purchasing power in Turkiye.¹

- Turkiye *already* faces challenges from illicit trade on multiple fronts. For example, it is an important source country for illicit plant protection products, counterfeit goods are widespread, and the country grapples with the harmful effects of illicit tobacco, alcohol and petroleum products. Moreover, the government’s goal of making Turkiye a top pharma hub by 2023 is threatened by a lucrative market for illegal pharmaceuticals. This situation is exacerbated by Turkiye’s location in the region, which makes it a key transit hub for both complete counterfeit products and counterfeit components.

In principle and practice, the challenge of product “affordability” is a long-standing driver for illicit trade. Keeping that in mind, inflation amplifies a problem that usually already exists. In Turkiye’s case, inflation can be expected to intensify the problem and, consequently, requires its government to likewise intensify efforts to mitigate illicit trade.

This report explores the situation of illicit trade in Turkiye, addresses its susceptibility to inflation, outlines the issues that must be addressed, and presents a set of policy recommendations that could help the government and other stakeholders fortify their efforts to control illicit trade.

II. INFLATION, PRODUCT AFFORDABILITY, AND ILLICIT TRADE

Affordability is widely considered a major factor driving consumer choice for an illicit product. Worldwide, consumers who purchase illicit products identify greater affordability and lower relative price among their main considerations. Because these products are untaxed and outside of regulated production that can increase costs, demand is often driven by a significant price difference between illicit and legitimate products.

In a global study, researchers found that consumers who knowingly buy or acquire counterfeit goods are most often driven by the relatively lower price of counterfeits: either they believe the market price of the product is “over-priced”; or if the market price is perceived to be fair, they may still be unable to afford the genuine item “through no fault of their own.”²

Similarly, almost 90% of consumers surveyed in India reported that they often drank illicit alcohol because it was cheaper than branded legal products. This was echoed by consumers across other countries in studies conducted in China, Mexico, Sri Lanka, Kenya, Botswana, Russia, Brazil, and Belarus, where a significant proportion said that price (and, therefore, affordability) was their primary reason for choosing illicit and unregulated alcohol.³

These factors are also at play in Türkiye, evidenced by recent interviews with Turkish consumers of both legal and illegal products. The interviews concentrated on illicit alcohol, tobacco, petroleum products, and (counterfeit) mobile phones. For these consumers, the most important determinant for choosing illicit goods over legal equivalents was the lower price of the illegal goods.⁴

Inflation amplifies the problem of affordability. This is the case in Türkiye, where soaring inflation

has caused a notable erosion of consumer purchasing power that further incentivizes consumers to consider illicit products. According to research by Bahçeşehir University, the widespread view in Turkish society is that the relatively lower price of an illicit alternative, along with relatively small perceptions of differences in quality, enables consumers to “legitimize” their action to choose an illegal product.⁵

Another factor affecting the economic conditions favoring illicit trade in Türkiye is the sizable depreciation of the Turkish Lira, which drives international demand for exported Turkish fakes, as such items became cheaper to traders buying in US Dollars and Euros.⁶ Meanwhile, tax driven price increases on alcohol, tobacco and petroleum products put upward pressures on retail prices for these products, making them more expensive to consumers and incentivizing demand for cheaper, unregulated illicit alternatives.

Low-income families are particularly vulnerable to high rates of inflation, as they tend to spend a greater proportion of their income overall on necessities. And for the poorest communities, high levels of inflation can be particularly devastating.⁷ Because of decreasing ability to afford legal products, these people become vulnerable to situations that lead to their participation in illicit trade. For example, recent analysis by the WTO found a correlation between poverty and the use of imported falsified medical products.⁸

The forces driving inflation have substantial roots, intensified by COVID-19 and the Russian invasion of Ukraine. The onset of COVID-19 and associated global economic slowdown led to further degradation of the economic situation in Türkiye, with sales of Turkish goods around the world plummeting and the important tourism

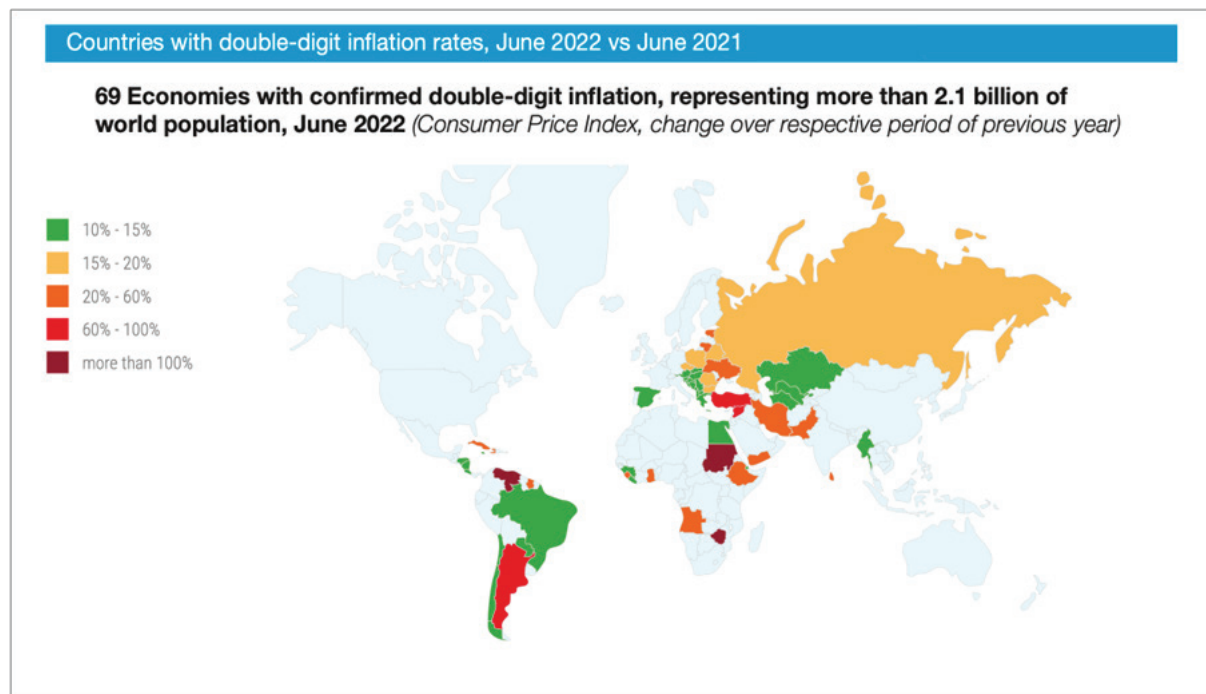
sector hit badly. The surge in global energy and commodity prices after Russia's invasion of Ukraine have amplified the headwinds facing the Turkish economy, with price spikes of essential commodity imports intensifying inflationary pressures. Consequently, governments cannot afford to ignore the impacts of inflation on illicit markets within their economies.

Impacts of inflation on illicit trade – global examples

- Driven by rampant inflation and the ongoing economic crisis, smuggling and other illicit activities in **Venezuela** have accelerated to unprecedented levels. The National Council for Commerce and Services of Venezuela (“Consecomercio”) estimates that 30% of the products commercialized in the country are smuggled. The list of products includes food, beverages, medicines, tobacco, auto parts and lubricants.¹⁰
- The cost-of-living crisis in the **UK** has led to a surge in the volume of counterfeit goods being seized, with the situation expected to

get worse, according to new data from UK Trading Standards. Over 4 million counterfeit products with an estimated market value of £111m (\$127m) were seized over the last year due to the financial pressures on households and businesses as a result of inflationary pressures.¹¹

- **Lebanon** is continuing to grapple with soaring food prices, falling currency value and an inflation rate that reached 206% in April 2022.¹² Food security has become a particular source of concern, exacerbated by the smuggling of subsidized wheat and flour to Syria,¹³ resulting in shortages that contribute to the rise in prices.
- In **Argentina** a survey by the Argentinian Chamber of Small and Medium Enterprises (CAME) found that the effects of high inflation led to a 10.5% increase in illegal street sales in Buenos Aires, primarily of counterfeit clothing, footwear and food.¹⁴ In an attempt to ensure that its citizens have affordable access to medicines and do not revert to unregulated black markets,



Source: UNCTAD's Trade and Development Report 2022¹⁸

the Argentinian the Minister of Finance at one point announced that the price of pharmaceuticals would be held below the inflation rate for at least 60 days.¹⁵

- Hyperinflation in **Zimbabwe** has increased smuggling across its borders to alarming levels. Minerals such a gold, chrome and diamonds are smuggled out, while motor vehicles, automotive spares, electrical goods, hardware, textiles and groceries are smuggled into the country.¹⁶ The rampant smuggling of gold illustrates the problem:

Legally all gold mined in Zimbabwe is supposed to be sold to the central bank. However, extreme inflationary pressures encourage producers to smuggle the gold out of the country in order to get payment in U.S. dollars, resulting in the country losing an estimated US\$100 million worth of gold monthly.¹⁷

III. TURKIYE'S STRUCTURAL CAPABILITY TO ADDRESS ILLICIT TRADE

To better understand the regulatory environment and economic circumstances that enable illicit trade, TRACIT commissioned the Economist Intelligence Unit (EIU) to produce the *Global Illicit Trade Environment Index*. Along with more than 80 other countries, Turkiye was evaluated on a number of policy, legal, regulatory, economic, trade, institutional and cultural indicators reflecting its structural capability to effectively protect against illicit trade.

Rank /84	G20 Economy	Score /100
2	UK	85
3	US	83
5	Australia	81
10	Germany	79
14	Japan	78
15	Canada	77
17	South Korea	75
19	France	74
37	Italy	64
38	Argentina	64
40	Turkiye	62
42	South Africa	62
44	China	61
Global Average		60
49	India	59
50	Saudi Arabia	59
51	Mexico	59
59	Brazil	51
62	Russia	49
68	Indonesia	45

G20 Country Rank and Scores from the Global Illicit Trade Environment Index

Turkiye's scores are mixed, ranking 40th out of 84 countries evaluated, with an overall score of 62.0 (out of 100). This is just above the global average (60.0), but still leaves Turkiye in the bottom half of its peers in the Group of Twenty (G20). Amongst the four categories in the Index, Turkiye registers its strongest performance in

the area of *Customs Environment*, where it ranks 14th of 84. Notably, Customs monitors import and export transactions, as well as the transit of goods and free trade zones may act on an ex officio basis and seize suspected goods. The category of *Government Policy* is where the country struggles the most, ranking 57th of 84, due to underperformance on the corruption, anti-money laundering and IP protection indicators.

Overall, Turkiye's regulatory bodies, institutions and enforcement agencies are considered robust and in line with international standards. Similarly, existing legislation and regulations aimed at countering and deterring illicit trade are comprehensive and generally viewed as adequate. The primary challenges lie instead with the application of laws and the coordination between the various agencies. In particular, there needs to be improved cooperation between Customs, Police, Gendarmerie and the National Intelligence Organization. The government should promote joint training opportunities and exercises to ensure that regulators and enforcement bodies understand constraints and expectations of other agencies, to discuss/validate common procedures and, generally, encourage a culture of mutual support.

For example, the highly regarded Turkish International Academy against Drugs and Organized Crime (TADOC) could broaden its trainings to all stakeholders tasked with addressing the multifaceted problem of illicit trade, including agencies responsible for health, economic, security, finance and Customs. TADOC is one of the main units of Turkish Police's Anti-Smuggling and Organised Crime Department (KOM) and has the goal of training Turkish and other law enforcement agencies in how to counter illegal drugs and organized crime at national and international levels, as well as how to conduct research on related issues.

- **Inflation.** In addition to its impact on poverty and reduced purchasing power, inflation can also negatively impact a government's structural capability to address illicit trade. For example, high levels of inflation have been linked to an increase in overall criminal activity¹⁹ and higher levels of poverty are correlated to higher levels of corruption.²⁰ Rampant inflation can also cause broader social unrest, discontent and discord.²¹ When people feel they can no longer afford what they could before, they can lose faith in institutions, particularly the government.²² Trust in institutions is crucial for ensuring the success of a wide range of public policies, including government efforts to combat illicit activity.
- **Investment.** Turkiye's structural vulnerabilities to illicit trade can also have far reaching impacts on the overall economy.

A 2021 TRACIT study compared a country's performance on the Global Illicit Trade Environment Index and the credit ratings assigned by the major international credit rating agencies. It showed that countries with high scores on their capacity to fight illicit trade also have higher credit ratings. While it is not possible to attribute the recent downgrade of Turkiye's credit ratings²³ to a rising tide of illicit trade in Turkiye, it can be argued that accelerating the fight against illicit trade can have a positive impact on credit scores.

Prioritizing and increasing efforts to combat illicit trade, and the underlying conditions that facilitate it, should therefore not only be viewed as a public health and consumer safety issue for Turkiye, but also a fiscal imperative.

IV. ILLICIT TRADE IN TURKIYE

Turkiye faces challenges from illicit trade on multiple fronts. For example, it is an important source country for illicit plant protection products, counterfeit goods are widespread, and it grapples with the harmful effects of illicit tobacco, alcohol and petroleum products. Moreover, the government's goal of making Turkiye a top pharma hub by 2023 is threatened by a growing market for illegal pharmaceuticals. The challenge for Turkiye lies not just with mitigating illicit trade at home, but due to its geographical location as a gateway to Europe, it must also address illicit trade across its borders. It is known as a critical transshipment point for counterfeit and pirated finished goods and components across a variety of industry sectors. It is, for example, the leading source of fake clothing and accessories seized at EU borders in addition to being an established transshipment route of illicit alcohol and related packaging from Russia and neighboring countries (who are manufacturing at scale) to the Middle East. Turkiye is also vulnerable to facilitating trafficking in persons, illegal wildlife trade and antiquities.²⁴

To succeed, controls to fight illicit trade in Turkiye will require concerted, sustained and joined up efforts between the responsible government bodies. Where Turkish law enforcement agencies lack sufficient resources and training to take efficient action against illicit trade operations, their efforts must be supplemented with adequate budget allocations and clear objectives to ensure long term successful implementation of anti-illicit trade efforts.

- Awareness and coordination across the different provinces exist but rights holders report that illicit trade awareness amongst Turkish law enforcement agencies varies greatly across the country's 81 provinces.
- Regarding criminal enforcement procedures, the Turkish legislation provides a legal base to empower the law enforcement agencies to take action for the ex officio confiscation of pirated and counterfeit goods where there is a *public health, consumer safety or concerns over organized criminal activity*. Rights holders note that authorities are proactive where there are public health concerns, such as illicit alcohol, but rarely use ex officio powers for other types of trade violations that do not present the same concerns, even where there are strong indications that organized crime groups are involved. Moreover, agencies such as National Police do not have *ex officio* authority over trademark violations. Right holders also emphasize the lack of communication from Turkish law enforcement agencies that prevents them from participating in enforcement procedures when their brands are impacted.
- Turkiye's enforcement processes are hampered by delays. Despite the establishment of specialized IP courts, cases often take several years to resolve and there is a lack of experiences in IP right protection among newly appointed judges and prosecutors. Lower criminal courts rarely order the search and seizure of counterfeit goods and reject these requests even if the right holder presents reasonable evidence to support their claims.
- Rights holders also express challenges in reaching customs directorates outside of Istanbul following a notification of a suspected infringement.
- Despite the possibility to order higher sanctions for commercial scale IP infringements, court-imposed penalties and fines are often too low for deterrence

purposes. Deferred verdicts are also common in IP cases when the penalty is less than two years, further weakening sanctions' deterrent factor. As an example, it took 18 consecutive convictions of large-scale IP infringements before the courts issued a known repeat offender the first prison sentence (18 months).

- In contrast to some EU member states, the costs for storage and destruction of seized goods are normally borne by the rights holder during criminal legal proceedings. Given that these proceedings are notoriously slow and often take several years, the accumulation of storage costs of seized goods, which in most cases is much higher than destruction costs, represents a significant financial burden on rights holders who are only protecting their trademark rights and safeguarding consumer trust in their brands. The costs for storage and destruction are so high that some brand owners, either by choice or by necessity, may decide against bringing criminal charges, even when there is overwhelming evidence of infringing conduct.
- Article 163 of the new IP Code Law No. 6769 on Industrial Property which entered into force in January 2017 ("Industrial Property Law") introduced the 'fast destruction' process to Turkish trademark law. Accordingly, where seized counterfeit products are subject to damage, substantial loss of their value or preservation constitutes a serious burden, following the expert examination, the Court can decide their destruction upon the request of the prosecutor before a final decision on the merits of the case is rendered. The competent court can also decide on destruction during the criminal trial. While this process was hailed as an important milestone when it was adopted, experts note that the law is almost never used in practice. The prohibitive nature of storage costs places an unfair burden on rights holders and penalizes them for enforcing their trademark rights. It also

has the negative effect of deterring rights holders from contributing their knowledge and resources towards public investigations, inspections and related operations.

Illicit trade by sector

Illicit pesticides

Turkiye is an important source country for the black market for plant protection products. Trade in illegal pesticides poses real and serious risks to farmer's health, consumers, the environment and sustainable agriculture. Illegal pesticides including counterfeits often contain chemicals which are either banned or restricted due to the risk they pose to human health and/or the environment.

- Europol's operation Sliver Axe recently detected a sharp increase in the number of cases of illegal pesticides sourced in Turkiye, resulting in the seizure of more than 1,100 tons of illegal pesticides at airports and other EU market entry points.^{25/26} Industry experts note that Europol's relationship with Turkish Customs would benefit from improved intelligence sharing, in particular where there are claims that illicit goods have origins in Turkiye to build trust and improve cooperation for joint operations.
- In February 2021, Turkish authorities seized counterfeit pesticides worth 20 million Turkish Lira. During the raid, investigators also identified refugees from Afghanistan that were being exploited by criminals for manufacturing the illicit pesticides.²⁷
- Greenpeace Mediterranean's 2020 study, "The Danger on Our Table: Pesticides" found that 15.6% of Turkish vegetables examined from supermarkets and weekly farmer's markets contained illegal pesticides such as Carbendazim, a pesticide that is known to affect fertility, the nervous system and health risks to unborn babies.²⁸

- The Turkish Ministry of Agriculture and Forestry (MOA) is recognized by stakeholders as an important partner in monitoring and regulating the pesticides market, including tightening its grip to enforce against infringers in raids.

Counterfeit goods

Turkiye is a significant source of, and transshipment point for, counterfeit and pirated goods across a variety of industry sectors.²⁹ According to the 2017 EUIPO-OECD study on Mapping the Real Routes of Trade in Fake Goods (2017), counterfeit outflows from Turkiye concentrate in the following product categories: articles of leather and footwear, clothing, electronic and electrical equipment, foodstuff, optical, photographic and medical equipment, perfumery and cosmetics, watches and jewelry, toys and games.³⁰

- The value of counterfeits exported from Turkiye more than tripled from 2019 to 2020, reaching nearly €134m, according to a December 2021 European Union Intellectual Property Office (EUIPO) report.³¹ Similarly, a 2020 report by Europol identified large quantities of counterfeit goods and footwear crossing from Turkiye to Greece, and later sold as genuine items.³²
- These findings are corroborated by industry experts who note that counterfeit goods are widespread in Turkiye and readily available across both physical and online markets. Street markets and bazaars are frequently identified as hotspots for several types of counterfeit goods, including luxury items, handbags, sunglasses, watches, perfumes and cosmetics, electronic products such as chargers, earphones and toys.
- Counterfeiters are increasingly using online marketplaces to sell fakes.³³ Counterfeit goods are prevalent on several Turkish e-commerce marketplaces, including Trendyol, Hepsiburda and N11, while fraudulent advertisements

on social media sites like Instagram and Facebook target unsuspecting consumers with offers of fake luxury goods. For example, a Turkish store with more than 155,000 TikTok followers was found advertising fake Gucci bags, Louis Vuitton sweatpants and Nike sneakers. The account featured thousands of posts and direct messages in English, Italian, Bulgarian, Polish, German, Spanish and French,³⁴ with information sharing locations on where to buy the best replicas.

- Industry experts also report that Turkiye is a key transit point for labels, tags and packaging materials bound for the EU and separate from the goods used for completing the IP violation within the EU (i.e., by affixing the counterfeit labels and tags to the goods or by packaging them with the counterfeit packaging materials).³⁵
- In December 2019, Turkish authorities uncovered a huge fraud network selling fake printer ink and confiscated 14,500 counterfeit products in Istanbul, as well as components used in the production of counterfeit products.³⁶
- Beyond the EU, counterfeits from or transiting Turkiye can find their way to markets further abroad. In October 2022, U.S. Customs and Border Protection officers seized more than \$130,000 worth of counterfeit goods, including children's clothing, pajamas and backpacks featuring Disney characters, arriving from Turkiye.³⁷

Fake apparel

Turkiye is the leading source of fake clothing and accessories seized at EU borders. Notably, the quality of fakes is increasing to the point that it can be almost impossible for consumers to tell the difference between an original product and a fake.

- According to the OECD-EUIPO study on Misuse of Containerized Maritime Shipping in the Global Trade of Counterfeits, Turkiye

is one of the top producers of counterfeit leather articles and handbags, traded in containerships.

- A 2020 report by Europol said a criminal group regularly transported large quantities of fake designer clothes from Istanbul to Greece with the help of three customs officers recruited to “facilitate” their activity before getting caught.³⁸
- In September 2022, Norfolk Border Patrol in Virginia, US seized over USD 130,000 in counterfeit merchandise from Turkiye.³⁹
- In January 2022, more than 350,000 pairs of fake designer shoes were confiscated in three Istanbul workshops, some half-finished and all destined to be shipped abroad.⁴⁰
- In 2019, reporters from Norwegian TV2 and a representative from investigative firm Cerberus IP gained access to a Turkish factory producing counterfeit Louis Vuitton handbags. When inspecting the factory, they observed children operating the machinery.⁴¹

Digital piracy

Digital piracy issues continue to plague the Turkish marketplace, undermining economic opportunities for IP right holders. Digital piracy, via cyberlockers, bit-torrent and other peer to peer linking sites is widespread, but enforcement against online copyright piracy remains mostly ineffective.⁴²

Substandard and falsified pharmaceuticals

The Turkish government’s goal of making Turkiye a top pharma hub by 2023 is threatened by a flourishing market for illegal pharmaceuticals.

- According to the OECD, Turkiye serves as both an important transit point and a provenance economy for counterfeit medicines and pharmaceutical goods shipped to the

European Union.⁴³ Smuggled and counterfeit pharmaceutical products are also ending up in the domestic market. In November 2020 the WHO issued a medical alert cautioning that batches of falsified Harvoni, an antiviral medicine used to treat chronic Hepatitis C, were discovered in Turkiye.⁴⁴ According to the data of the Ministry of Interior, 23 million smuggled pharmaceuticals were seized in 2019, a 324% increase compared to 2018.⁴⁵ The COVID-19 pandemic and associated supply chains delays caused a growing trend in smuggled and counterfeit pharmaceutical products, including COVID-19 treatment products, steroids, slimming and fat-burner products, as well as counterfeit vitamins.⁴⁶

- Turkiye is a significant source country for international diversion⁴⁷ of pharmaceutical products incidents reported worldwide. The issue is exacerbated by the devaluation in the Turkish Lira, but also by domestic price-control policies which artificially lower drug prices to levels among the lowest in the world and create incentives for the diversion of pharmaceutical from Turkiye into other countries.
- This practice may lead to a shortage of vital drugs in the Turkish markets and cause associated critical health risks for the domestic population. Falsified pharmaceuticals are increasingly mixed with diverted products, compounding the risks to patient safety, e.g., when fakes do not contain active ingredients. Moreover, the illegal diversion may also disincentivize pharma companies from supplying the Turkish market with more (especially the expensive new technology) drugs at current regulated prices.

Illicit alcohol

The challenging economic environment is fueling the problem of illicit alcohol in Turkiye. Inflation

is driving up prices of legitimate alcoholic products. In addition, the “Special Consumption Tax” (ÖTV) placed on alcoholic drinks in January 2022, rose by 47%, widening the gap between legal and illicit alcohol and incentivizing illicit production and consumption. Meanwhile, the Turkish Lira continues to fall against key import markets, which further contributes to price increases of imported goods.⁴⁹ As a result, many Turks are turning to cheaper homemade or counterfeit alternatives, often with deadly consequences.⁵⁰

- In December 2021, a mass poisoning caused by illicit alcohol claimed the lives of at least 75 people in Türkiye.⁵¹ The majority of deaths were blamed on bootleg rakı sold in several provinces across Türkiye that was mixed with toxic methanol.^{52,53,54} Methanol contamination can cause serious side effects including blindness and paralysis when ingested even in fairly small quantities.
- During 2021 and 2022, there has been an increase in detentions at the Turkish border of counterfeit spirits and component parts, transiting through Türkiye en route to the Middle East.
- Responding to the crisis, more than 20,000 Turkish law enforcement agency officers participated in Operation Alcohol in the country’s 81 provinces, in December 2021, seizing 20,000 liters of counterfeit liquor.⁵⁵
- According to the data of the Ministry of Interior, 420,000 bottles and 795,000 litres of smuggled illicit alcohol were seized in 2019.⁵⁶
- In 2021, police and gendarmerie officers made record seizures of illicit alcohol across the country’s 81 provinces, including thousands of empty bottles that would have been refilled with the counterfeit alcohol and fake alcohol labels.⁵⁷

In addition to the existence of counterfeit bottled spirits, Türkiye is one of the few countries where counterfeit spirits are sold via ‘bag-in-box’. Traditionally used for wine, the outer boxes are

branded with the genuine brand name whilst the foil inner contains a cheaper, unregulated spirit. There is no genuine version of these products. Production of bag-in-box is lower cost, arguably less effort (as there is no requirement to source bottles, closures and labels) and therefore higher profit for the counterfeiter.

While Turkish Authorities are diligent in the sector of illicit alcohol, their efforts tend to be more directed toward illicit production and smuggling of bulk alcohol than towards finished branded counterfeit products. As such, there is room to improve enforcement action against finishing counterfeit products in parallel with the work against illicit bulk alcohol, including the use of the National Police’s *ex officio* authority over illicit goods affecting health and consumer safety.

Illicit tobacco

The sizable depreciation of the Lira, increasing taxes on cigarettes and decreasing disposable income levels from inflation have resulted in a significant uptick in illicit tobacco products as price sensitive Turkish smokers increasingly seek illicit alternatives.

- It is estimated that the share of illicit tobacco product trade in Türkiye exceeded 20% in 2021.⁵⁸ This corresponds to the consumption of nearly 30 billion illegal cigarettes²⁹ and more than TRY 30 billion in lost special consumption tax (SCT) revenue.
- Notably, smuggled cigarettes, the preeminent form of illicit tobacco in the past, has changed form and evolved into illicit cut tobacco and macarons, which currently represent around 15% of the illicit tobacco market (counterfeit and contraband cigarettes represent the remaining 5%).
- Industry estimates that the number of outlets selling contraband cut tobacco and filled macarons, typically operating under the souvenir shop permit and called *tobacconist*, has reached approximately 20,000 points in 2022 from around 6,000 in 2016.

- While most tobacco in Türkiye is grown through contract production, the amount of tobacco grown without a contract has more than doubled in the last years. Given that these farmers self-report to the authorities how much tobacco they will grow in which fields, there are opportunities for underreported production to support illicit supply unless volumes are properly monitored and verified by relevant authorities.
- Authorities seized 4.7 million packages of smuggled cigarettes, 273 tons of tobacco products and 329,000 cigars during the first nine months of 2022, preventing a loss of TRY 625 million in tobacco taxes, according to police data.⁶⁰
- In January 2021, Turkish police detained more than 72 people over alleged fuel-related tax fraud. The illegal operation was the largest fuel oil tax evasion scheme in Turkish history, with 15 billion liras worth of taxes being evaded from the state between 2015-2020.⁶⁶
- In 2022, a presidential decree was published in the official gazette instituting a nationwide effort to crack down on bunker smuggling, with increases in surprise inspections as authorities step up efforts to crack down on tax-evading fuel sales.⁶⁷

Illicit petroleum products

Oil and fuel smuggling is a lucrative and sustainable business in Türkiye due to high tax rates on fuels and proximity to several oil-producing countries. Turkish consumers have struggled to keep up with significant increases in gasoline and diesel prices since Russia's incursion into Ukraine.⁶¹ The price spikes have been worsened by hefty fuel taxes and a severe devaluation of the Turkish Lira. In June, gasoline prices had risen 224% year-on-year, while diesel prices had risen by 238%, straining both car owners and public transportation.⁶²

- In October 2019, authorities seized 1.5 million liters of illegal biodiesel. An unlicensed company had collected vegetable waste oil off-record in several districts of Istanbul and then turned it into biodiesel. The illegally produced fuel caused engines to malfunction and tax losses for the government.⁶³
- In March 2020, 5.2 million liters of smuggled fuel were seized in central Konya, southern Mersin provinces, with three suspects arrested.⁶⁴
- In November 2020, 591 tons of smuggled fuel from Iran were seized by Turkish Customs, after authorities discovered that products mis-declared as asphalt raw materials were in fact smuggled fuel.⁶⁵

Human trafficking

Due to its geographical location and regional conflicts, Türkiye is an important transit and destination country for migrant smuggling and trafficking in persons. Due to the pandemic, traffickers increasingly focused on recruitment of victims for domestic servitude and increased their use of online recruitment methods, including social media, dating sites, and online job search platforms. Victims of human trafficking in Türkiye are mainly from Central and South Asia, Eastern Europe, Azerbaijan, Indonesia, Morocco and Syria.⁶⁸

In recent years, the government of Türkiye has faced problems regarding a large refugee population of displaced Syrians that remain highly vulnerable to trafficking and exploitation.⁶⁹ In particular, criminal networks have been found coercing and pressuring Syrian women and girls into sex trafficking.⁷⁰

Illegal wildlife

Türkiye has a very rich biodiversity because of its geographical location, its geological and morphological structure.⁷¹ Türkiye is a key transit region for endangered species of flora and fauna between countries. Although African and Asian countries are associated with wildlife trafficking, Türkiye is a key route for traffickers to smuggle and sell their animals.⁷²

V. POLICY RECOMMENDATIONS TO COMBAT ILLICIT TRADE

Turkiye has taken several steps to tackle illicit trade in recent years, demonstrating the government's ambition, commitment and resolve to root out this illegal activity.

Joint efforts by the Turkish Police's Anti-Smuggling and Organised Crime Department (KOM) resulted in the seizure of TRY 1.4 billion worth of goods in 2021, preventing public losses of nearly TRY 897 million.⁷³ The government has announced the establishment of a board of Ministers consisting of Ministers of Commerce, Energy and Natural Resources, Internal Affairs and Industry and Technology to ensure coordination between the different relevant state institutions in the nationwide effort to stamp out bunker smuggling.^{74/75}

There have also been several notable success stories in the area of public health, including some 170 raids against illicit alcohol in 2022, many of them *ex officio* interventions.⁷⁶

Recent investigations and arrests of public officials suspected of facilitating smuggling at the Iraq border also suggests that the government is genuine about tackling corruption and graft.⁷⁷

The Turkish International Academy against Drugs and Organized Crime (TADOC) continues to serve as an international model for the development of training programs to counter illegal trade. Since its establishment, TADOC has partnered with multiple IGOs to organize 500 international training programs consisting of 9,000 law enforcement personnel from 88 countries.⁷⁸

The inclusion of the filled cigarette tubes in the Anti-Smuggling Law 5607 in 2020 resulted in a significant increase in the seizure of cigarette tubes⁷⁹ and there are several proposals currently being discussed at Parliament to amend the Law

on Regulating the Tobacco, Tobacco Products and Alcohol Market to further strengthen the government's ability to tackle this illicit trade. And from January 1, 2023, amendments to the E-Commerce Law (Law No: 7416) will oblige e-commerce platforms / marketplaces to take down a product when a complaint is raised by the IP right owner and hold it down unless the other party proves any legitimate interest or rights regarding sales of such product.

These developments are commendable and represent meaningful steps forward in the fight against illicit trade. Nonetheless more needs to be done and additional policy recommendations can help Turkiye formulate more effectively mitigate illicit trade. As such, a set of policy recommendations are presented for which the Turkish government is encouraged to consider as it continues its work to rid the economy of illicit trade.

PRIORITIES FOR TURKIYE

Improving governance and coordination

Strengthen cooperation with neighboring countries to address smuggling and alignment of tax and subsidy policies. Frequent cross border travel to and from Georgia, Bulgaria and the Turkish Republic of Northern Cyprus create favorable grounds for piecemeal smuggling. Meanwhile, the conflicts and unrest in countries like Syria, Libya and Iraq facilitate the organization of wholesale smuggling. Stakeholders have cautioned that recent loosening of rules regulating trade, as part of the government's efforts to facilitate cross-border trade following the Russia-Ukraine War, could prompt an increase in smuggling activities.

Strengthen interagency and inter-departmental cooperation at the national level, particularly by improving enforcement capacities between all Turkish law enforcement agencies. Increased coordination across agencies responsible for health, economic, security, finance and Customs is critical for addressing the multifaceted problem of illicit trade. For instance, the Turkish Ministry of Agriculture and Forestry (MOA) is recognized by stakeholders as an important partner in monitoring and regulating the pesticides market. Similarly, the Turkish Medicines and Medical Devices Agency has an important role in combating pharmaceutical crime by overseeing the regulation, control and monitoring of human medicinal products, medical devices and cosmetics in Türkiye.

Appoint an Interagency Anti-Illicit Trade Coordinator. To oversee the interagency cooperation, Türkiye should consider appointing an “Anti-Illicit Trade Coordinator” with high-level authority within the national government. Objectives would include raising the profile on illicit trade, allocating necessary financial and personnel resources and more aggressively enforcing anti-illicit trade regulations.

Promote the creation of local private-public partnerships to bring key industry and government stakeholders together to define strategies, share know-how, intelligence and data, improve risk assessment, strengthen border control and improve awareness. Partnership with the private sector can play an important role in improving enforcement actions. With real-time access to commercial data and private sector intelligence, enforcement agencies can improve the effectiveness of their operations and risk assessment techniques. Consider organizing regular law enforcement agency trainings/ workshops with right-holders to improve detection of fake goods and strengthen the cooperation between enforcement agencies and the private sector. It would be useful to give IP Rights holders access to the identification data

of pending cases, such as the prosecutors’ dossier numbers, so that they can intervene provide their knowledge and support.

Improve public awareness and education on the threat of illicit trade. Efforts to address illicit trade in Türkiye are hampered by a lack of public awareness on its dangers, which has led to a degree of social acceptability. Educational campaigns and community-level awareness activities are essential to help shift public perception and understanding of the negative impacts of illicit trade.

Carefully evaluate excise tax increases that put upward pressure on prices, which in turn may create demand for cheaper, illicit alternatives. The Turkish government’s recent decision to increase taxes on alcoholic beverages has been accompanied by greater demand for illicit, homemade and counterfeit alternatives across the country. Tax policies should account for various demand-related factors including overall consumption, price, income levels and affordability of products, which are all active in Türkiye given the decrease in disposable income levels associated with rampant inflation.

Improving enforcement

Streamline the adjudication process. Türkiye’s enforcement processes are also hampered by delays. Despite the establishment of specialized IP courts, cases often take several years to resolve. Lower criminal courts rarely order the search and seizure of counterfeit goods and reject these requests even if the right holder presents reasonable evidence to support their claims.

Promote joint training opportunities and exercises to ensure that regulators and enforcement bodies understand constraints and expectations of other agencies, to discuss/validate common procedures and, generally, encourage a culture of mutual support. Customs particularly could collaborate more with the private sector or international NGOs.

Implement stronger control mechanisms on tobacco grown without a contract. The relevant units of the Ministry of Justice, judges, and prosecutors should receive information and training on the recent amendments to Law No. 5607 on Anti-Smuggling (1 January 2022), which impose penalties, including prison sentences, on those involved in loose tobacco trade without obtaining authorization from the Ministry of Agriculture and Forestry or notifying provincial/district directorates of agriculture or agricultural chambers. Proper enforcement of this provision is an important deterrent against the illicit cut tobacco trade.

Prohibit the export of illegally diverted pharmaceuticals. While the import of pharmaceutical products into Türkiye is strictly regulated, there are no corresponding rules on their export. As a result, criminals are able to profit from the export illegally diverted pharmaceutical, with no risk of sanctions or penalties.

Promote transparency between public and private sector. Right holders are more effective partners when they are informed by authorities when an enforcement action leads to the seizure of illicit product. This is especially the case when they are authorized to join the legal cases and/or initiate separate civil action against infringers. Also, since many illicit raids are conducted based on smuggling provisions without the inclusion of potential trademark violations, a regulation to assign the smuggling LEAs to inform the right holders could enable them to have a better view of illicit trade affecting their brands and could result in more deterrent criminal proceedings.

Improving IP rights protections

Strengthen IPR enforcement. Over the last few years, Türkiye has made significant progress in strengthening its intellectual property (IP) regime, including through continued implementation of the 2016 Industrial Property that, among other things, increases criminal sanctions for importing and exporting counterfeit goods and enhances authorities' ability to destroy counterfeit goods.

Nonetheless, burdensome evidence requirements for search warrants continue to hamper enforcement efforts and the lower criminal courts rarely order the search and seizure of counterfeit goods, rejecting these requests without any justification. It is essential to provide regular training on IP rights to institutions, such as prosecution offices, courts, police, gendarmerie, and TASİŞ, to ensure unity in practice and strengthen the fight against products that pose dangers to society, and which also infringe upon the IP rights of the trademark owners.

Give appropriate Turkish law enforcement agencies *ex officio* authority over trademark violations to help enhance IP enforcement capabilities. Turkish legislation provides a legal base to empower National Police to take *ex officio* action against pirated and counterfeit goods *where there is a public health, consumer safety or organized crime concern*. However, they do not have similar *ex officio* authority over trademark violations.

Amend the 6769 Industrial Property Law to clarify that goods in transit fall within the scope of intellectual and industrial rights protection. While the Turkish Customs Law explicitly forbids the transit of goods that infringe intellectual property rights, articles 7 - 3 (c), 29 - 1 (c) and 30 of the Industrial Property Law does not expressly mention goods in transit to another country as a trademark infringement. This discrepancy has created confusion, resulting in some courts interpreting that goods in transit are excluded from IP protection. This interpretation significantly restricts Turkish Custom's ability to intercept infringing goods that ultimately are destined for the domestic market.

Encourage the use of the 'fast destruction' process under Article 163 of the Industrial Property Law IP Code. Increased use of this provision is important given that excessive storage and destruction costs deter rights holders from initiating and supporting criminal proceedings. Prosecutors and judges should receive appropriate education and training on the benefits of an expedited destruction process, including the

development of guidance on when and how to use an expedited destruction process. While this process was hailed as an important milestone when it was adopted, experts note that the law is almost never used in practice. The prohibitive nature of storage costs places an unfair burden on rights holders and penalizes them for enforcing their trademark rights. It also has the negative effect of deterring rights holders from contributing their knowledge and resources towards public investigations, inspections and related operations.

Improving border controls

Tighten controls on the border with Syria, Iraq and Iran. It is critical that authorities intercept illicit goods in transit. For example, it is comparatively easy for Customs to inspect and intercept large quantities of counterfeit and illegal products transiting through the Mersin port on the way from China to Syria. However, if the goods are allowed to transit to Syria unsupervised, it is much more difficult for authorities to detect and stop these products from entering the domestic when they are piecemeal smuggled back into Türkiye over the Syrian land border.

Re-examine and strengthen restrictions on transit of cigarettes. The recent decision to re-allow the transit of cigarettes to Iraq through Türkiye, reversing the prohibition instituted in 2015 by Ministry Circular, should be re-examined to ensure that major achievements in the fight against cigarette smuggling on the southern border are not undone. Although controls on cigarettes transiting from Turkey have been eased with a decree at the end of 2021, transit should only be allowed if the products carry warnings in the local language of the destination country on the packs, labels and empty cigarette packs, as it was prior to the decree.

Take proactive measures to protect Türkiye from illicit goods transiting through Free Trade Zones (FTZ). Take strong and proactive

measures to protect FTZ from illicit traders, including risk profiling of suspect shipments; ex-officio checks on goods stored and services conducted in zones; Customs supervision of the zone perimeter and entry and exit points; validate identity of zones operators and their clients; implement “Know Your Customer Policy” and “Due Diligence” measures.

Improving criminal deterrence

Strengthen criminal and other penalties. The establishment of specialized IP courts has strengthened the quality of IPR enforcement in Türkiye by creating a framework in which consistent jurisprudence can be developed. Regrettably, despite the possibility to order higher sanctions, the criminal courts rarely order deterrent fines for commercial scale IP infringements. In addition to court-imposed penalties and fines, consideration should be given to rescinding business licenses from retailers, manufacturers and distributors involved in illicit trade.

Continue to tackle pervasive corrupt practices that continue to facilitate illicit trade, especially at the level of customs, local officials, law enforcement authorities and the judiciary. As long as corruption persists within government agencies, any attempt to improve and strengthen enforcement actions will have limited effect.

Tighten controls on money laundering. Denying access to entities and mechanisms used to launder proceeds of crime—and thereby depriving criminals and their networks of related profits—is one of the most effective ways to deter illicit trade. This requires a holistic, comprehensive anti-money laundering regime including the ability to trace, freeze, seize and confiscate assets related to illicit financial flows. It will also be important to equip regulatory and criminal asset management bodies with the resources they need to effectively pursue and combat illicit financial gains.

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