CONFRONTING ILLICIT TOBACCO TRADE:

WORLD BANK GROUP

A GLOBAL REVIEW OF COUNTRY EXPERIENCES

COLOMBIA: ILLICIT CIGARETTE TRADE

TECHNICAL REPORT OF THE WORLD BANK GROUP
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COLOMBIA

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Illicit Cigarette Trade

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Chapter Summary

Colombia introduced a major tobacco tax hike in December 2016, raising the specific component of its tobacco excise from 700 Colombian pesos (COP$) per 20-cigarette pack to COP$ 1,400 in January 2017 and then COP$ 2,100 (US$ 0.74) in January 2018. Such recent measures have energized Colombia's tobacco control agenda. Meanwhile, however, reforms to tackle illicit tobacco in Colombia have not yet achieved the status of a functional public policy, i.e., one that integrates actions across sectors at the national level while establishing coordination with subnational authorities.

Estimates from an independent 2017 survey show a slight rise in illicit tobacco trade after Colombia's 2016 tax reform. However, the figures remain low, with 6.63 percent of cigarettes identified as illicit and 4.23 percent of smokers consuming illicit products. Illicit cigarette trade in Colombia mostly involves outright smuggling, that is, cigarettes that do not appear in any official records and on which no taxes are paid. In some cases, the merchandise enters the country through official border crossings with the complicity of public servants, while in other instances illicit products enter through any of the hundreds of paths along the Colombo-Venezuelan border. Criminal organizations maintain smuggling activities as a "portfolio" that includes cigarettes along with other goods. La Guajira is a region with a particularly weak presence of state institutions, where illegal armed groups have aimed to control both narcotraffic and smuggling activities.

[1] Fundación Anáas

Colombia does not currently have a track-and-trace system or tax stamps that facilitate identification of illicit cigarettes. The country's National Development Plan 2011–2014 foresaw the creation of a unified tracking and tracing system, dubbed SUNIR. However, as of 2018, the SUNIR initiative remains on hold. The information available to subnational tax administrations is fragmented and at times misleading. With the data currently available, it is difficult to prove noncompliance. Currently the tobacco industry is the only source of information used by the authorities to establish if a tobacco product is genuine.

This chapter presents policy options for national and subnational authorities to strengthen Colombia's illicit tobacco control. Specific recommendations include:

» Implement a unified excise tax management system to reduce costs and improve efficiency, for example by rolling out the proposed SUNIR system.

» Establish a national-level coordinating authority to manage all information about domestic tobacco production, international trade, tax revenues, prices, sales, and consumption trends.

» Ensure that subnational authorities consult with the Ministry of Health to verify compliance with the Framework Convention on Tobacco Control (FCTC), when developing interventions related to tobacco taxation.

» Establish formal mechanisms to ensure participation by the research community and civil society in institutional structures for policy debates on illicit trade.

» Inform national and subnational stakeholders about tobacco-industry involvement in illicit trade activities and interference in policy processes. Programs against cigarette smuggling at the subnational level should not be funded or receive technical cooperation from the tobacco industry.

» Continue to reinforce legal penalties for illicit tobacco trade, and publish complete information on the implementation of sanctions. Set fines such that wholesalers and retailers face penalties that are truly dissuasive, relative to their potential profits from illicit tobacco.

Introduction

Until December 2016, Colombia had the doubtful distinction of being one of the countries with the lowest cigarette prices in Latin America. Arguments against tax increases relied almost exclusively on the alleged direct link between high cigarette taxes and smuggling. In the early 1990s, in the face of local tobacco companies' claim that illicit trade represented between 50 and 80 percent of the country's tobacco market, Colombia's Congress cut the then-existing 100 percent ad valorem tobacco tax to a 55 percent rate.[2] In the following

[2] Law 223/1995 established the base for this tax in 1995 as the retail price of domestic cigarettes before tax, and the value of the cigarettes at custom point plus tariff and a 30 percent assumed profit margin, for imported cigarettes. The latter should not be less than the average tax paid by domestic cigarettes.

years, tobacco taxes and prices remained low, despite two modifications in tax design: first from ad valorem to specific in 2006, and then to a mixed system with a small ad valorem component in 2010.

A major tobacco tax increase took place in December 2016, when a tax reform boosted the specific component of the excise from 700 Colombian pesos (COP$) per 20-cigarette pack to COP$ 1,400 in January 2017 and COP$ 2,100 in January 2018.[3] In subsequent years, this value will be adjusted according to the inflation rate[4] plus 4 additional points.

This tax measure resulted in consumption reduction and increased tax revenues, as expected. Illicit trade remained at moderate levels. That this success was possible under highly challenging border security conditions, and a resurgence of money laundering associated with drug trafficking, makes this a case worth studying.

The purpose of this chapter is to present the case of illicit cigarette trade (ICT) in Colombia.[5] To do so, Section 1 describes the country's situation in terms of its tobacco epidemic, cigarette market, and illicit trade. Section 2 presents the institutional, legal, and administrative situation and efforts developed to control ICT. The chapter concludes with lessons learned and a set of policy recommendations in Section 3.

1. Situation Description

1.1 Current State of the Tobacco Epidemic

Colombia is a South American upper-middle income economy with an estimated population of 50 million as of 2018. Regarding consumption of tobacco products, the country has experienced a decrease in smoking prevalence. In 2013, the Survey of Consumption of Psychoactive Substances (SCPS) estimated a smoking prevalence of 13 percent, down from 17 percent in 2008 (MPS and DNE 2008; MinSalud and ODC 2013). Other surveys prior to 2008[6] show the same trend. This decrease is likely explained by implementation of some FCTC measures by Law 1335/2009, including a comprehensive regulation on smoke-free areas, one of the strongest tobacco advertising, promotion, and sponsorship (TAPS) bans in the region, and to a lesser extent the introduction of health warnings.

SCPS is the most accurate source of information on Colombia's smokers because of the protocols it follows to minimize response bias; however, the survey has not been updated. For this reason, monitoring of the epidemic since 2016 relies on other sources that provide

[3] According to the Central Bank of Colombia, the exchange rate between COP$ and US dollars (USD$) was COP$ 3,053 = USD$ 1 for 2016, COP$ 2,951 for 2017 and the January-to-May monthly average for 2018 was COP$ 2,841. Thus, the specific component of the excise tax was USD$ 0.23 in 2016, USD$ 0.47 in 2017, and USD$ 0.74 in 2018.

[4] The average inflation rate in the last six years reported by the Central Bank of Colombia was 4.29 percent and the average inflation target for the same period was 3 percent.

[5] There is no record of illicit trade in other tobacco products in the country.

[6] With methods that are not entirely comparable.

the minimum information needed to measure prevalence. One of those is the National Survey of Quality of Life (NSQL); it shows an ongoing decreasing trend over the past two years (DANE 2017; DANE 2018) and an estimated number of smokers of 2.85 million for 2017. Smoking prevalence in Colombia is similar between urban and rural areas.[7] However, as a result of the urbanization process,[8] smokers are mostly concentrated in urban areas. The most recent survey among university students indicates that this group still displays relatively high levels of consumption, with a month-prevalence of 17.2 percent in 2016 (UNODC 2017), down from 21.7 percent in 2009 (MIJ 2009). Subnational-level evidence shows that cigarettes are the most common type of tobacco product consumed, with 97.9 percent of smokers using cigarettes (Fundación Salutia 2018, p.94).

There are important differences in smoking patterns across regions. Elements behind these patterns include population size, age composition, and cultural issues. The biggest cities in terms of population, namely, Bogotá (the capital), Medellín, Barranquilla, Cali, and Cartagena, possess the highest concentration of smokers. Some medium-sized cities with high local prevalences include Cúcuta, Soacha, Villavicencio, Manizales, and Pereira. Some of these cities are near borders and coasts, potentially increasing their exposure to illicit trade.

Most smokers report daily consumption (Figure 1). According to NSQL-2017, 57.2 percent smoke every day, 26.23 percent smoke some days in the week, and only 14.44 percent smoke less than once a week. Similar proportions are reported in the Demand for Illicit Cigarettes Survey for Colombia (DEICS-COL). Figure 2 shows the distribution of smoking intensity, measured as number of cigarettes per day. For non-daily smokers, the number of cigarettes per month was calculated and then divided by 30 to provide a proxy of daily intensity. The figure shows that most smokers consume ten cigarettes per day (i.e., half a pack), followed by one cigarette and five cigarettes per day. This is consistent with a smoking epidemic concentrated in younger smokers, and relatively more people in an experimentation phase. Distribution of brands noted in DEICS-COL-2017 indicates that the most common brands are Rothmans (British American Tobacco, BAT) at 29 percent and Chesterfield (Philip Morris International, PMI) at 22 percent,[9] followed by Marlboro (18.7 percent) and Lucky Strike (17.5 percent). Local brands like Pielroja have low participation in the portfolio (3.6 percent).

1.2 Production and Supply of Cigarettes

Traditionally, Colombia had two local companies controlling production and distribution of cigarettes: Compañía Colombiana de Tabaco (Coltabaco) and Productora Tabacalera de Colombia (Protabaco). That changed at the beginning of the 21st century, when PMI and

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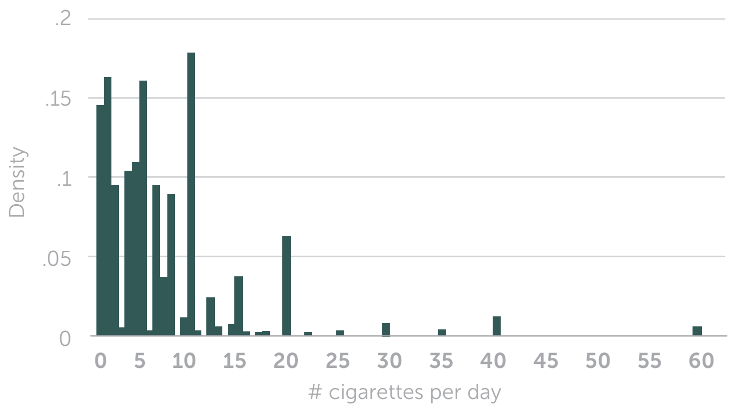
[7] As reported by Fundación Salutia 2018, p.94, DANE 2017, p.20, DANE 2018, p.21 and estimations using microdata from the National Health Survey (MPS and Cendex 2009).
[8] According to the World Development Indicators, the proportion of the population living in urban areas in Colombia increased from 45 percent in 1906 to 77 percent in 2016. Maldonado et al. 2018a, p.3.
[9] In 2017 BAT started to replace Mustang and Belmont by Rothmans. Similarly, PMI replaced Boston and Green by Chesterfield.

BAT acquired Coltabaco in 2005 and Protabaco in 2011, respectively. By 2015, the market share was 51 percent for PMI and 48.9 percent for BAT (Forero 2015).

In Colombia, the most reliable source of information for production of manufactures such as cigarettes is the Annual Survey of Manufacturing - EAM. According to EAM, in 2016 Colombia produced 8,242.39 million cigarettes, equivalent to 412.12 million packs of 20 sticks, down from 626.57 million packs in 2013; most of the production goes to the local market, and filtered cigarettes represent around 95 percent of the total production. The decreasing trend in production (supply side) over time is consistent with the similar trend in smoking prevalence (demand side) shown above; this is a good signal for control of the tobacco epidemic, although the country is still far from the tobacco endgame (Thomson et al. 2012).

Figure 1. Smoking Intensity



Source: DEICS-COL 2017. Graph includes daily and non-daily smokers.

Both smokers' access to cigarettes and the success of inspection, surveillance, and control activities are strongly determined by channels of distribution. To begin with, in Colombia there is no licensing that provides official authorization to buy or sell cigarettes. Informal distribution channels in the country play a crucial role in provision of cigarettes to consumers; according to DEICS-COL 2017, 55.7 percent of smokers purchase their cigarettes from street vendors, and 42.2 percent of cigarettes are sold through this channel. Ranked by proportion of smokers that use the distribution channel, street vendors are followed by small neighborhood grocery stores (26.7 percent) and liquor stores (11.2 percent). Informal distribution channels, especially street vendors, play a role in expanding the tobacco epidemic, because they are able to offer cigarettes[10] anywhere at nil transport cost for the consumer, given their atomized structure and negligible costs of relocation.

[10] Most of them offer sugar confectionery (chocolate, sugar candy, chewing gum), snacks, and cigarettes; the larger establishments also offer soft drinks, industrialized juice, and bottled water.

In terms of tobacco control policies, regulatory compliance and law enforcement are more difficult to achieve in informal distribution channels, because, as part of the informal sector, these businesses are harder to identify, locate, monitor, and penalize. At the same time, the lack of law enforcement makes street vendors more likely to get involved in illegal activities, such as sale of cigarettes to minors (banned by Law 1335/2009 Article 2), loose cigarettes (banned by Law 1335/2009, article 3), illicit cigarettes,[11] and engagement in promotion and advertising (banned by Law 1335/2009, article 15).

1.3 Tobacco Control

Colombia became a party to the Framework Convention on Tobacco Control (FCTC) in 2006, and ratified the FCTC in 2008. The specific tool developed within this agreement to act against illicit trade is the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol), which Colombia signed in 2013 but has not yet ratified. Colombia is mentioned among some of the key players in global illicit trade, because it is a transit country. As a destination country in the global context, Colombia's role has become less relevant, both because of the long-term downward trend in market size and because of Colombia's position, until 2016, as one of the countries with the cheapest cigarettes in the Americas (PAHO 2016).

Colombia has reached several milestones in the implementation of the FCTC through a set of policy, planning, and regulation tools. The planning instrument with the largest potential influence in policy making is the ten-year Public Health Plan (2012-2021) that sets goals to reach 100 percent enforcement of smoke-free areas and increase taxes considering affordability trends. The National Cancer Plan (MinSalud and INC 2012) for the same period includes the same tax goal and adds a commitment to increase health warning size from 30 percent of the pack surface to 70 percent by 2021. The current National Development Plan commits to develop a tracking and tracing system (SUNIR from its initials in Spanish) by 2018. However, this system is not yet in place.

NON-PRICE MEASURES

The most comprehensive regulatory development of FCTC commitments is Law 1335/2009, providing national guidelines for smoke-free areas, packing and labeling, prohibition of loose cigarette sales and sales to minors, and a total ban on tobacco advertising, promotion, and sponsorship (TAPS). It also considers education and cessation interventions, but these have advanced less rapidly than the other measures. Compliance with smoke-free areas is fairly high (particularly with respect to closed area) and Colombia is considered one of the leading countries in this policy in the region.

As for tobacco packaging, in order to comply with FCTC article 11, article 13 of Colombia's Law 1335/2009 established restrictions for cigarette pack design elements and defined general

[11] Even in high-income countries like Germany, street selling has been associated with distribution of illicit cigarettes (Lampe 2006, p.240).

guidelines for health warnings. Three years later, the Ministry of Health (MoH) created the Tobacco Packaging and Labeling Committee.[12] This committee is in charge of authorizing pack designs that can be sold in the national market, after studying tobacco companies' submissions.

Other general norms that interact with tobacco control regulation are the Consumer Protection Act (Law 1480/2011), the Anti-Smuggling Act (Law 1762/2015), the National Police Code (Law 1801/2016), and sanitary inspection, surveillance, and control norms, particularly the Administrative Act 1229/2013.[13] A relevant aspect to determine institutional capacity to detect illegal activity, including illicit cigarette sales, is the regulation to protect consumers. It defines the general responsibilities for the Superintendence of Industry and Commerce (SIC) to ensure compliance with labeling and packaging norms and with TAPS ban observance at the point of sale. SIC can impose fines and other penalties when establishments sell merchandise that does not comply with legal requirements, including tobacco products.

Violation of packaging and labeling regulations is subject to fines between 200 and 400 times the value of the minimum wage per day.[14] This is a significant amount for street vendors but not for larger retailers, wholesalers, or manufactures. Retailers and wholesalers not complying with the TAPS ban face fines so small they are inconsequential: between two and five times the value of the minimum wage per day. Other participants engaging in TAPS activities would pay higher penalties: up to 400 times the value of the minimum wage per day. Unfortunately, complaints of TAPS ban violations lodged by members of VCCT, a local coalition that oversees the implementation of the FCTC in Colombia, have increased. DEICS-COL 2017, a survey with a representative sample of smokers from the five cities with the largest number of smokers, found that one in five smokers reported having been offered free cigarette samples in the prior eight months.

The Police Code (articles 38 and 180) establishes sanctions on behaviors that could be related to the distribution of illicit cigarettes. Distribution, offering, selling, and instigation of consumption of cigarettes to minors are punished with the destruction of the merchandise and a fine equal to 32 times the value of the minimum wage per day (the equivalent of about USD$ 293), the highest level of ordinary fines. Sanctions may take time to become effective, because the Code has been in force since January 2017, and it requires a gradual process to be fully implemented. Additionally, existing penalties are not sufficient to discourage such practices among organizations that can promote them on a large scale.

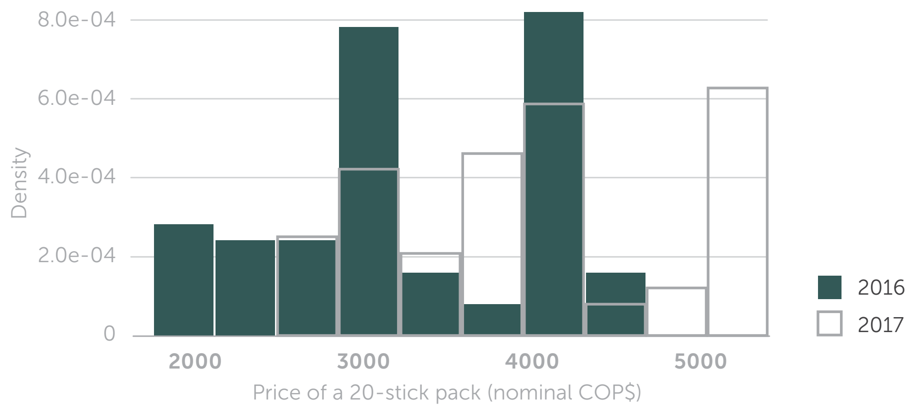
TOBACCO PRICE, TAXES AND TAX REVENUE

In Colombia, cigarettes are subject to Value-Added Tax (VAT) and excise tax. The general rate for VAT, currently 19 percent, applies to cigarettes. The excise tax has an ad valorem component (reintroduced for the first time since 2006) and a specific component. The ad

[12] Administrative decision 1309/2012.
[13] For a comprehensive description of sanitary control mechanisms, consult the following MoH document: *https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/PP/SA/ ivc-control-tabaco.pdf.*
[14] Minimum wage per day for 2017 was COP$ 24,590 (USD$ 8.33) and for 2018 is COP$ 26,041 (USD$9.16).

valorem rate is 10 percent (Law 1393/2010, article 6), and for 2018 the specific tax is COP$ 2,100 (USD$0.74) per 20-stick pack. The Department of Statistics, once a year, must certify the cigarette price of a 20-stick pack for each brand variant to the Ministry of Finance for calculation of the ad-valorem component of the excise tax.[15] Certified cigarette prices are based on retail price information,[16] including VAT, and the formula discounts ad valorem taxes from the previous period and adjusts the result by the Consumer Price Index.[17]

Figure 2. Certified Prices of 20-Stick Packs (Supermarkets)



Source: DEICS-COL 2017. Graph includes daily and non-daily smokers.

Figure 2 shows the distribution of certified cigarette prices (nominal) in COP$ for 2016 and 2017, and the vertical line in the figure shows the average price, which in 2016 was COP$ 3,282 (USD$ 1.07) and in 2017 was COP$ 3,991 (USD$ 1.35). There is a substantial dispersal of prices, with the cheapest brand in 2017 priced at COP$ 2,500 (USD$ 0.84) and the most expensive at COP$ 5,400 (UDS$ 1.82). Also, the mean does not represent the behavior of the market. The distribution is usually bimodal, that is, most prices are concentrated around two values, making the average a statistical measure that does not accurately capture market realities. The bimodal distribution is explained by two market segments: the regular segment with affordable cigarettes (price ≤ COP$3,000 (USD$ 1.01)) and the premium segment with fancy and expensive cigarettes (price ≥ COP$4,000 (USD$ 1.35)).

A good indicator of the behavior of prices after the 2016 tax reform is the cigarette real price index calculated with the price index for cigarettes[18] (included in the CPI basket) and

[15] Decree 2427/2007 Article 3, Law 1819/2016 Article 348, Law 1393/2010 Article 6.

[16] Article 6 of Law 1393/2010 establishes that retail price information must correspond to the price charged to the consumer in supermarkets.

[17] The base calculation was simplified in 2016, and now uses only the average price of the previous year, without the discount.

[18] This index provides information beyond the supermarket channel, although it is a limited representation of prices in the main distribution channels

the general CPI. This is the fastest price growth observed in the past three decades, but still below the accumulated rate between July 1997 and October 2001 (52.7 percent), which remains the period of most dynamic growth in Colombia's cigarette prices. It is worth noting that the price behavior during those years was not caused by taxes.

Department of Statistics published estimates by brand are reliable for prices in supermarkets. However, its sample underrepresents informal channels of distribution because it excludes prices of illicit cigarettes as well as those of loose cigarettes. This is a relevant issue for Colombia, where 68 percent of smokers bought sticks instead of packs for their last purchase, and 7 percent of purchases take place via supermarkets. By using information from smokers instead of retailers, DEICS-COL 2017 provides more reliable data on prices in both distribution channels. Distribution of prices and average price (thick line) from this source for 20-stick packs and for loose cigarettes is shown in Figures 4 and 5, respectively.

Figure 3 shows that, when all distribution channels are considered, dispersion of prices in the market for packs is wider than the one reported in formal distribution channels. The average price of a 20-stick pack is around COP$ 5,200 (USD$ 1.76). Packs on the far left of the distribution represent a public-health issue, because they are being offered at a price below the price consistent with current cigarette taxes, undermining the tobacco tax policy and providing affordable cigarettes to consumers.[19] Figure 4 shows that the average price of a stick is around COP$ 400 (USD$ 0.13) and also confirms an important price spread in this segment of the market. In both markets, illicit cigarettes are found all across the price spectrum,[20] which partially explains the difference in average price between data from DEICS-COL 2017 and from the Department of Statistics. Comparison of both figures show that, overall, the price of a stick is lower in packs than in loose cigarettes. By brand, for instance, the average price of a Belmont stick in loose cigarettes is COP$ 386.95 (USD$ 0.13), while in 20-stick packs, it is COP$ 289.79 (USD$ 0.09). For Marlboro, the corresponding prices are COP $ 489.03 (USD$ 0.16) and COP$ 278.6 (USD$ 0.09), and for Lucky Strike COP$ 484.11 (USD$ 0.16) and COP$ 365.39 (USD$ 0.12). Even though a higher price of loose cigarettes has the potential to reduce consumption via price elasticity, it might actually increase consumption, because (i) indivisibility[21] in formal channels makes loose cigarettes more affordable and (ii) small package sizes might not activate a self-control conflict (Coelho do Vale, Pieters, and Zeelenberg 2008).

At the end of 2016, Colombia had the second-lowest cigarette price in the Americas. The tax reform approved in December 2016 (Law 1819/2016) increased the specific component of the cigarette excise tax by 200 percent. The reform adopted a two-step annual

[19] Colombian regulation does not establish a minimum price. Although this is usually not considered when the specific component is large, the price dispersion observed here suggests that additional price regulation measures could help increase the tax impact in this case and reduce possible cross subsidy across brands.
[20] Evidence of expensive illicit cigarettes, sold by pack or loose, is found in DEICS-COL 2016 and 2017, as well as in Fundación Anáas' active search for illicit brands through direct purchases in traditional distribution channels, such as San Andresitos.
[21] In Colombia, it is illegal to sell packs of less than 10 sticks.

Figure 3. Cigarette Real Price Index

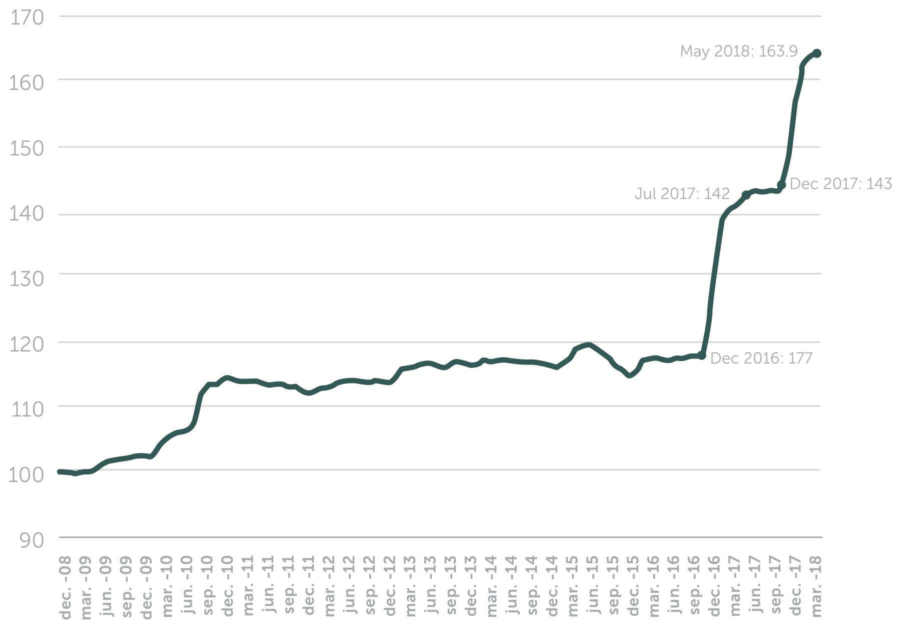


Figure 4. Prices of 20-Stick Packs in 2017

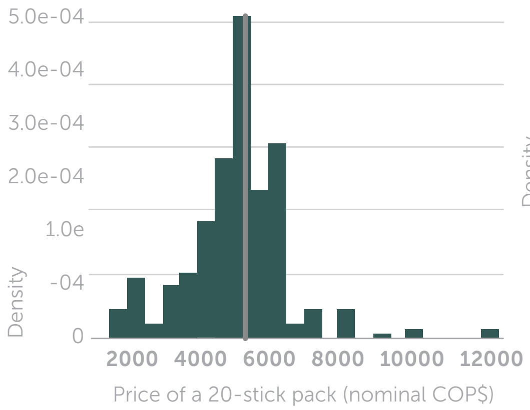


Figure 5. Prices of Loose Cigarettes in 2017

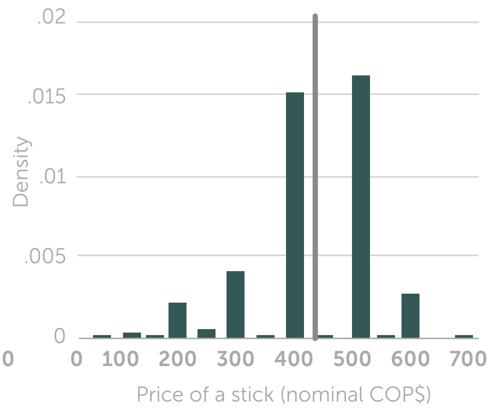
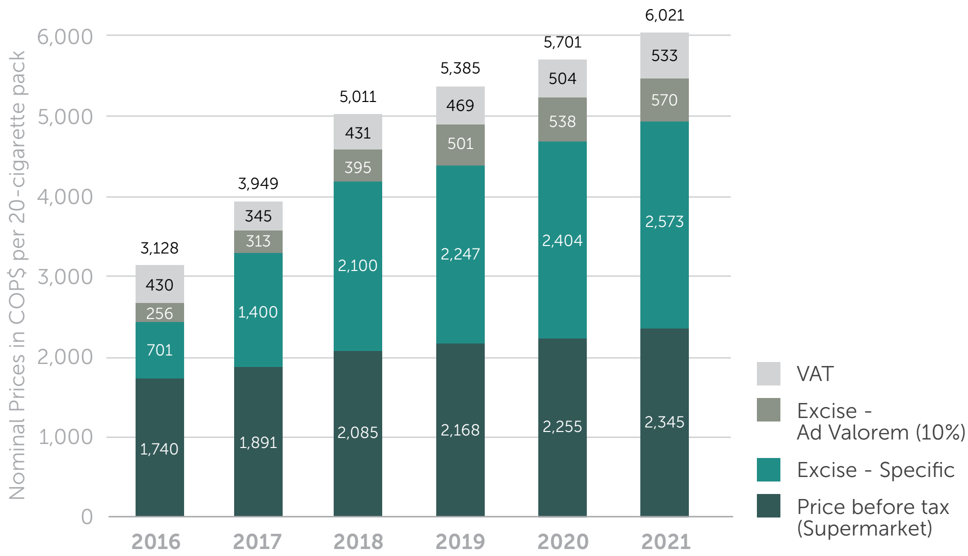


Figure 6. Structure of cigarette prices in Colombia



increase for the period 2017-2018 and subsequent annual adjustments by the inflation rate plus 4 percentage points, adjustment that takes place every January. The new legislation also established a small increase in the ad valorem component of the excise, keeping its 10 percent level while changing the procedure to calculate its reference price. The reform also raised the general VAT rate, applicable to cigarettes since 2000, from 16 percent to 19 percent. Figure 6 shows the current and expected structure of the price. Table 1 shows the evolution of tax burden as percentage of retail price, which is near 60 percent of retail price, and relies mostly on the specific component. In international dollars, the price of Colombian cigarettes is closing the gap with other countries in the region, but it is still relatively low compared to Chile, Ecuador, or Panama, and needs an extra tax hike to reach the benchmark of 75 percent suggested by WHO.

Figure 7 describes the behavior of affordability using minutes of labor required to purchase one pack. In the 1990s, the trend was driven by price volatility and a sharp tax cut in 1994-1995. Between 1998 and 2000, cigarettes became less affordable due to a rapid drop in household income. During most of the 2000-2016 period, cigarettes were cheaper as a result of a combination of household purchasing power improvement and stable prices. The 2010 tax reform produced only a minor rise. The effects of Law 1819/2016 are reflected in the surge observed in 2017 and 2018.

Figure 7. Affordability

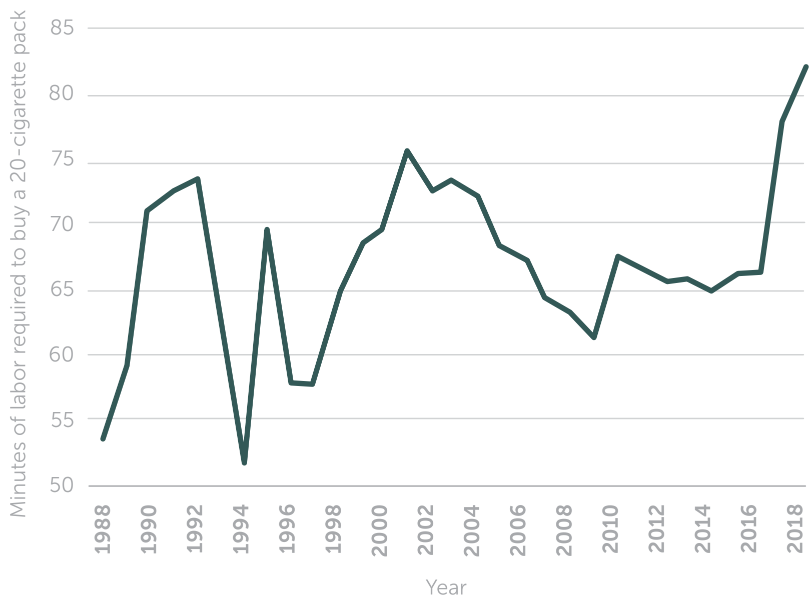


Table 1. Prices and tax burden for 20-cigarette pack

YEAR	CERTIFIED PRICE	EXCISE SPECIFIC (COP$)	EXCISE AD VALOREM (COP$)	VAT (COP$)	TOTAL TAXES	PRICE INCREASE (%)	SPECIFIC TAX BURDEN (%)	TOTAL TAX BURDEN (%)	RETAIL PRICE IN PPP
2010	2,134	570.0	194.7	293.6	1,058		26.7	49.6	1.92
2011	2,168	584.8	200.2	298.2	1,083	1.6	27.0	50.0	1.87
2012	2,295	607.9	203.7	315.8	1,127	5.9	26.5	49.1	1.95
2013	2,433	624.8	215.6	334.8	1,175	6.0	25.7	48.3	2.06
2014	2,516	635.8	230.6	346.2	1,213	3.4	25.3	48.2	2.13
2015	2,718	659.0	236.3	373.9	1,269	8.0	24.2	46.7	2.26
2016	3,128	701.1	256.4	430.4	1,388	15.1	22.4	44.4	2.51
2017	3,949	1400.0	312.8	345.1	2,058	26.2	35.5	52.1	3.10
2018e	5,011	2100.0	394.9	430.7	2,926	26.9	41.9	58.4	3.90
2019e	5,385	2247.0	501.1	468.6	3,217	7.5	41.7	59.7	4.16
2020e	5,701	2404.3	538.5	503.6	3,446	5.9	42.2	60.4	4.36
2021e	6,021	2572.6	570.1	533.2	3,676	5.6	42.7	61.1	4.61

[e]: estimated

1.4 Illicit trade

Illicit cigarette trade (ICT) is a threat to tobacco-tax policy because it increases market size and expands the epidemic by offering affordable cigarettes. ICT also undermines other tobacco control measures, particularly packaging and labeling regulation. Finally, even if it is not the main policy concern, tax evasion associated with illicit cigarettes leads to revenue loss for the government.

From the demand side, for many years the only source of information available was the one provided by the Tobacco Industry (TI) through the Federación Nacional de Departamentos and, more recently, the national business association of Colombia - ANDI. This study is performed by Invamer, a private market research firm, with a survey of smokers aged 18 or older regarding smoking habits and information on last purchase.[22] Results are presented as a set of slides (Invamer and ANDI 2017).[23] Using this survey, the TI estimated the market share of illegal cigarettes for 2017 at 18 percent, and the proportion of smokers consuming illegal cigarettes at 13 percent. In order to undermine the tobacco tax policy, TI studies emphasize the loss of tax revenue caused by ICT (Invamer and ANDI 2017: 21-23) and claim that higher tobacco taxes increase ICT (Portafolio 2018b). TI studies are positioned in public opinion through a strong media strategy. Every year, when Invamer's study is released, the results are widely covered by influential national media. Findings are also disseminated among top-level government officials.[24] This media strategy seeks to discourage tobacco tax increases and disparage tobacco taxes' contribution to public health. Since the first wave of the Invamer survey in 2011, Invamer's published estimates of illicit cigarette penetration fluctuate between 13 percent and 19 percent.[25]

Illicit cigarette trade in Colombia mostly involves outright smuggling, that is, cigarettes that do not appear in any official records and on which no taxes are paid. In some cases, the merchandise enters through border crossings with the complicity of public servants, while in other instances the merchandise enters the country through any of the hundreds of paths ("trochas") along the Colombo-Venezuelan border. Tax avoidance associated with bootlegging easily takes place in cities like Maicao, Guajira, and Cucuta (Llorente and Díaz 2018). The magnitude of bootlegging in Colombia has not been established. However, due to the link between money laundering and illicit trade in Colombia (Cáceres-Corrales 2016), it is plausible that large-scale operations constitute the most important type of smuggling. This is consistent with the fact that the traditional smuggling routes used by criminal organizations in the 1990s remain operational, although criminal structures have evolved over the decades

[22] The questionnaire of the survey is not publicly available, so the topics of the survey are deduced from the results.
[23] There is no report with all the technical information on the study.
[24] For example Vega 2018, Cigüenza 2018, La República 2018, Portafolio 2018a, El Tiempo 2018.
[25] As opposed to other global sources of illicit trade, the estimates produced by INVAMER through FND/ANDI have not been subject to retrospective revisions. For instance, the 2011 survey from INVAMER was published by the National Association of Retailers, FENALCO, showing the same estimates as those reported by ANDI in 2018 for 2011.

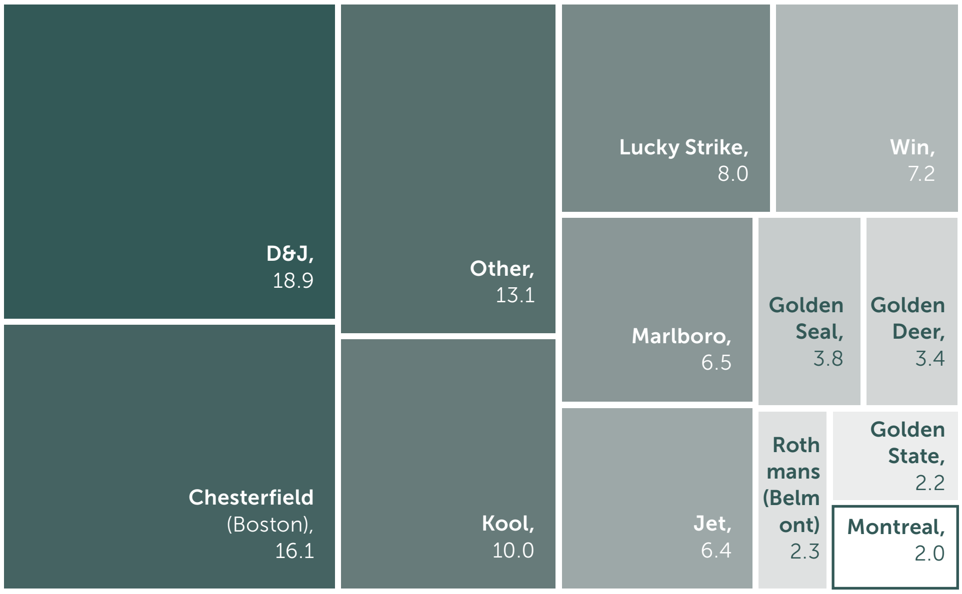
(Avila et al. 2012; Ochoa Sierra 2011), and new routes have also emerged. This recomposition maintains smuggling activities as a "portfolio" that includes cigarettes, among other goods. La Guajira is a region with a particularly weak presence of state institutions, where illegal armed groups have aimed to control both narcotraffic and smuggling activities (Quiroga-Angel 2018).

In 2016, an independent study on ICT, funded by the American Cancer Society, collected information for a representative sample of smokers in the five Colombian cities with the highest number of tobacco consumers, allowing researchers to draw inferences on 57.3 percent of this population in the country. The instrument used to collect information was the Demand for Illicit Cigarettes Survey (DEICS), with a questionnaire covering demographic variables, smoking behavior, characteristics of the last purchase, and socioeconomic information. The penetration of ICT based on DEICS-COL-2016 was estimated to be 3.46 percent of cigarettes and 3.35 percent of smokers (Maldonado et al. 2018a). Funded by PROACTT, a joint effort of the American Cancer Society and UK Cancer Research, a comparable study was conducted a year later, with the purpose of obtaining estimates after Colombia's tax reform (Maldonado et al. 2018b). Results were used as inputs for an impact evaluation of the tobacco tax increase on ICT (Gallego et al. 2018). Estimates from DEICS-COL 2017 show a slight increase of ICT after the tax reform but remain at a very low 6.63 percent of cigarettes identified as illicit and 4.23 percent of smokers consuming illicit products. These results coincide with a substantial body of independent studies finding consistently lower ICT penetration compared to TI-funded studies (Stoklosa and Ross 2014).

On the other hand, at subnational level there are important differences. Cucuta, a border city with Venezuela facing a 38 percent illicit tobacco penetration rate, is an extreme example of what can happen with smuggling when governance conditions are very challenging. On the other end of the spectrum is Bogotá, the country's main market for cigarettes, with only a 2 percent share of illicit cigarettes. In the capital city, the institutional strengths are explained by elements such as the capacity to coordinate efforts across government agencies, a very different situation with illegal armed groups, and a territory where the interaction between the state and communities is not dominated by repressive actions. This regional pattern has been observed in the analysis of criminal activities in other sectors. For instance, when comparing levels of violence in Colombia's banana-growing regions and in regions with flower production, distance to the capital city and the institutional conditions associated with this difference are features suggested as partially explaining more peaceful conditions (Nasi and Lozano 2018). In this sense, Colombia is a natural experiment that illustrates how regions with gaps in institutional structures, when subject to the same policy, respond differently in terms of illicit trade indicators.

Colombia does not have a track-and-trace system or tax stamps that facilitate identification of illicit cigarettes; therefore, identification must rely on characteristics of the pack/

Figure 8. Share of Illicit Cigarettes by Brand



stick. One such characteristic is the brand/presentation approved by the Ministry of Health.[26] This is not to say that every product from companies that have submitted requests for MoH approval complies with legal requirements; in fact, DEICSCOL and active search of brands clearly suggest that some cigarette brands enter the market without permission. Prominent cases include Camel (imported by JTI), sold during 2017 before the committee's approval was sought, and Chesterfield, found in the market bearing the text "menthol with capsule" on the front of the pack, violating the committee's rejection of PMI's request for this presentation. In addition to brand, the other two criteria are current health warnings and price (Maldonado et al. 2018a).[27] Applying these criteria to DEICS-COL-2017 to identify illicit cigarettes among a representative sample of smokers, the brands constituting the highest share of illicit cigarettes are D&J and Chesterfield (Figure 8). D&J is mostly found in Cúcuta. Of note, there is a wider dispersion of brands in this illicit market than for the cigarette market as a whole.

[26] Details in Section 2.1.

[27] For price, the study defines a threshold to classify cigarettes as illicit, "based on the fact that the current tax scheme implicitly determines a minimum price... Any price under COP$100 [USD$ 0.03] for sticks, COP$ 1,700 [USD$0.57] for a 20-stick pack and COP$20,000 [UDS$ 6.77] for a carton was classified as illicit." (Maldonado et al. 2018a, p.4).

2. Policy and reforms

Reforms of ICT control in Colombia can be described as a set of efforts that have not yet achieved the status of a functional public policy, i.e., a policy that integrates actions across sectors at the national level while establishing coordination with subnational authorities. Regarding the legal, institutional, and administrative dimensions of ICT control, the country shows encouraging achievements that still lack intersectoral coordination. The uneven pace of implementation is largely determined by highly disparate regional institutional conditions. The following sections describe the efforts deployed and the current challenges faced in each dimension. We summarize lessons learned that may help other countries in similar situations, as well as policy recommendations to further advance ICT policy in Colombia.

It is worth noting that, despite challenging circumstances, the Colombian government managed to adopt an ambitious cigarette tax hike, obtaining positive results in terms of consumption reduction and tax revenue increases. At the same time, overall illicit trade penetration remained at moderate levels, with exceptions due to the regional differences mentioned above, which require a differential policy response.

2.1 Institutional Context

The focal point for tobacco control policies is the MoH. In compliance with the FCTC, the MoH has adopted specific goals to raise tobacco taxes as the most cost-effective instrument to control the epidemic. However, any tax initiative must be submitted to Congress by the Ministry of Finance. Since 1990, Colombia has gone through 14 tax reforms, that is, an average of one tax reform every two years. Each one of these has created opportunities to discuss tobacco taxes. Sometimes the result was a sharp tax cut, as was the case in 1995. However, the latest reform, in 2016, took the opposite direction. Along with tax discussions, the MoH has worked to strengthen government-wide capacity to eliminate ICT. The MoH advocacy role includes providing technical advice to agencies in other sectors; training customs police (POLFA); and incorporating the verification of sanitary regulations (e.g., health warnings) into customs procedures, among other actions.

In addition to national institutions, subnational authorities play a key role, as they receive all the revenues from the tobacco tax based on reported sales in each region. Colombia is divided in 33 first-level subnational authorities—32 departments (departamentos) and one capital district—and each department is divided into a set of municipalities (the second level). Tobacco excise tax rents belong to departments.[28] This is a consequence of the decentralization process that allocated certain tax revenues to these entities. However, only the

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[28] Article 2 Law 30/1971.

[29] Constitutional Court rulings C-246/95 on Decreto 1280/199 1994 *http://www.corteconstitucional.gov.co/relatoria/1995/C246-95.htm and C-252/2010 and C-253/2010 on Decreto 4975/2009 http://www.corteconstitucional.gov.co/RELATORIA/2010/C253-10.htm*

Colombian Congress has the authority to define the tax level and its composition. In addition, Congress is the only instance that can establish the taxable event, and name the agent responsible for its payment. Past attempts to modify tobacco taxes through administrative acts by the executive branch have been deemed unconstitutional.[29]

Revenues from excise taxes of departments are partially earmarked for universal health coverage and sports.[30] This includes excises on tobacco products, liquor, beer, lotteries, and the registry (World Bank 2009, p.19).[31] Consequently, tobacco taxes are part of the departments' revenue, and departments are responsible for decentralized tax collection and administration, including tax evasion controls (see Section 2.3). In order to coordinate efforts among departments, the Federación Nacional de Departamentos (FND) was created in 1998.[32] In 2009, a Cooperation and Investment agreement was signed between PMI-Coltabaco, the Republic of Colombia, and the departments. It established commitments for the tobacco company to provide funds and technical cooperation for actions against the illicit cigarette trade. FND acts as the recipient of funds and is in charge of executive tasks.

Section 1.4, above, described the TI's skillful construction of a discourse linking tax increases with ICT and significantly overstating both the level of ICT and the impact of higher taxes on it. As a consequence, this argument is widely accepted within the government, media, and public opinion. The resulting misrepresentation of the impact of tobacco taxes and ICT on tax revenues discourages subnational authorities both at the local level (department governors) and the national level (members of Congress), making it difficult for Congress to substantially increase tobacco taxes.

Tobacco tax administration, enforcement, and penalties bring other institutions into play: in particular, the national customs authority (DIAN),[33] customs police (POLFA),[34] Financial Information and Analysis Unit (UIAF),[35] and the Superintendence of Industry and Commerce (SIC). DIAN is responsible for collecting the tobacco tax at borders. Also, in joint work with POLFA, they are in charge of ICT seizures all over the country. UIAF collects information to identify illegal flows of money and money laundering. At the end of the enforcement process is Colombia's Office of the Attorney General,[36] whose main role on ICT is to impose penalties on people and organizations involved in the illegal trade. At the MoF, the tax administration advisory division (DAF) oversees the tax administration performance of subnational

[30] Article 7 Law 1393/2010 and Article 211 Law 1819/2016.
[31] For further details, see ruling C-958/99 by the Constitutional Court, República de Colombia.
[32] Concept Note 5293, 2012 of the Office of the Inspector General of Colombia (Contraloría General de la Nación).)
[33] Dirección de impuestos y Aduanas Nacionales.
[34] Policía Fiscal y Aduanera.
[35] Unidad de Información y Análisis Financiero.
[36] Fiscalía General de la Nación.

authorities. Finally, the Ministry of Foreign Affairs is an important actor on ICT, because it is in charge of international treaties, including the FCTC. At present, this ministry has the pending task of submitting the Protocol to Congress to obtain its ratification.

2.2 Legal Framework

Colombia has benefited from a set of reforms that improve harmonization of customs management, including features such as a comprehensive risk management perspective, cooperation between the customs agency and sub-national authorities, non-intrusive inspection, infrastructure improvements, and coordinated actions across border areas,[37] as well as new regulations on procedures, sanctions, and institutional mechanisms. This section explains some relevant aspects of these reforms.

Law 1762/15 (also known as the Anti-Smuggling act) is the current legal framework in Colombia for illicit trade control. Its main contribution is to include smuggling activities within the legal framework for money laundering in Colombia. This law also boosted penalties for smuggling and strengthened institutions involved in the control of illicit trade, including POLFA, DIAN, and UIAF. The law also unified the sanctions imposed for evasion of the tobacco tax, overcoming previous limitations caused by the lack of coordination of penalties among departments. The law represents an important milestone for ICT, because it recognizes legal and institutional factors as the main drivers of illicit trade, and it provides tools for extending law enforcement activities in order to improve control of illicit trade in border areas.

Since 2014, another advance in the legal framework is Decree 2155/2014, which established the technical standards for non-intrusive inspection and created an intersectoral commission for implementation and monitoring of these procedures.[38] Although the foundation for non-intrusive inspections was laid out several years earlier with Decree 1520/2008, the adoption of technologies and standard procedures became a reality when the commission was put in place. The commission's responsibilities include the coordination and provision of guidelines for procurement activities and the non-intrusive inspection system. DIAN is responsible for the technical secretariat functions.[39] One of its accomplishments is the adoption of a manual with detailed procedures for international trade operations, including imports. This first manual covers inspections at sea ports. Later versions will address procedures in border posts and airports.[40] Ports in Colombia are managed through concession contracts. In some cases, such contracts already include an obligation to acquire non-intrusive inspection technology. In other cases, this is a voluntary option for the concessionaire.[41]

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[37] The border act, law 191/1995 also set the general framework to establish cooperation with neighbor countries to fight illegal activities.
[38] *http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=59857*
[39] The operation of the commission is defined by Resolución 247/2014
[40] Resolución 84/2015
[41] Circular externa 051/2017 from the Superintendence of Ports and Transportation.

The most recent modification to the customs regulatory framework is Decree 349/2018. It modifies a previous norm, Decree 390/2016, and advances in a process that started with the Customs Act (Law 1606/2013) and that has consistently enhanced the capacity of government agencies responsible for control of international trade operations to act more strategically against the activities of criminal organizations.

Law 677/2001 established the regulatory framework for "Special Economic Export Zones." One of these, in La Guajira, plays a prominent role in the illicit trade of cigarettes directed to the domestic market, and possibly to neighboring countries, such as Ecuador. It is worth mentioning that, although the smoking population in La Guajira represents less than 6 percent of cigarette consumers in the country, a significant proportion of cigarette imports in official records declare this department as their destination. According to Bonilla et al. (2015): "The critical spot for smuggling is the Special Customs Zone in Maicao (Guajira) [...] More than 90 percent of smuggled cigarettes enter through this area." Article 18, Paragraph 2 of this law assigns departments full responsibility to control excise tax payments.

Maicao is not the only problem area. Both the departments of La Guajira and Norte de Santander face many difficult governance challenges that require a careful and better-informed approach. Recently, control agencies have identified Urabá as a new route for smuggled cigarettes. Identification of the driving forces of corruption and other institutional weaknesses in these territories is necessary to determine the path for a successful illicit trade policy.

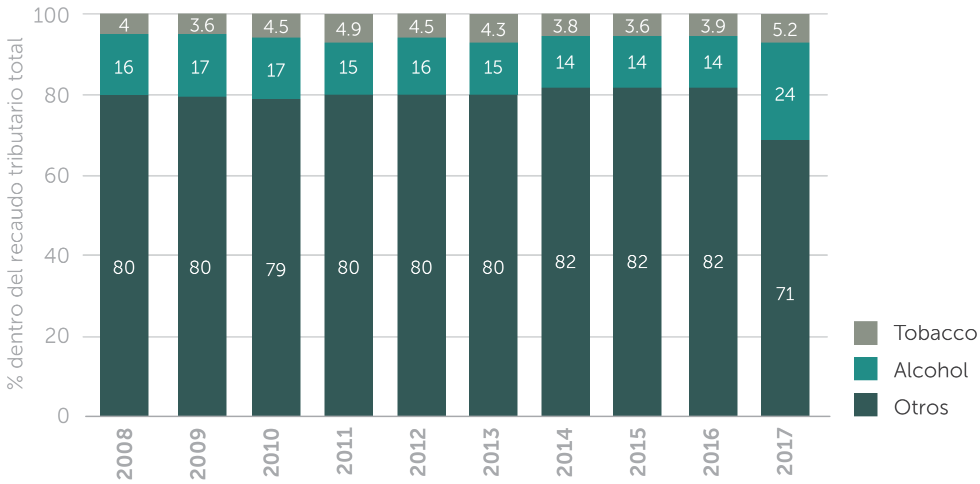
Colombia's National Development Plan 2011-2014 foresaw a Unified Tracking and Tracing System (SUNIR),[42] and in 2012, a policy document[43] supporting decree 602/2013 offered guidelines to develop SUNIR. The system was intended to improve coordination and efficiency in the management of excise taxes for alcohol and tobacco products. Unfortunately, despite attempts to develop the initiative, as of 2018 the country still does not have an information system with the technical specifications described in CONPES 3719 and in guidelines for implementation of the Protocol to Eliminate Illicit Trade of Tobacco Products. SUNIR was included as one of the strategies in the current National Development Plan, but without stating which entity would be responsible for it.

2.3 Administrative Mechanisms

Tobacco taxes represent a very small fraction of tax revenues for subnational entities, as shown in Figure 9. However, for some departments, especially those with the weakest tax structures, this is an important source of funds. Usually these are areas with relatively low smoking prevalence, thus the importance of tobacco taxes in such cases is better explained by the lack of alternative sources of revenue that are typically present in regions with a more developed economy. The institutional limitations are not unique to tobacco tax administration. In fact, the Expert Tax Commission appointed by the Santos administration to provide recommendations

[42] Law 1450/2011.
[43] Conpes 3719/2012.

Figure 9. Tobacco Tax As a Share of Departments' Total Tax Revenues (2008-2017)



Source: based on subnational entities' reports to CHIP – the national accountancy information system.

for the recent tax reform reiterates the need to establish a unified tax act for the subnational entities to eliminate inefficiencies both for the authorities and for tax payers.

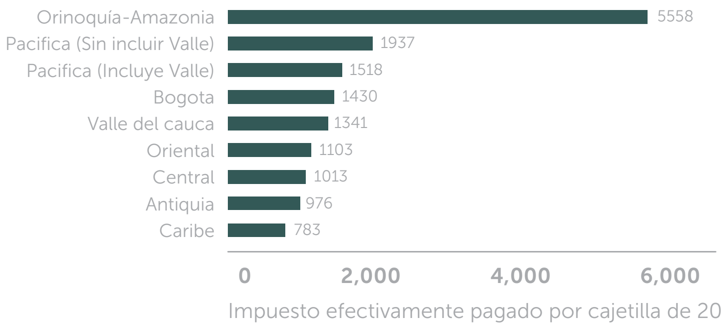
One indicator of the efficiency of tax collection is the effective revenue per pack. Figure 10 shows the results obtained from the ratio between tax revenues in 2016 and the number packs in each region.[44] Departamentos with border trade activity, like Amazonas, will have much larger revenue, probably from sales destined to the Brazilian market, where prices are higher. Setting aside that observation, it is clear that some regions are doing a better job than others. On average, a 20-stick cigarette pack would have yielded COP$ 1000 (USD$ 0.03) in revenue in 2016 (COP$ 701 specific plus COP$ 300 from the ad valorem). Regions with ratios below that reference value are Antioquia and Caribe, which are also regions with more frequent complaints about illicit trade of cigarettes and a history of other illegal activities related to organized crime.

Currently, the information system is administered by FND. This institution has sparked controversy regarding control of its activities and contracting procedures. FND manages taxes through the "Fondo Cuenta,"[45] administered by a fiduciary contract with the consortium FIMPROEX. This mechanism has been in place since January 2010. However, Fondo Cuenta covers only one part of the operations related to the tobacco product market.

[44] The number of packs is calculated based on the most comprehensive consumption survey, Encuesta de Calidad de Vida, that provides information on number of smokers per region and frequency of consumption. The consumption intensity indicators used are derived from a previous survey, the Psychoactive Consumption Study, 2013.

[45] This fund was created by article 224, Law 223/1995, to handle the revenues generated by excise taxes on imported goods, including tobacco products.

Figure 10. Effective Revenue per 20-Cigarette Pack by Region (2016)



Source: based on data from CHIP, Encuesta de Calidad de Vida 2016, Estudio de Sustancias Psicoactivas 2013.

Domestic cigarette sales must be reported directly to departments. In the past, this has been implemented through private suppliers that offer information systems to register sales of goods subject to excise taxes (including cigarettes). There is no obligation for departments to use the same system. The official documentation to prove the legality of merchandise is a certification (tornaguía), that declares point of origin and destination. It has been proposed to replace this certification by electronic invoicing, but this is not yet implemented. Currently, the dispersion of control mechanisms across departments, limited development of standards for inspection procedures, and the division between controls for imported and domestic cigarettes create inefficiencies and risks that can be exploited by those seeking to evade taxes.

TOBACCO INDUSTRY INTERFERENCE

The cooperation and investment agreement signed between PMIColtabaco, the Republic of Colombia, and the departments covers specific activities regarding illicit trade. These include:

1. Purchasing and maintaining equipment
2. Training personnel
3. Storing and destroying seized cigarettes
4. Developing educational campaigns
5. Providing financial resources for production control mechanisms.

Under the agreement, FND is required to present reports to PMI-Coltabaco. Worryingly, the arrangements give the company the opportunity to influence budget allocations and decisions relating to the control of ICT. Other aspects of the current situation also raise concerns. For example, in 2016, FND initiated a contracting process to implement a unified information system. However, according to personal communications with tax authorities, even though a provider had been selected, the system is not yet operating.

It is clear that the current tools for tracking and tracing do not reflect best practices, at least in the following respects:

Data security and integrity: the information available to subnational tax administrations is fragmented and at times misleading. Most importantly, with the data currently available, it is difficult to prove noncompliance. For instance, fiscal authorities do not have clear information about the volume and place of origin of cigarettes. Cigarette packs are not labeled individually, and the codes used are those of the manufacturer.

Independent production controls. Existing information systems do not give relevant stakeholders enough information to establish the volume of tobacco products flowing from source to final destination. The controls are based on manual procedures, not machine-readable identifiers. They rely on the accuracy of information provided by the taxpayer.

Authentication mechanisms. Currently the tobacco industry is the only source of information used by the authorities to establish if a tobacco product is genuine. Also, the documentation to support the legality of the merchandise (tornaguias) in highway control posts is easy to reuse. Cases of such abuse have been reported, and an expert commission has recommended a change to newer technologies.

Such dependence on the tobacco industry in the identification of illicit products falls far short of the standards called for in the Protocol, which notably includes the following language:

> *Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law; [...]*
>
> *[Parties must] be alert to any efforts by the tobacco industry to undermine or subvert strategies to combat illicit trade in tobacco products [...];*
>
> *Obligations assigned to a Party shall not be performed by or delegated to the tobacco industry. Each Party shall ensure that its competent authorities, in participating in the tracking and tracing regime, interact with the tobacco industry and those representing the interests of the tobacco industry only to the extent strictly necessary in the implementation of this Article.*

3. Conclusions and Recommendations

3.1 Lessons Learned

Colombia has recently increased its tobacco taxes substantially. The country's 2016 tax reform defied partisan warnings from the tobacco industry about spiking ICT and marked a historic step in the defense of the nation's public health. However, when compared to other countries in the region, Colombia's tobacco tax levels remain below average. Colombia is far from having taxes high enough to control its tobacco epidemic. The country's health leaders continue to advance the anti-tobacco fight.

Among recent efforts on ICT by national and subnational institutions, three in particular appear pivotal. First, the modernization of customs regulation by DIAN is already paying off in terms of institutional capacity to confront the renewed force of criminal organizations using illicit trade as part of their operations. Second, a monitoring and evaluation initiative has been launched to provide authorities with reliable, impartial information on interactions among tax increases, tobacco consumption, and ICT. This initiative originated with Colombian civil society, generating evidence that was subsequently used by the MoH to shape policy.[46] More recently, the MoH has championed including a question on tobacco use prevalence in a national survey. This will provide annual nationwide data on trends in tobacco market size.[47]

It is important to emphasize, based on the Colombian experience, that ICT monitoring and evaluation must not be limited to conventional indicators. An integrated approach incorporating different dimensions of tobacco control is required. That means monitoring consumption, supply, prices, violations to labeling and packaging regulations, characterization of distribution channels, and price information at different stages of the distribution chain. All this must be in addition to standard metrics on seizures. Because of the illegal nature of ICT activities, qualitative methods provide useful explanations and inform the analysis of the quantitative data, and should be included in the monitoring and evaluation strategy.

A third key point regarding Colombia's recent ICT control efforts is the following. Some subnational authorities demonstrate that it is possible to maintain low illicit trade penetration rates in the context of a significant tax increase. The asymmetries observed in this indicator reflect uneven institutional capacities across the national territory. Comparison of subnational results can be used to motivate and guide interventions to address these performance gaps.

3.2 The Way Forward: Action Steps

Looking ahead, a next key step for Colombia is to secure congressional approval of the Protocol, followed by ratification with the Treaty Section of the United Nations Secretariat. At the same time, it is necessary to develop national and subnational capacities for implementation. For the latter, issues related to tobacco tax policies per se must be understood as part of a larger conversation about the improvement of subnational tax management

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[46] The MoH also rapidly disseminated this evidence to decision makers in other institutions and sectors. This has helped counteract TI attempts to misinform stakeholders and create the perception of a failed and unsustainable tax policy.

[47] That said, Colombia still badly needs more detailed measurement of its tobacco epidemic to better understand smokers' behavior and provide evidence for future policy design, including illicit trade control. For instance, since 2012, the MoH has planned the Global Adult Tobacco Survey (GATS), but the decision to perform the study remains stalled. Colombian authorities continue to rely heavily on TI data to assess tobacco consumption and ICT.

capacity. This involves governance challenges related to coordination between institutions at the national and subnational level and across sectors. The conversation should include government and non-governmental actors with responsibilities to promote transparency and improve governance, largely absent from tobacco control discussions in Colombia to date. Specific steps for Colombia to develop relevant capacities include the following:

1. Develop a strategy to promote a unified excise tax management system to reduce coordination costs and improve operational efficiency and transparency. One path already established is the commitment in the National Development Plan to adopt the SUNIR system. This pledge has not yet been fulfilled. It is imperative that, after ratification of the Protocol, the next administration appoint a national-level authority to develop and deliver SUNIR. Current discussions in Latin America about adoption and implementation of the Protocol provide the opportunity to exchange information with neighboring countries on the required technology and procedures. Emerging innovations may reduce contracting costs and institutional efforts, improving synergies for international cooperation.
2. Despite the inherent challenges of monitoring an illicit activity such as ICT, Colombia has started to generate ICT evidence through collection of better data, independent estimates, articulation of different sources of information, and preliminary evaluation exercises. The country should pursue this critical effort. Ultimately, Colombia's ICT policy should be based on evidence meeting the World Bank's minimum quality requirements for inputs to policy design (Ross 2015; Yurekli, Beyer, and Merriman 2001).
3. An important positive experience in Colombia is the improvement in independent information available to diagnose and analyze illicit trade. The government should reflect such independently generated knowledge in its routine policy monitoring. Leaders should plan and budget for activities and resources to further advance reliable monitoring and evaluation.
4. Establish formal mechanisms to ensure participation of legitimate representatives of the research community (academia) and civil society in institutional structures established for policy debates on illicit trade. These structures include the High Commission Against Illicit Trade. It is vital to tap into academic and civil society expertise in tobacco control and related illicit trade issues.
5. Even in a country with a history of TI involvement in illegal activities, including a well-established case of illicit trade in the 1990s, most stakeholders still tend to regard the TI as a partner and the first source of information and technical advice on ICT issues. Thus, significant efforts are needed to inform national and subnational stakeholders about international evidence on TI involvement in illicit trade activities. Improved communication is needed to raise awareness of the FCTC, the Protocol, and the need to prevent direct or indirect TI interference in policy processes. Moreover, Colombia's information system for tobacco-related data (including on topics other than ICT) must draw much more strongly on data that does not come from industry sources. Relevant institutions

must also strengthen their capacity to verify the reliability of any remaining data that continues to be derived from the TI.

6. Other procedures to counteract TI interference include requiring a comprehensive explanation of the methodology of TI-funded studies, when they are presented to the authorities.
7. Programs against cigarette smuggling at the subnational level should not be funded or receive technical cooperation from the TI. Some of the conditions in the current cooperation agreement between PMI-Coltabaco and various public-sector authorities provide PMI with influence over the use of resources for tobacco control, a circumstance that is not consistent with the commitments of the Colombian State under the FCTC (Article 5.3).
8. A national-level coordinating authority should be established to manage all information about domestic tobacco production, international trade, tax revenues, prices, sales, and consumption trends. This agency should also be in charge of outlining plans for international cooperation. It is not appropriate to maintain the current fragmentation of responsibilities in the strategic management of tobacco taxation and illicit trade. The role played so far by the FND does not fulfil the necessary conditions. It is also worth noting that the usual controls in place for public servants do not apply to FND, making it a liability in terms of governance conditions. The scope of FCTC 2030, which currently incorporates an objective related to establishment of a National Coordinating Mechanism, provide an opportunity to consider these issues in the discussions about specific institutional designs.
9. The MoH should continue its effort to offer training to agencies outside the health sector that bear responsibility for inspection activities, in particular, members of POLFA. Training should include relevant updates on sanitary regulations, specifically health warnings, the list of brands approved by the packaging and labeling committee, and guidelines for implementation of Article 5.3 to prevent tobacco industry interference.
10. Subnational authorities must undertake consultations with the MoH to verify FCTC compliance, when developing any intervention related to tobacco taxation.
11. Advances in the definition of legal penalties must be accompanied by publicly available information on performance indicators for the implementation of sanctions. A specific case that requires improvement in coordination and policy-objective harmonization is the engagement of the Superintendence of Industry and Commerce to improve point-of-sale controls and the imposition of penalties according to the law. The magnitude of fines (particularly in relation to the minimum wage) needs to be adjusted so that wholesalers and established retailers face penalties that are more than trivial in relation to their sales and profits from tobacco products.

12. Improving transparency on tax revenue may help identify the weakest areas of tax administration and focus authorities' efforts on those areas. Learning about tax-collection performance across regions may help in identifying champions and encourage information sharing about successful strategies.
13. Development policies under Agenda 2030 may identify local multisectoral interventions to optimally manage informal channels that distribute both licit and illicit cigarettes. This is a common situation in Colombia, as in other Latin American countries.

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"To tackle illicit trade is to tackle accessibility and affordability of tobacco products, to be more effective on the control of the packaging and to reduce funding of transnational criminal activities whilst protecting the governmental revenues from tobacco taxation." [i]

– Dr. Vera Luiza da Costa e Silva
Head of the Secretariat of the WHO Framework Convention on Tobacco Control

"Governments around the world must waste no time in incorporating all the provisions of the WHO Framework Convention on Tobacco Control into their national tobacco control programmes and policies. They must also clamp down on the illicit tobacco trade, which is exacerbating the global tobacco epidemic and its related health and socio-economic consequences." [ii]

– Dr. Tedros Adhanom Ghebreyesus, Director-General
World Health Organization

"Tobacco still remains the biggest avoidable cause of premature death in the EU, and the illicit trade in tobacco facilitates access to cigarettes and other tobacco products, including for children and young adults. In addition, millions of euros in tax revenues are lost every year as a result of the illicit trade. [iii]

– Commissioner Vytenis Andriukaitis
Health and Food Safety / European Commission

"Given their light weight, small size, and high value, tobacco products are susceptible to fraud through illegal trade, production, and cultivation. . . Illegal trade is a context-specific activity that has various modus operandi and therefore requires multi-dimensional context-specific solutions." [vi]

– Patrick Petit (Senior Economist) & Janos Nagy (Senior Economist)
Fiscal Affairs Department / International Monetary Fund

"Effective tobacco tax regimens that make tobacco products unaffordable represent a 21st century intervention to tackle the growing burden of noncommunicable diseases. We are convinced that, working together with WHO and other partners in support of countries, we will be able to prevent the human tragedy of tobacco-related illness and death, and save countless lives each year." [v]

–Dr. Tim Evans (Senior Director) & Patricio V Márquez (Lead Public Health Specialist)
Health, Nutrition and Population Global Practice / World Bank Group