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EN

Combating the illicit trade in tobacco in the EU

Fragmented efforts and persistent gaps

EUROPEAN
COURT
OF AUDITORS

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Main messages

Why this area is important

01 The illicit trade in tobacco products is a global criminal phenomenon which affects the financial interests of the EU and its member states. The Commission estimates annual losses of €13 billion in the budgets of both the EU and its member states.

02 By offering cheaper tobacco products, this illicit activity also undermines health policies designed to reduce the population of smokers and exposure to tobacco smoke. This low-risk criminal activity also provides a significant source of income for organised crime groups, thereby posing risks to EU security.

03 The landscape for the illicit tobacco trade has changed significantly in recent years. While smuggling remains a problem, illicit tobacco production has grown across the EU, with illicit manufacturing sites detected in almost all member states. In addition, there is a growing number of new products on the market, particularly those that appeal to younger consumers.

04 Over the past decade, the EU and its member states have taken a series of measures to combat this illicit activity. These include the adoption of an EU strategy to fight illicit trade in tobacco products (2013), accompanied by two action plans (2013, 2018), the revision of key legislative provisions and strengthening law enforcement cooperation. At international level, the EU and its member states have also ratified and implemented the World Health Organization's (WHO) Framework Convention on Tobacco Control (FCTC) and the EU and 19 member states have ratified the Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol).

05 The objective of this audit was to assess the effectiveness of the action taken by the Commission and the member states to combat this illicit trade. We examined the intelligence framework used to collect data on this phenomenon, how the member states' customs authorities design and implement controls and cooperate to detect and combat the trade, the Commission's policy and monitoring framework, and how the Commission supports various measures to combat it.

06 The audit covered the period between 2023 and 2025. Our auditees were the Commission (the Directorate-General for Taxation and Customs Union – DG TAXUD – and the European Anti-Fraud Office, OLAF) and the competent national authorities in four member states (Belgium, Spain, Poland, and Romania). We selected these member states based on the available information on seizures, illicit production facilities, trafficking routes and geographical distribution. We also conducted a survey of competent authorities in all of the member states that we did not visit. ***Annex I*** provides more background information and details on our audit scope and approach.

07 In 2023, the Commission reaffirmed that fighting the illicit trade in tobacco is and will remain its priority[1]. We expect that our observations will provide additional insights to better shape the EU's response to the illicit trade in tobacco products for both the Commission and member states, and strengthen cooperation with a view to improving the effectiveness of efforts to combat it.

What we found and recommend

08 Overall, we found that Commission and member state actions to combat the illicit trade in tobacco products were not sufficiently robust in terms of clarity of priorities and EU level coordination. Despite the efforts that have been made, this phenomenon continues to pose an ongoing and complex challenge for the EU.

09 Our audit shows that information on the illicit tobacco trade is fragmented at EU and member state levels, and the Commission lacks comprehensive data to estimate the size of the market, its structure and its economic impact. Member states' action is limited by weaknesses and gaps in the current EU regulatory framework and by a fragmented distribution of roles between the different players involved. Moreover, national approaches to combat this illicit activity differ and, cooperation gaps remain. The EU's contribution to combat the illicit trade in tobacco is fragmented and the current approach

[1] Commission Staff Working Document – Outcome on the implementation of the 2nd Action Plan to fight the illicit tobacco trade. SWD(2023) 409.

lacks clear priorities. Finally, the Commission has so far not carried out any systematic assessment of the impact of EU and member state measures to combat this issue.

The scale, structure and economic impact of the illicit trade in tobacco at EU level are unknown

10 Our audit shows that despite the Commission's efforts, there are still shortcomings in the collection, quality and use of data on the illicit tobacco trade. Several EU players (the European Union Agency for Law Enforcement Cooperation (Europol), DG TAXUD and OLAF) collect information on different aspects of the illicit trade from member states, resulting in a fragmented intelligence picture at EU level (paragraphs ***17***-***24***).

11 Moreover, there is no reliable estimate of the size of the overall illicit tobacco market or of its economic impact within the EU, whether at Commission or at member state level. Although the Commission's reporting exercise has improved, available data is largely based on seizures and therefore does not provide a full picture of the situation (paragraphs ***25***-***33***).

Recommendation 1

Provide a comprehensive and timely overview of the market for illicit tobacco products in the EU

The Commission should:

(a) improve intelligence sharing among the players involved in combating the illicit trade in tobacco products, ensuring that OLAF has access to the information and data necessary to perform effective anti-fraud analysis;

(b) issue further guidance to member states to promote the provision of consistent, complete and accurate data in a timely manner and support member states in developing automated electronic transfers of illicit trade in tobacco data; and

(c) in cooperation with the member states, establish a robust and harmonised approach to regularly estimate and monitor the size and economic impact of the illicit tobacco market in the EU, based on the methodologies proposed in relevant Commission studies.

Target implementation date: 2029

Cooperation and information exchange between member states is uneven and national approaches to combat the illicit trade in tobacco differ

12 We found that member states' efforts to combat the illicit trade in tobacco products are uneven and EU law is not yet fully harmonised. The EU regulatory framework gives member states the discretion to adopt measures to combat the illicit tobacco trade, leading to enforcement gaps across the EU that organised crime groups may exploit (paragraphs ***35***-***39***). Furthermore, discrepancies persist in national control systems, reflecting differences in the legal and administrative landscapes The organisation of competences, priorities and technical capabilities varies significantly between member states. This adds to the complexity of the fight against the illicit trade in tobacco in the EU and increases the risk of an uncoordinated response (paragraphs ***40***-***50***). In addition, the definitions of tobacco-related offences and the severity of applicable penalties varied (paragraphs ***51***-***54***).

13 We also identified gaps in cooperation and information exchange between member states. The use of two communication channels varies between member states, and the timeliness and quality of information exchanged are inconsistent (paragraphs ***55***-***66***). Moreover, most member states have voluntary agreements with the tobacco manufacturers, which raises concerns regarding transparency and compliance with the requirements of Article 5.3 of the FCTC (paragraphs ***67***-***72***).

Recommendation 2

Further support member states' efforts to combat the illicit trade in tobacco products

The Commission should further support member states' efforts by:

(a) clarifying to member states the specific legal framework and operational purpose of the existing EU communication systems available for information exchange;

(b) strengthening cooperation among the competent national administrations by encouraging complete, timely and accurate information exchanges; and

(c) raising awareness on safeguards required in the interactions with tobacco manufacturers, and promoting compliance with the transparency and integrity provisions of the Framework Convention on Tobacco Control.

Target implementation date: 2028

The EU's contribution to combat the illicit trade in tobacco products is fragmented, lacks clear priorities and its impact is not assessed

14 In the EU, responsibilities to combat the illicit trade in tobacco products are shared between several players. While there is a coordination mechanism of joint operations carried out by the Council Law Enforcement Working Party – Customs (LEWP-C), there is no single entity having the competence to exercise an overall coordinating role. This has contributed to a fragmented landscape of EU initiatives, which risk overlapping, thus increasing the administrative burden (paragraphs *75*-*83*).

15 The Commission supports the member states in combating illicit trade mainly through operational activities, but does not monitor the implementation or assess the impact and effectiveness of EU actions. This approach lacks clear priorities. (paragraphs *84*-*102*).

16 Lastly, OLAF manages both agreements with the tobacco manufacturers. So far, it has not carried out a comprehensive assessment of the impact of the EU's agreements with the tobacco manufacturers (paragraphs *103*-*108*).

Recommendation 3

Strengthen the EU approach to combat the illicit trade in tobacco products

The Commission should take a more active role in combating the illicit trade in tobacco products. In particular, it should:

(a) define strategic objectives and clear priorities in coordination with the competent EU bodies involved in the anti-fraud architecture, based on a coherent and forward-looking approach, while maintaining flexibility to be able to respond quickly to emerging risks;

(b) assess whether the EU's agreements with the tobacco manufacturers should be renewed upon their expiry; and

(c) regularly assess the impact of EU and member state measures in this area and use the results to adjust its actions.

Target implementation date: 2029

02

A closer look at our observations

The scale, structure and economic impact of the illicit trade in tobacco at EU level are unknown

17 Both EU entities and member states are required to counter fraud and any other illicit activities that affect the financial interests of the EU[2]. To protect the EU's financial interests and develop effective approaches to combat the illicit trade in tobacco products, it is important to have a clear understanding of the size of the market and its economic impact. We examined whether the Commission had an appropriate intelligence framework for collecting reliable data and whether it used this framework to target operational activities and policy decisions.

Fragmented information and reporting create an incomplete picture

18 There are no EU legal provisions which make it compulsory for member states to collect comprehensive data on the illicit trade in tobacco products. This means that all data collected from member states is provided on a voluntary basis.

[2] Article 325(1) of the Treaty on the Functioning of the European Union (TFEU).

19 During our audit, we found that various EU players collect information and report on the illicit trade in tobacco using different methodologies and reporting practices:

- Firstly, information on illicit production facilities, in terms of their capacity and the types of tobacco products, is collected by Europol[3] to support member states, mainly through European Multidisciplinary Platform Against Criminal Threats (EMPACT) activities.

- Secondly, DG TAXUD annually prepares a customs union performance (CUP) report, which includes a specific section on illicit cigarettes and tobacco. The CUP report details the annual quantities of illicit tobacco and cigarettes seized by national customs authorities, whether acting alone or in cooperation with other authorities. The reported quantities of illicit tobacco and cigarettes are broken down by mode of transport and location (whether at an EU external border or inland). The CUP report provides detail about how customs authorities combat the trade in illicit tobacco, supported by the number of seizures. It also provides insight into related trends.

- Thirdly, OLAF analyses and regularly presents data on tobacco seizures to the member states, mainly in the expert group on the Fight against Illicit Trade in Tobacco. This expert group is composed of representatives from EU member state authorities, mostly customs, and is headed by OLAF, which advises the Commission on the illicit tobacco trade, particularly cigarette smuggling.

20 OLAF collects its data on tobacco seizures from member states using three different sources (***Box 1***). In relation to illicit tobacco production, however, we found that the data collected by OLAF also refers to the total number of illicit production facilities detected.

[3] Regulation (EU) 2016/794.

Box 1

Data on seizures reported to OLAF

AFIS platform
Anti-Fraud Information System platform

Annual report on statistics	**CIS+*** Customs Information System	**TOSMA*** Tobacco Seizure Management Application
Most **comprehensive** data source by providing **information on all seizures**, including a breakdown by product type (cigarettes, roll-your-own, raw tobacco and other products) and brand.	Best **investigative potentialities** by providing more information related to a **specific seizure** (e.g. data on persons and companies involved, modus operandi, location, route). Only source of information on active investigations.	Suitable only to report **seizures** of tobacco products covered by the **tobacco agreements in place**. Only source of information to differentiate between genuine or counterfeit seizures.
Annual reporting *No limits*	**Ad hoc reporting** *(at least 100 000 cigarettes)*	**Ad hoc reporting** *(50 000 cigarettes)*

** Both CIS+ and ToSMA are modules integrated in the AFIS platform managed by OLAF.*

Source: ECA, based on Commission document.

21 Overall, we consider that the Commission had improved how intelligence had been gathered in recent years. It has provided guidance notes and templates to national authorities to clarify definitions and standardise practices in their data collection processes. Nevertheless, shortcomings in terms of completeness, inconsistent level of detail and the quality of data collected across member states continue to affect the consistency of analysis at EU level. For example, it cannot be excluded that in the Commission's annual reports, some seizures reported in a given year referred to seizures made in the preceding year.

22 The Commission has taken steps to assist member states in their reporting efforts and has developed possibilities for the automated transfer of data from member states. However, at the time of the audit (October 2025), there was no automated electronic system to transfer all illicit traffic in tobacco data from national systems to EU-level systems.

23 OLAF has reinforced its data analysis capacity to improve intelligence. In particular, it has developed an analytical platform (Fraud AP) to support data analysis and intelligence. This fraud platform is used by OLAF and member state authorities to prevent and detect customs frauds, including the illicit trade in tobacco products. Moreover, a specific team was created to deal with the Anti-Fraud Information System (AFIS) and customs analysis matters. However, there are still gaps in access to data needed to fight the illicit tobacco trade effectively. In particular, OLAF does not have access to Import Control System 2 (ICS2) data, but DG TAXUD does. Given OLAF's mandate, this data could be used to better support its investigative needs by allowing suspicious consignments to be targeted and enabling quicker responses. This would enhance the prevention and detection of this illicit activity.

24 Overall, we observed a dispersed and fragmented intelligence picture at EU level which may create gaps in intelligence and a duplication in reporting seizures for member state authorities.

The Commission lacks a reliable EU-wide estimate of the illicit tobacco market, its structure and its economic impact

25 Under Article 325 TFEU, and in view of its responsibility to safeguard the EU's financial interests, the Commission should have an effective response to combat the illicit trade in tobacco. This includes estimating the size of the illicit tobacco market, its structure, and its economic impact as a solid basis to understand the magnitude of the problem. We assessed the information available to the Commission and its analysis in this regard.

26 Estimating this illicit tobacco market is a challenge in terms of methodology since, by its very nature, it is an illicit and clandestine activity. To address this, the Commission carried out a study to develop a reliable, robust, replicable and independent methodology that could be applied by both Commission and member state authorities. The 2020 Commission study noted that a combination of methodologies should be considered to be able to estimate the market. It proposed several methodological options, corresponding to different levels of resources.

27 Since then, the Commission has not produced an independent estimation of the size of the market, its structure, or its economic impact. However, the Commission's 2020 study did refer to other studies, including an annual KPMG report and the results therein. This report, which is commissioned by a tobacco manufacturer, estimates the scale and development of the market in 38 European markets, including all of the EU member states.

We noted that several stakeholders[4] scrutinised and were critical of the report, and it should therefore be interpreted with due caution.

28 From 2023 onwards, OLAF has improved its own annual reporting to the expert group on the Fight against Illicit Trade in Tobacco (paragraph ***19***) by:

- breaking down tobacco products by category,
- including new products (e.g. water pipe, heat-not burn), and
- speeding up the reporting process.

29 Meanwhile, the data used by OLAF to provide an indication of trends in the market structure is mainly based on seizures carried out in previous years. This seizure data alone does not, however, present a complete and timely picture of the overall size of the market.

30 Our survey results showed that four member states had official data to estimate the size of the illicit tobacco market, while others relied on industry-funded studies, such as the KPMG report. Moreover, the member state authorities we visited stated that there should be an EU-level estimation in terms of the size of the market, one which would be independent of any influence from the tobacco industry.

31 Our audit also showed that there is currently no comprehensive and robust assessment of the financial impact of the illicit trade in tobacco products in terms of lost tax revenues. OLAF's annual reports provide figures on the financial impact of the illicit trade in tobacco (related to operations in which OLAF has participated), but do not estimate the overall damage caused by lost tax revenue in the EU. According to the 2025 OLAF report, its activities in this field led to seizures of just over 427 million illicit cigarettes worldwide, with 219 million cigarettes confiscated at the EU's external borders. OLAF also helped seize 411 kilos of raw tobacco, and 53.6 kilos of water pipe tobacco. OLAF's work in this area prevented the loss of over €178 million to the EU and national budgets. Recent DG TAXUD documents[5] provide estimates of lost tax revenues based on external studies (€13 billion in 2023), but these estimates must also be interpreted with caution. In 2024, in its reply to a parliamentary question, the Commission confirmed that it did not have information on the financial losses suffered by individual member states as a result of this illicit activity.

[4] White paper legacy Book on Tobacco. European Parliament, 2024.

[5] Commission Staff Working Document - Impact Assessment Report. SWD(2025) 560.

32 We take note that the Commission has launched a specific study to address key methodological issues in estimating the tobacco excise gap. The goal is to produce reliable estimates that can clarify what drives the gap, including illicit trade.

33 Overall, we consider that estimating the size of the illicit tobacco market and its economic impact would provide the basis necessary to understand the magnitude of the problem, design appropriate responses and measure the impact of actions carried out to combat this trade. However, we note that there is currently no independent and reliable estimation of the scale, structure and economic impact of the illicit tobacco market in the EU, nor a comprehensive assessment of its financial impact in terms of lost tax revenues.

Cooperation and information exchange between member states is uneven and national approaches to combat the illicit trade in tobacco differ

34 Member states' customs authorities are on the front line in terms of preventing the illicit movement of goods, detecting the cross-border movements of illicit tobacco products and the presence of illicit factories. They therefore play a central role in protecting the EU's financial interests and ensuring its security. We assessed how member states' customs authorities set up controls and cooperate with other national authorities and stakeholders to detect and combat the illicit trade in tobacco.

EU regulatory gaps allow different national approaches

35 A primary source of the different approaches among member states arises from the EU framework itself. We found that EU legislation was not harmonised in terms of the key inputs used in tobacco product manufacturing, in particular, raw tobacco and production machinery. We also found that there was no harmonisation either relating to new types of tobacco products (such as new heated tobacco products and liquids for e-cigarettes) or for the online sale of tobacco products. Raw tobacco and production machinery fall outside the scope of the Tobacco Products Directive[6] and therefore lack EU-wide standards and traceability requirements; new tobacco products are only partially regulated and

[6] Directive 2014/40/EU of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

member states have discretion over online sales. These regulatory gaps risk facilitating the illicit trade and creating uneven market practices.

36 A key driver of illicit manufacturing is the poor control of the raw tobacco supply chain. In fact, the current EU framework allows discretion for member states to adopt measures to combat the illicit trade in tobacco. All of the customs authorities we visited raised concerns about the lack of EU-level harmonisation, emphasising that it created significant enforcement gaps and limited the effectiveness of the EU's efforts in combating this illicit activity. They highlighted, in particular, the absence of harmonised rules on raw tobacco and other key inputs (such as production machinery, cigarette paper, cigarette filters, flavourings and packaging materials) as a vulnerability that can be exploited for illicit manufacturing.

37 Our survey results indicated that while the majority of member states had introduced measures to regulate the key inputs for tobacco manufacturing, their focus and approaches vary greatly. According to survey respondents, measures to regulate raw tobacco are more common and often take place through customs and excise frameworks. However, these remain uneven across the EU, with several member states applying only limited or general import rules rather than specific monitoring or registration requirements. In many member states, there is still a lack of regulation concerning the purchase and licensing of production machinery. As regards the member states visited, Spain, Poland and Romania have so far introduced national provisions which regulate these areas to varying degrees. However, the visited competent national authorities noted that the EU's efforts in combating the illicit trade in tobacco were limited by the legal framework that is not fully harmonised at EU level.

38 According to the Commission, in the absence of EU intervention, these problems are likely to persist[7]. In July 2025, the Commission put forward a proposal to revise the Tobacco Taxation Directive[8], aiming to modernise the EU's excise framework. The proposal includes measures to strengthen the monitoring of raw tobacco, addressing a long-standing gap that has been repeatedly highlighted by member states. The proposal also broadens the scope of the Tobacco Taxation Directive to cover relevant new products. At the time of writing (May 2026), the proposal had not yet been adopted.

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[7] Commission Staff Working Document Impact - Assessment Report. SWD(2025) 560.

[8] Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco.

39 However, the Commission's proposal focusses only on raw tobacco. Other key inputs remain outside the scope of harmonised EU regulatory provisions, and differences in national approaches are therefore likely to persist.

National control systems and enforcement approaches differ

40 In the absence of coordinated EU rules, member states operate in fundamentally different regulatory environments. In this fragmented landscape, organised crime groups can exploit weaknesses, such as inconsistent enforcement and the lack of a coordinated EU-wide approach in terms of the response to combat the illicit trade in tobacco. We therefore examined how customs authorities in the member states organise their enforcement activities to combat the illicit tobacco trade.

41 In the member states we visited, we found notable differences in institutional structures, legal frameworks and operational approaches to combat this illicit activity. These variations are linked to differences in the authorities involved and their competences. As a result, the systems, procedures and controls applied by national authorities vary considerably across the EU.

42 A key difference relates to the legal powers and mandates of the responsible authorities. In three of the member states visited (Belgium, Spain, Poland), customs authorities had extensive legal powers and specific investigative structures. This enabled them to conduct criminal investigations, coordinate operations and cover both administrative and operational aspects. In contrast, in Romania, the customs authority was restricted to carrying out administrative investigations, and criminal matters were the exclusive responsibility of the law enforcement bodies. In such cases, the fight against the illicit trade in tobacco relies more heavily on mixed teams and cooperation agreements. Our survey also highlighted enforcement challenges linked to fragmented national legal frameworks and institutional arrangements.

43 We also noted differences in how responsibilities related to the FCTC Protocol were allocated. In two member states we visited (Belgium and Romania), the Protocol fell under the competence of the Ministry of Health; in Poland, it was the Ministry of Finance's responsibility; and in Spain, responsibility was shared between the Ministry of Finance and the Ministry of Health. These arrangements risk affecting implementation, as the authorities responsible for the Protocol may not be familiar with its customs-related aspects, including seizures and the related statistics. In addition, customs perspectives may not necessarily be reflected in FCTC meetings where different national authorities attend.

44 Another key difference concerns national strategic frameworks to address the illicit trade in tobacco. We found significant variation between the member states visited, which was also reflected in the survey results. Three of the member states we visited (Belgium, Spain, Romania) relied on broader national frameworks rather than specific strategies, while only one (Poland) treated the illicit tobacco trade as a high-priority area for which it had a specific strategy. These differences result in varying levels of strategic focus and operational priorities across member states.

45 We also identified gaps in operational capabilities between the customs authorities with advanced technological capabilities that we visited and those that are still developing them. In general, three member states (Belgium, Spain, Poland) operate an extensive range of advanced technology equipment, while one (Romania) relies on technology for daily controls but is facing a growing need for high-tech equipment or higher data management capacity. Operational practices also vary, reflecting each member state's geographical location (for example, extended external land or sea borders), risk environment and institutional capacity. Operational responsibility lies with national authorities, contributing to uneven enforcement intensity across the EU, particularly between border and non-border states, high-consumption and transit countries, and administrations with different levels of resources.

46 The Commission's 2023 customs reform package proposal included the establishment of a new EU customs authority and an EU customs data hub, intended to centralise customs data, modernise risk management and support more coherent enforcement across the EU. In March 2026, the Council and the European Parliament reached a political agreement on the reform[9], confirming the creation of the proposed elements, although the package has not yet been adopted.

47 Recent cases illustrate the scale and sophistication of illicit production sites and the operational complexity involved in dismantling them (***Figure 1***).

[9] EU customs reform: Council and Parliament agree on landmark reform - Consilium.

Figure 1 | Example of a large-scale illicit cigarette production facility dismantled in Belgium in 2025

Source: ECA.

48 During our audit, we observed broadly similar approaches across member states to seizing and destroying illicit tobacco products and production machinery; however, storage arrangements and safeguards varied. It was standard practice across all four member states we visited for seized tobacco products and production machinery to be confiscated, stored in secured storage facilities, and ultimately destroyed once authorised by the competent authority. In one member state visited (Poland), prompt destruction of some seized tobacco products was possible, while other member states faced legal or procedural constraints requiring long-term storage, in turn generating high costs and security risks. In another member state we visited (Romania), legislation allowed seized machinery or unprocessed tobacco to be sold or auctioned with no effective mechanisms to monitor their subsequent use, creating risks of re-entry into the illicit market.

49 Finally, during our audit, we also identified good practices to support the fight against the illicit trade in tobacco (***Box 2***).

Box 2

Examples of good practices in the member states visited

- Enhanced operational powers enabling rapid intervention

The national customs authorities in both Belgium and Poland have strong investigative powers, which include the ability to enter certain premises without prior judicial authorisation. In Poland, these powers extend to the use of tools such as the Automatic Number Plate Recognition system, while in Belgium specialised officers with judicial police powers can conduct advanced investigative measures (for example, international observations, which involve cross-border surveillance operations).

- Continuous 24/7 communication and cooperation structures

Belgium operates a round-the-clock system for transmitting detailed seizure information to investigation units and specialised customs and excise teams, while Spain's Centro de Cooperación Operativa Permanente operates 24/7 as the central hub for interregional, national and international cooperation.

- Specialised structures to combat the illicit trade in tobacco

Romania has established specialised organisational units to strengthen its response to this illicit activity, including the illicit tobacco products trafficking service, while Poland has set up a competence centre to deal with it.

Source: ECA.

50 Overall, our audit showed that national systems for combating this phenomenon and administrative structures differ considerably, affecting how controls are organised and responsibilities are allocated, how strategic and operational priorities are set, and how resources are deployed. As a result, a heterogeneous landscape of methods exists across the EU, increasing the risk of an uncoordinated and non-harmonised EU approach.

Offences and penalties are not sufficiently harmonised

51 Our audit also showed that the definitions of tobacco-related offences and the severity of applicable penalties varied. This lack of alignment in how smuggling and illicit production are classified and sanctioned across the EU was also confirmed by our survey results.

52 Nine member states treat smuggling and illicit production exclusively as criminal offences. Others apply mixed systems, under which any offences below the defined thresholds are treated as administrative, while more serious cases trigger criminal proceedings. Under these systems, illicit production is most often treated as a criminal offence, while smuggling can be classified as administrative or criminal depending on thresholds. We nevertheless noted instances where prison sentences for illicit production were lesser than those for smuggling. This kind of approach is not dissuasive and does not address the increasing number of illicit production sites (paragraph ***08***).

53 We also consider that differing approaches carry a risk of uneven levels of deterrence and inconsistent enforcement outcomes. Three of the member states' customs authorities we visited (Belgium, Spain, Romania) called for harmonising both the definitions of offences and penalties across the EU. Romania noted that the absence of harmonised penalties for the illicit trade in tobacco risks creating enforcement gaps and encouraging the relocation of criminal activities to jurisdictions with less stringent sanctions.

54 Customs authorities play a key role in tackling the illicit trade in tobacco. During our audit, we therefore asked them to identify the key aspects which they considered should be regulated as a priority at EU level to make combating this phenomenon more effective. Their responses consistently pointed to the same areas where customs authorities saw scope for strengthened EU-level regulation. This conveyed a clear and consistent message that both the patchwork of existing national rules and the absence of regulation in key areas create vulnerabilities that cannot be addressed by member states alone. They stressed that EU-level action would help address regulatory gaps linked to raw tobacco and other key inputs, ensure the coherent treatment of new products and online sales, and provide a more uniform framework for sanctions. These priorities were echoed across the feedback we received from the survey, which similarly underscored the need for a more harmonised EU framework.

Gaps in cooperation and information exchange between the various players persist

55 Cooperation plays a key role in tackling the illicit trade in tobacco and takes place at national, cross-border and EU levels. Such arrangements are grounded in EU legislation[10] that sets out member states' obligations for cooperation, mutual assistance, information sharing and fraud-prevention activities. We examined how member state authorities we visited cooperated through operational coordination and exchanging intelligence, how they used EU communication systems and how they engaged with other stakeholders.

56 Overall, our audit showed that national cooperation in the member states visited functions adequately, but with notable structural limitations in specific contexts. Customs authorities, police, border authorities and prosecution services typically exchange information and conduct joint operations, but the degree of cooperation varies. In some cases, it relies on informal arrangements or agreements for general collaboration, but information systems are not always interoperable and national cooperation remains insufficiently integrated, leading to delays in information exchange.

57 Differences in mandates, access rights and operational priorities can also hinder investigations and affect the effectiveness of joint operations between national authorities. While more integrated coordination mechanisms, shared analytical tools and real-time information sharing infrastructure exist to varying degrees in three of the member states we visited (Belgium, Spain, Poland), such practices are not uniform, contributing to inconsistent national responses to the illicit tobacco trade. Given that the illicit trade in tobacco is a global phenomenon and the illicit networks operate transnationally, these national constraints also have implications for cross-border coordination.

58 Effective cross-border action requires national authorities to cooperate in real time with all of the member states involved all along the illicit supply chain, so they can identify illicit tobacco consignments or production facilities, and track the movement of related products in time to take effective enforcement action. This all depends on rapid information exchange and interpretation in a way that accurately reflects operational realities. High-quality data flows are therefore essential for informed decision-making and coordinated responses.

59 Cross-border intelligence sharing remains, however, uneven. Member state authorities exchange information with their counterparts, in particular with neighbouring countries, but the extent and consistency of the information varies even when there are indications

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[10] Including the Union Customs Code and the legal frameworks governing Europol, OLAF and the EU information exchange systems.

of cross-border relevance. During our audit, we sampled 10 seizures in each of the member states visited to check whether information had been shared with the competent authorities in another member state. Based on a sample of 10 cases per member state, we only observed cooperation in 2, 3, 4 and 5 out of 10 cases, respectively.

60 The customs authorities we visited also reported that they sometimes received partial or delayed inputs and highlighted inconsistencies in the type and level of information exchanged. As a result, the quality, completeness and timeliness of shared information vary significantly. These disparities limit member states' ability to conduct risk analysis, hinder operational follow-up and reduce their effectiveness in responding to emerging threats. All four member states we visited identified the need for faster, real-time and more structured cross-border information exchange as a top priority to improve efforts against the illicit tobacco trade. Our survey results also pointed to stronger cross-border cooperation as one of the main areas for improvement across the EU to better combat this phenomenon.

61 Several systems exist for member state authorities to communicate and exchange data, each linked to a specific legal framework and operational purpose.

- Secure Information Exchange Network Application (SIENA), managed by Europol – designed for law enforcement information exchange, supporting operational and investigative communication and sharing criminal intelligence.
- Anti-Fraud Information System (AFIS), managed by OLAF – used for administrative cooperation under Council Regulation (EC) No 515/97, including the exchange of mutual assistance messages.
- Although it does not provide a specific communication system, the Naples II Convention[11] provides the legal basis for customs-to-customs exchanges in criminal matters, including tobacco-related investigations.

62 In practice, however, we found that the use of these systems varies across the member states visited. The majority of these customs authorities rely primarily on SIENA, while the others tend to use AFIS more, or cooperate under the Naples II Convention. Moreover, in the course of our work it transpired that awareness of the appropriate legal basis for each channel was not always consistent, and information was sometimes transmitted through systems that were not intended for that purpose – for example, using SIENA for exchanges falling under Regulation (EC) 515/97. Furthermore, according to the Commission's

[11] Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations. OJ C 24, 23.1.1998, pp. 2-22.

White Paper for the anti-fraud architecture review[12], the information-exchange provisions of Regulation (EC) 515/97 are not used to their full potential, and more effective use would strengthen mutual assistance between national administrative authorities in the area of fraud prevention.

63 The coexistence of several communication channels and uneven awareness of the legal frameworks involved are compounded by the fact that customs authorities across the EU operate under various mandates and competences (paragraph ***42***). This also affects how and with whom they exchange information. This situation can sometimes create confusion at an operational level. Overall, this situation poses operational challenges and increases the risk of information being exchanged through channels that are not legally or technically appropriate. In their responses to our survey, member states also flagged multiple communication channels as a hindrance to intelligence sharing.

64 At EU level, OLAF plays the main role in supporting complex investigations that involve several member states. For example, in 2023, OLAF supported national authorities in dismantling one of the largest illicit cigarette factories in Spain, which was linked to a criminal network operating across six other EU and neighbouring countries. According to the Spanish authorities, OLAF facilitated information exchange, provided analytical input and technical support, and helped coordinate the investigative strategy (***Figure 2***).

[12] White paper for the Anti-fraud Architecture Review. COM(2025) 546, p. 7.

Figure 2 | Example of the largest ever illicit cigarette factory dismantled in Spain

Source: ECA.

65 Member state authorities visited also valued their cooperation with Europol, noting its valuable analytical support and role in facilitating the exchange and analysis of investigative information. With regard to the European Public prosecutor's Office (EPPO), across the four member states visited, we noted that cooperation in tobacco-related investigations was less frequent, reflecting the division of responsibilities between various players, with the EPPO playing only a limited role during investigations and mainly becoming active at the prosecution stage.

66 Overall, we found that cooperation among member state authorities remained uneven, with significant disparities in the quality, completeness and timeliness of information exchanged. Both OLAF and Europol facilitate information sharing but the coexistence of two main channels, and different legal frameworks and competences contribute to a complex landscape with different approaches across the EU. Moreover, information is not always transmitted through the appropriate communication systems.

Cooperation agreements with the tobacco manufacturers lack transparency and risk undermining enforcement activities

67 In terms of cooperation with the tobacco industry, all four member states visited had established memorandums of understanding (MoUs) with tobacco manufacturers (*Box 3*).

Box 3

The MoUs are voluntary, non-binding cooperation arrangements between individual member states and the tobacco manufacturers

- The MoU between Philip Morris International and Italy concluded in 1999 was among the first and served as a basis for subsequent MoUs.
- The exact number of MoUs signed between the international tobacco manufacturers and governments is unknown.
- The declared objective of the MoUs is to combat the illicit tobacco trade, mainly through the exchange of information, including general trends and market intelligence.

Source: ECA.

68 Our survey results indicated that such MoUs exist in about half of the member states. Generally, these MoUs are not publicly available. This was also the case for the four member states visited; the content of their MoUs was not known to the customs authorities.

69 The member state authorities we visited indicated that these agreements provided a framework for operational cooperation, but noted that engagement was mainly on an ad hoc basis and was not supported by regular meetings. However, they indicated that cooperation with the tobacco manufacturers could provide practical benefits in specific operational contexts. They noted that these agreements could facilitate training, technical support and targeted information exchange when required. They also highlighted the value of manufacturers expertise during detection operations, especially for checking machinery and assessing the authenticity of seized cigarettes.

70 The WHO FCTC[13] requires parties to protect public health policies by avoiding and strictly limiting interactions with the tobacco industry. Moreover, the guidelines for the implementation of Article 5.3 of the WHO FCTC, adopted by the Conference of the Parties (CoP), require that any such interactions be conducted transparently, be limited to what is strictly necessary for regulation, and do not create conflicts of interest. Given the lack of transparency about the content and monitoring of these MoUs, it was not possible to assess whether they complied with these safeguards.

71 The lack of transparency also limits accountability for the activities carried out under these agreements and makes it difficult to assess the possible effect they may have on enforcement activities. Such arrangements give tobacco manufacturers a formalised channel of cooperation with enforcement authorities, albeit without documented safeguards to ensure that enforcement priorities remain independent from manufacturers' commercial interests. This creates a risk that enforcement efforts may become biased towards those issues emphasised by manufacturers.

72 Overall, member states' practice of having voluntary agreements with the tobacco manufacturers raises concerns regarding transparency and compliance with the requirements of the WHO FCTC.

[13] Article 5.3.

The EU's contribution to combat the illicit trade in tobacco is fragmented, lacks clear priorities and its impact is not assessed

73 Effective action to combat the illicit trade in tobacco requires a comprehensive coordinated EU response to enhance cooperation, and set priorities and resources. The Commission and the Council have a crucial role to play in setting priorities and coordinating actions at EU level to adequately address this cross-border phenomenon.

74 A clearly defined planning mechanism can assist in setting objectives and priorities, and in supporting an EU-wide approach by setting out clear responsibilities and time-bound targets. We reviewed the Commission's framework for combating this illicit activity, examined how the Commission supported the implementation of related actions, including those carried out at national level, and how it monitored them. We also examined whether the Commission had assessed the impact of the EU and member state cooperation with the tobacco manufacturers.

Responsibility is shared between several EU players

75 Within the Commission, three main departments deal with tobacco-related matters, but from different perspectives: health (Directorate General for Health and Food Safety, DG SANTE), taxation (DG TAXUD) and combating fraud (OLAF). OLAF plays a central role in combating this illicit activity. Within its mandate, it supports the protection of the EU's financial interests by carrying out administrative investigations and by implementing and coordinating related operational and analytical actions.

76 OLAF implemented an organisational restructure in 2020, whereby the specific strategy unit, which had been in place since 2012, was integrated into the Investigation Directorate to support operational activities. OLAF's role in supporting EU institutions and member states in shaping their policies regarding the illicit trade in tobacco is done through its operational activities.

77 Other relevant players with specific actions concerning the illicit tobacco trade are the following.

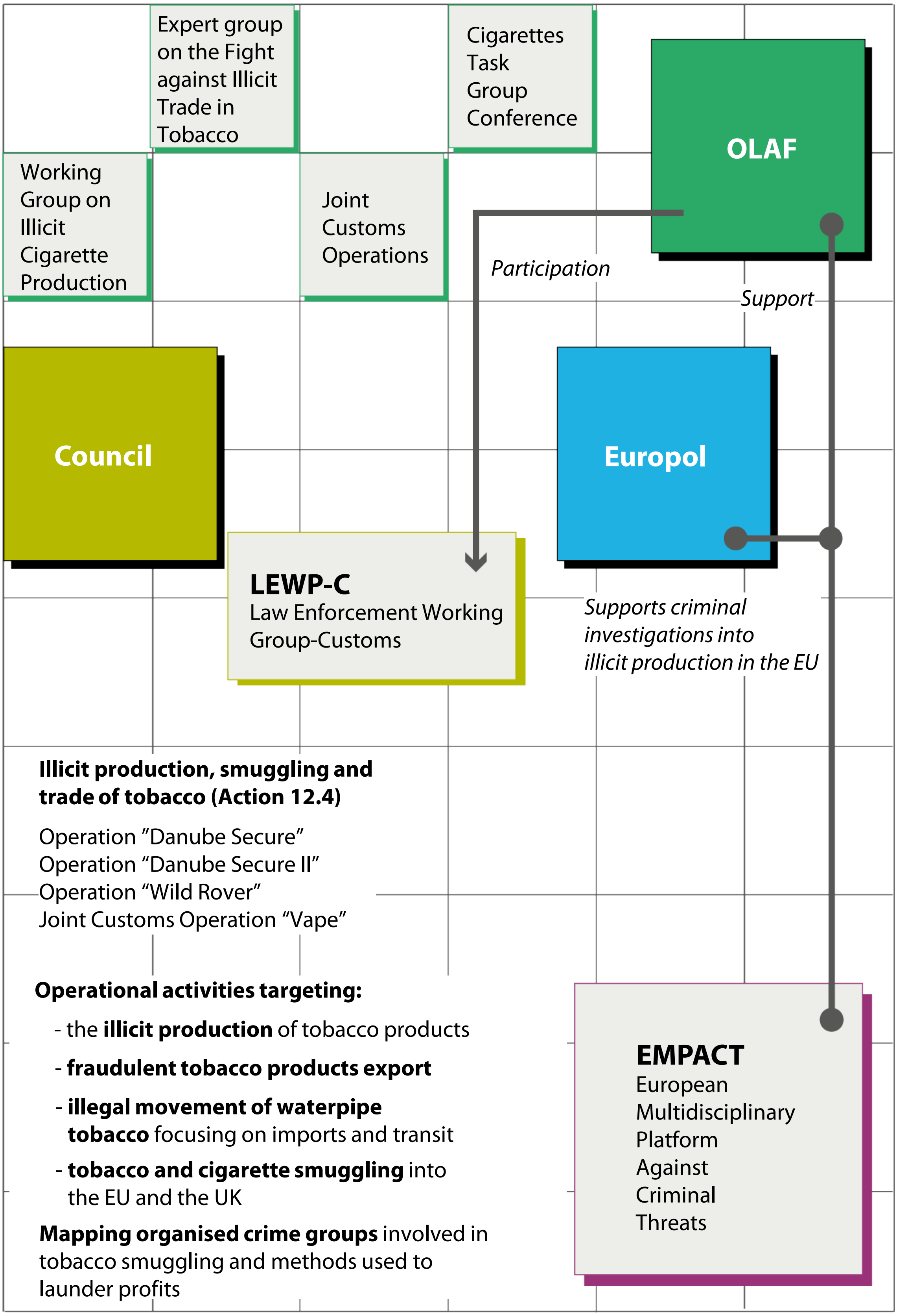
- Europol supports the member states' law enforcement authorities in the fight against serious crime. In combating the illicit trade in tobacco, Europol focuses mainly on illicit manufacturing.

- LEWP-Customs includes activities with respect to the prevention, detection and investigation of crimes and other unlawful activities. For the 2024-2025 period, it had one specific action regarding tobacco.

- EMPACT addresses the most significant threats posed by serious and organised international crime. In its 2022-2025 EMPACT cycle, it had an operational action plan on excise fraud, which included several operational actions specific to tobacco.

78 All four member state authorities we visited participate in EU actions such as joint customs operations (JCOs), EMPACT action plans and LEWP-Customs actions. ***Figure 3*** shows various players are involved in multiple actions and simultaneously support or participate in other actions.

Figure 3 | Players participating in actions to combat the illicit trade in tobacco



Source: ECA.

79 We noted that the objectives of the EU's actions to combat the illicit trade in tobacco were clear, distinct, and targeted specific operational threats, bringing together experts from participating member states to collect and analyse data, exchange views on best practices and target operational activities. According to the member states visited, a clear delineation of roles could improve overall effectiveness. For example, the member states we visited found positive aspects in EMPACT's activities (permanent structure, more effective in targeting and dismantling criminal networks and a broader focus) and in those of JCOs (good preparatory phase, well organised and coordinated). The authorities in three of the member states visited (Belgium, Spain and Romania) considered that LEWP-Customs activities had less impact and were of less value due to their regional focus.

80 Several member states, including three of those we visited, also expressed concern about the overlapping EU initiatives. These often involved the same participants and duplicated work to prepare meetings, reply to questionnaires on related issues and allocate resources. They stated that multiple working groups increased the workload for authorities with limited resources and staff, while reducing the efficiency of EU-level coordination. For example, we noted that no member state volunteered to lead a proposed action to combat the smuggling of tobacco products, which is why this action has not been included in the next LEWP-Customs action plan.

81 During our audit, we also noted that it was not clear to member states which EU body would take the lead at EU level in combating the illicit tobacco trade. This results in a piecemeal approach to EU-level cooperation, depending on the priorities of each member state concerned. While some member state authorities stated that Europol had become their main EU cooperation partner, with adding value through the provision of investigative tools (i.e. drones, telephones), other member states considered it easier to cooperate with OLAF. These differing perspectives reflect the varied approaches adopted by member states in tackling the illicit tobacco trade: some prioritise the identification and dismantling of criminal networks, and others place greater emphasis on seizures and the recovery of lost public revenues.

82 Effective action to combat the illicit trade in tobacco requires a comprehensive coordinated EU response involving all relevant players. In this context, the Commission confirmed that no single body was responsible for aligning and coordinating the priorities of the various initiatives and players involved.

83 Overall, we consider that this broad range of initiatives risks creating unnecessary overlaps in players' activities and an excessive administrative burden for both EU entities and member states.

The Commission lacks clear priorities

84 In 2023, the Commission adopted the Outcome on the implementation of the second action plan[14], which concluded that most of the actions in this plan had been completed. OLAF continued its support for the effective implementation of all actions (paragraphs ***94***-***102***). In the light of new challenges, OLAF also explored new priorities and orientations to combat the illicit trade in tobacco based on this outcome. We examined these new priorities and orientations proposed by OLAF.

85 During the 12th Fight against Illicit Trade in Tobacco meeting in October 2023, OLAF proposed moving to a new, flexible and more focused approach to provide support for key strategies identified by member states, through the creation of working groups under the umbrella of the Fight against Illicit Trade in Tobacco expert group. According to OLAF, this new approach had been adopted to react rapidly to new trends and challenges in the illicit tobacco trade. The approach also complements OLAF's existing actions continued from the second action plan, in particular operational activities (paragraph ***95***).

86 One of the key areas identified by member states as a priority for the working groups was illicit cigarette production. A working group on illicit cigarette production (WGICP) was approved accordingly at the 13th meeting of the expert group on the Fight against Illicit Trade in Tobacco in April 2024, with three specific projects identified for action. The WGICP started with a survey to member states to gather information on national legislation adopted for the licensing of tobacco machines and the protocols used for the destruction of machines used in illicit cigarette production. In April 2025, the WGICP presented a report on its activities. Only one of the three identified projects, a survey, had been conducted, and two outputs had been produced from the wider set of potential outputs. These included the drafting of guidelines to be implemented at EU level and inputs for potential legislative initiatives. The expert group had considered launching other working groups to address other priorities, but due to resource constraints in the member states at the time of our audit had not yet done so.

87 We identified some shortcomings in this new approach to support key strategic priorities through the creation of working groups. We observed that there was no strategic planning framework for defining actions, creating new working groups, or assessing the appropriateness of the new approach. There were also limited resources available at member state level to participate in additional working groups. Indeed, we found that initially only five member states decided to participate in this working group with a

[14] Commission Staff Working Document - Outcome on the implementation of the 2nd Action Plan to fight the illicit tobacco trade. SWD(2023) 409.

further three joining later. Although the WGICP was created, similar outcomes could have been achieved through other existing working groups (***Figure 3***).

88 The WGICP report highlighted the lack of a common approach among member states on three key issues:

- the authorisation/licensing requirements to install cigarette production machines;
- the procedure for secure storage and destruction of machinery and components following seizures; and
- the registration of tobacco machinery identification codes.

89 This new approach to create working groups was intended to identify those of the member states' priorities that could be best addressed at EU level. However, the report of the working group ultimately concluded that the issues identified should be addressed by the member states and based on best practices, thereby departing from the original objective.

90 Moreover, OLAF aims to play the role of facilitator in the WGICP, mainly providing organisational support to member states. For example, the scope of the WGICP was to collect information and exchange best practices among member states, but without setting out specific enforcement actions.

91 Lastly, the WGICP focuses on actions relating to an area identified as an emerging and ongoing challenge that is illicit production. Another key priority area identified was new smoking products, such as e-cigarettes, which were identified as a problem in 2023. In 2025, a survey mapping national legislations, prohibitions and taxation relating to these novel products was carried out. One member state we visited considered that there had been missed opportunities to respond more proactively and anticipate emerging trends, especially with regard to new products (for example, e-liquids and vapes). However, we observed that OLAF initiated operational activities in 2023 on new nicotine products.

92 Overall, we found that the new approach to support key areas by the creation of working groups, such as the WGICP did not result in sufficient actions.

93 According to all the member state authorities we visited, the EU lacked a clear strategy or action plan, and the Commission could prepare such a strategy with a long-term view to combat this illicit activity. This, they suggest, would not be contradictory to the need for a flexible approach due to the constantly changing illicit tobacco market.

The Commission supports member states but does not monitor the implementation or assess the impact of their actions

94 The Commission is responsible for protecting the EU's financial interests. In its role, OLAF supports the effective implementation of member states' action against the illicit trade in tobacco products as stated in the Outcome on the implementation of the second action plan.

95 OLAF carries out operational activities to combat the illicit trade in tobacco products, including:

- Administrative investigations,
- Coordinating member states' action,
- Organising JCOs, and
- Organising the annual tobacco conference.

96 OLAF's activities bring together authorities from EU and non-EU countries to share technical expertise, set operational strategies and present new trends and threat. OLAF provides intelligence and allows authorities to use various AFIS components, which are used to monitor suspicious shipments, identify new suspicious consignments and detect patterns of fraud.

97 We found that member state authorities appreciated the operational support provided by OLAF in combating the illicit tobacco trade. In particular, those we visited identified OLAF's role in collecting intelligence, coordinating transnational investigations during JCOs and its network of law enforcement authorities as highly beneficial.

98 OLAF promotes the use of specific EU tools and systems to support member state authorities in combating this illicit tobacco trade. Specifically, it reports on the use of the Union Antifraud Programme (UAFP) and the central tobacco product testing facility (TOBLAB) at the Fight against Illicit Trade in Tobacco expert group meetings.

99 We found that despite a recent increase in the use of the UAFP and TOBLAB, they are still not used by all member states. In particular, only 14 member states used the UAFP and only 16 member states used TOBLAB during the audit period. All member state authorities visited indicated that this is also due to the technical limitations of the systems, mainly concerning TOBLAB's analytical capacity in terms of the number of samples and the time required to deliver results.

100 The FCTC Protocol is a key tool to fight the illicit trade in tobacco products globally, so correct implementation is essential. We found that OLAF had set up a project group with member states on FCTC Protocol implementation to provide for an exchange of views. However, the project group's last meeting was held in January 2019. We also noted that OLAF provides presentations on the FCTC Protocol, however, these activities relate mainly to the operation of the FCTC Protocol (for example, the budget or the work plan) and the preparation of the Meeting of the Parties, rather than to the implementation of the FCTC Protocol.

101 In the current framework, the Commission has neither a formal role in monitoring the implementation of the FCTC Protocol, nor the national strategies to combat the illicit trade in tobacco products. Consequently, for the period covered by this audit, the Commission has also not assessed the actual impact or effectiveness of EU or member state actions in combating the illicit trade in tobacco products. As a result, it lacks a robust evidence base to guide its coordination of member states' actions in this respect. While the Commission regularly evaluates the effectiveness of measures within its remit, we found no comprehensive assessment of the overall effectiveness of actions taken at EU level to combat the illicit trade in tobacco.

102 The lack of a common approach in implementing certain provisions of the FCTC Protocol was identified in the WGICP report (paragraph *88*). The authorities in all four member states visited raised concerns on this matter, stating that there was a lack of feedback and guidance from the Commission on the implementation of the FCTC Protocol, and indicated that they would welcome OLAF taking a more coordinated role in this matter in areas under its competence.

The Commission has not carried out a comprehensive assessment of the impact of the EU's agreements with the tobacco manufacturers

103 In 2010, the Commission and all member states[15] (except Sweden) signed an agreement with British American Tobacco (BAT)[16] and Imperial Tobacco Limited (ITL)[17] with the objective of fighting cigarette smuggling and counterfeiting. These agreements will expire in 2030.

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[15] Croatia has also been covered by the agreements since its accession to the EU in 2013.

[16] Cooperation Agreement with British-American Tobacco (Holdings) Limited, dated 15 July 2010.

[17] Co-operation Agreement with Imperial Tobacco Limited, dated 27 September 2010.

Box 4

Cooperation agreements in place with tobacco manufacturers

Legally binding agreements in force until 15 July (BAT) and 27 September 2030 (ITL).

Key elements covered:

- information sharing – data and intelligence exchanges on seizures and suspicious shipments;
- tracking and tracing – measures to improve supply chain control;
- compliance commitments – implementation of internal controls and due diligence systems (“know your customer”);
- financial provisions – payments to the EU and member states, including seizure-based payments in cases involving genuine products;
- reporting duty – annual compliance report presented and discussed at an annual meeting with OLAF and the member states.

Source: ECA, based on the cooperation agreements.

104 OLAF is responsible for managing the distribution of payments and the seizure-notification mechanism. In accordance with these agreements, OLAF can issue a formal communication when it reasonably believes that BAT and the ITL are failing to comply with their obligations. So far, OLAF has never issued a notice or a statement of non-compliance under the agreement.

105 We observed that these agreements had never been revised or updated since their signature, although the illicit tobacco market and the legislative framework have changed significantly (***Annex II***). For example, the growth of illicit production facilities within Europe has increased the supply of counterfeit products compared to the situation at the time the agreements were concluded.

106 We also found that there was no comprehensive mechanism to assess the effectiveness of these agreements and so far neither the Commission nor the tobacco manufacturers (BAT and the ITL) has assessed their impact. However, there has been a progressive reduction of genuine products seized compared to counterfeit products.

107 These agreements have drawn criticism for various players[18]. The Commission questioned their relevance in light of the changes in the market, considering the administrative and reputational costs resulting from cooperation with the tobacco manufacturers[19]. We note that in 2018, the Commission consulted the member states concerned on two options: the possibility of continuing the existing agreements in force at that time or early termination of these agreements. As there was no unanimity from member states for an early termination, the Commission considered it appropriate to continue with the agreements. The tobacco manufacturers also stated that the EU agreement was outdated and no longer relevant or fit for its original purpose. Furthermore, the tobacco manufacturers stated that funding provided under the EU agreement could be much better spent by member states if provided directly to the relevant member state authorities, where it could focus on operational activities and support frontline staff.

108 Overall, based on the information available, we consider that the usefulness of these agreements has not been clearly demonstrated.

This report was adopted by Chamber IV, headed by Mr Petri Sarvamaa, Member of the Court of Auditors, in Luxembourg at its meeting of 8 July 2026.

For the Court of Auditors

Tony Murphy
President

[18] White paper legacy Book on Tobacco. European Parliament, 2024*. EU and Member States Agreements with the Tobacco Industry. Chapter of Brexit and the Control of Tobacco Illicit Trade.* Springer, 2020. Foltea, M.

[19] Commission Staff Working document - Technical assessment of the PMI agreement SWD(2016) 44.

Annexes

Annex I – About the audit

The illicit trade in tobacco

01 The illicit trade in tobacco is a global phenomenon which has a significant impact on the EU. While overall tobacco consumption has continued to decrease, the quantity of illicit tobacco products in the EU is considered to have increased in recent years. In 2023, the quantity of illicit tobacco products was estimated to represent 8.8 % of total cigarette consumption[1].

02 The Commission estimates that the illicit trade in tobacco products results in annual financial losses of €13 billion to the budgets of both the EU and its member states. These losses originate from lost customs duties, value added tax and national excise duties.

03 The illicit tobacco trade is a criminal activity which poses a serious threat to public health because it undermines tobacco control policies and increases access to cheaper tobacco products. Illicit tobacco products are very attractive for organised crime groups, due to their high profitability and the illicit activity's comparatively low risk; penalties have traditionally been light and detection rates low[2].

04 The price of tobacco products varies across EU member states. This price variation creates opportunities for this illicit activity. Firstly, prices differ significantly between member states because of different excise duty rates, and these different prices continue to be a major driver of cross-border flows. Secondly, the high levels of tax create an incentive to avoid them[3].

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[1] Commission Staff Working Document - Impact Assessment Report. SWD(2025) 560.

[2] Confronting Illicit Tobacco Trade: A Global Review of Country Experiences. World Bank Group.

[3] *Combatting Illicit Trade in Tobacco Products. In search of optical enforcement*. Springer, 2022. Stanisław Tosza. John A. E. Vervaele.

05 The landscape for the illicit trade in tobacco products has changed significantly in recent years. Most of the illicit tobacco products consist of cigarettes, although new products such as heated tobacco and e-cigarettes are on the rise. Overall, the illicit tobacco market (excluding cigarettes) amounts to nearly 21 000 tonnes in the EU. The Commission estimates that these new products currently make up 13 % of the market value of tobacco products sold in the EU, and are attracting younger consumers.

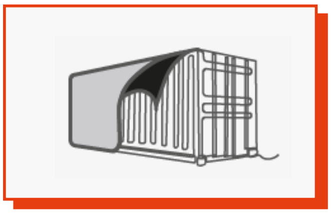
06 Illicit tobacco products can be segmented into the following categories (***Figure 1***).

Figure 1 | Forms of illicit activities in tobacco and types of illicit tobacco product

Tobacco products

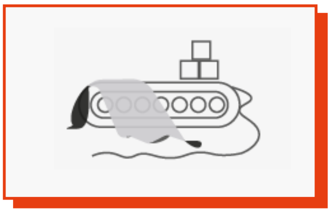
Products entirely or partially made of leaf tobacco as a raw material, which are manufactured to be used for smoking, sucking, chewing or as a snuff

Forms of illicit tobacco trade



Smuggling

Illegal trade in tobacco products across borders, typically from one country to another with higher prices for tobacco products



Illicit production

Production of tobacco products without complying with legislation

Types of tobacco product

Genuine cigarettes

Cigarette produced legally by tobacco manufacturers

Counterfeit cigarettes

Registered and publicly recognised branded product, illicitly produced without the trademark owner's approval

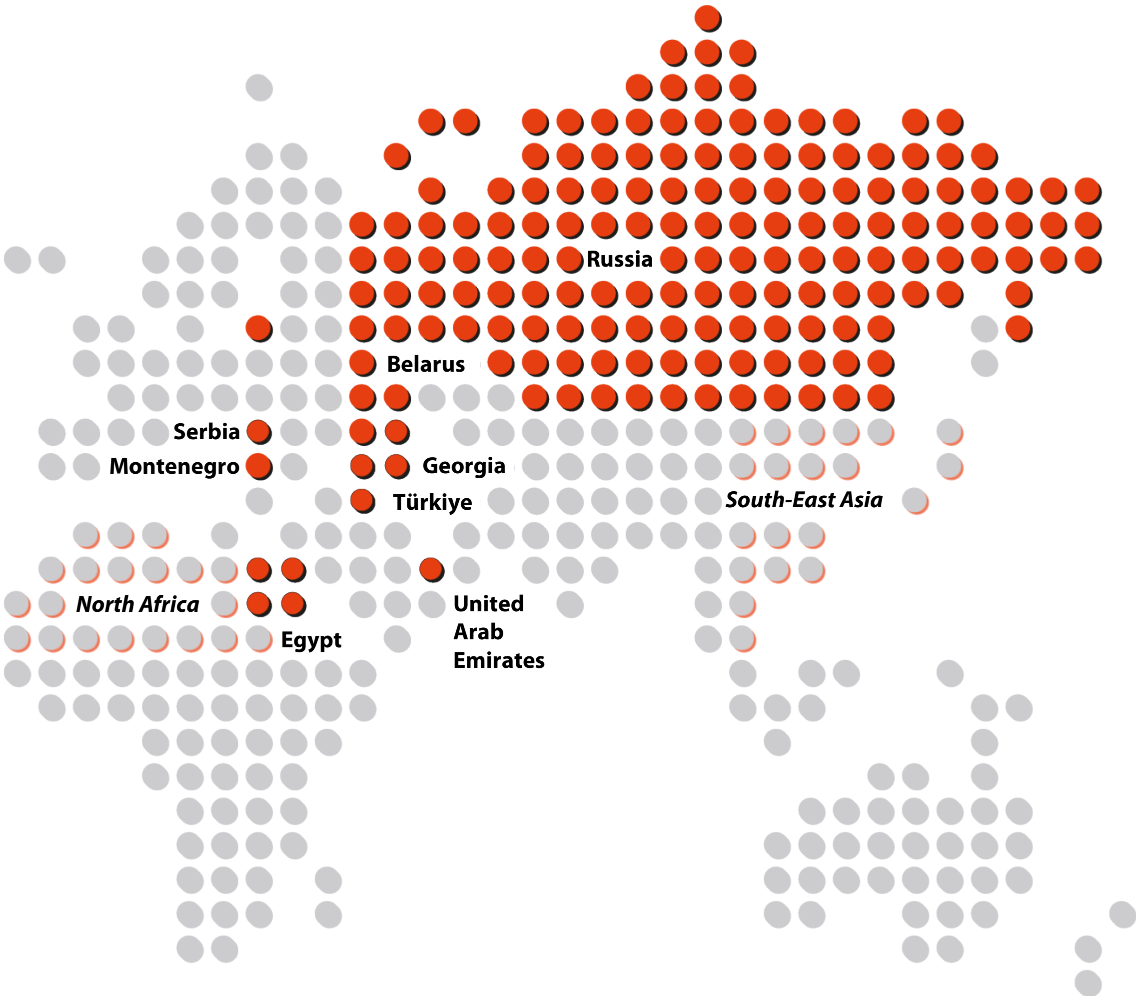
Cheap white

Cigarette produced legally in one country but with share of production sold, usually in another country, without applicable duties being paid

Source: ECA.

07 Organised crime groups involved in smuggling and manufacturing illicit tobacco products operate with ample resources and through adaptable operating modes. Illicit tobacco products are mostly smuggled into the EU by road (various routes) and by sea in containers (*Figure 2*). Smuggling methods have become more agile and sophisticated. Tobacco is often smuggled in postal parcels and express courier shipments, taking advantage of high volumes of e-commerce.

Figure 2 | Main illicit tobacco product smuggling routes into the EU

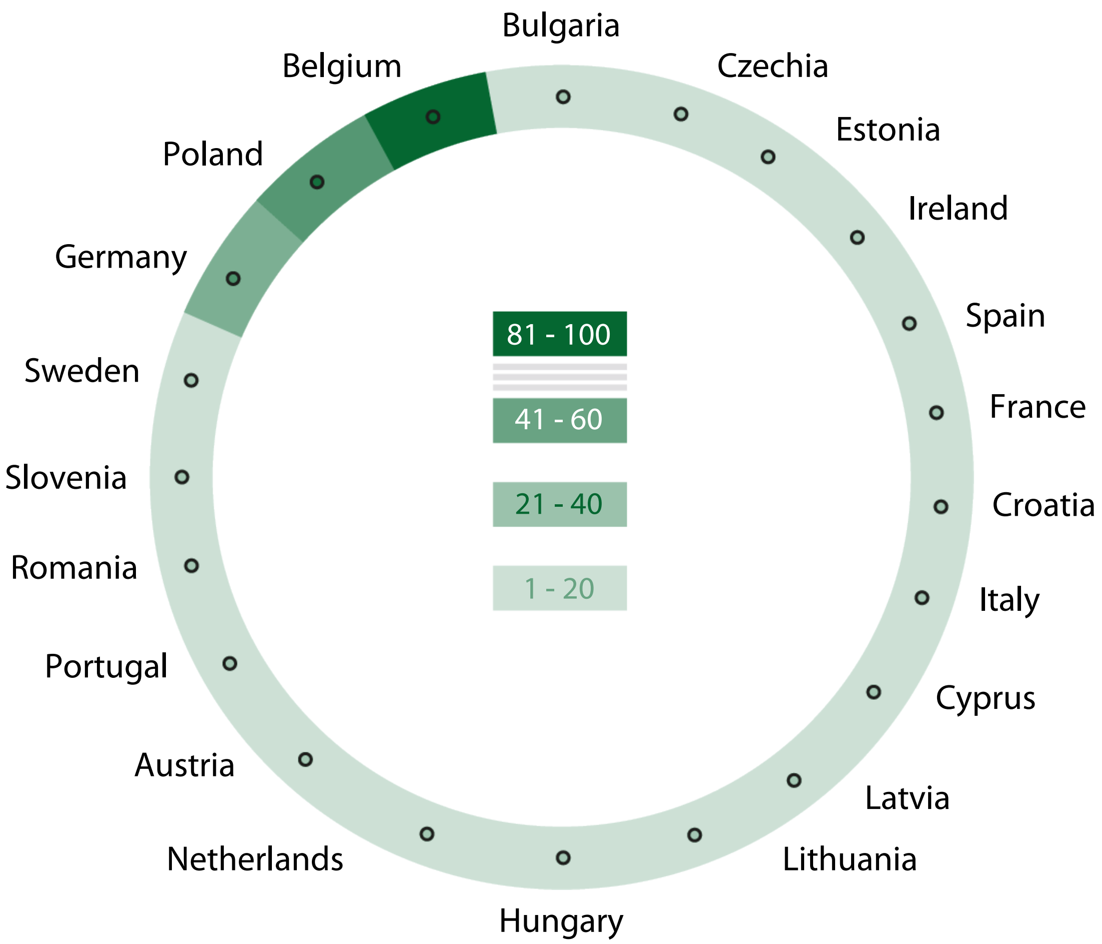


Source: ECA.

08 In recent years, illicit tobacco production has grown across the EU, with illicit manufacturing sites detected in almost all member states (*Figure 3*). The relocation of production from the Ukraine to the EU reflects a strategic choice of organised crime groups to shorten supply chains and have more direct access to consumers[4].

[4] Council of the EU - Customs threat assessment report 2025.

Figure 3 | Dismantled illicit production sites in 2023-2024



Note: No cases reported for: Denmark. Greece, Luxembourg, Malta, Slovakia and Finland.

Source: ECA, based on member states' data.

09 Illicit production facilities use sophisticated equipment and experienced technicians to set up and maintain the machinery. Such facilities have a life expectancy of two to four months, and establishment costs can be recouped within a few weeks. Organised crime groups split the production process across multiple facilities and locate them in border regions to mitigate operational risks. Moreover, organised crime groups tailor their operations, producing specific brands for targeted final markets and offering new tobacco products.

Responsibilities

10 Both EU entities and the member states are required to counter fraud and any other illicit activities that affect the financial interests of the EU[5].

11 Within the Commission the three main departments dealing with tobacco issues are as follows:

- OLAF: responsible for administrative investigations to detect fraud, corruption and any other illicit activity, such as the illicit trade in tobacco products, which affects the EU's financial interests.
- DG TAXUD: responsible for proposing legislation on taxation related to legal tobacco. This includes the Tobacco Taxation Directive[6], which sets minimum excise duty rates.
- DG SANTE: responsible for proposing legislation on tobacco control policies to protect public health. This includes the Tobacco Products Directive[7].

12 Europol[8] is responsible for combating the illicit trade in tobacco products by supporting member states' law enforcement investigations and intelligence operations. It also provides analytical support and coordination for effective cross-border cooperation to help identify and dismantle illicit EU factories.

13 In member states, customs authorities play a central role in facilitating legal trade, preventing the illicit movement of goods, and combating trafficking and organised crime. The Union Customs Code[9] emphasises the role of customs authorities, not just in collecting duties but also in safeguarding the EU from illicit and dangerous products.

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[5] Article 325(1) of the Treaty on the Functioning of the European Union (TFEU).

[6] Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco.

[7] Directive 2014/40/EU of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC.

[8] Regulation (EU) 2016/794.

[9] Regulation (EU) 952/2013.

14 The EU's anti-fraud architecture is made up of a network of EU bodies, including: OLAF, the EPPO, Europol, the European Union Agency for Criminal Justice Cooperation, the Anti-Money Laundering Authority and national authorities[10]. The EU anti-fraud architecture is composed of components with specific tasks in preventing, detecting and countering fraud against the EU's financial interests. The EU anti-fraud architecture has developed over time to address the evolving threats to the EU's financial interests.

Audit scope and approach

15 To protect the EU's financial interests, the Commission should develop effective actions against fraud and other illicit activities affecting the EU budget under Article 325 TFEU. The objective of our audit was to assess the effectiveness of the actions taken by the Commission and member states in combating the illicit trade in tobacco products.

16 For this audit, our auditees were the Commission (DG TAXUD and OLAF) and the competent national customs authorities in four member states: Belgium, Spain, Poland, and Romania. We selected these member states based on available information on seizures, illicit production facilities, trafficking routes and geographic distribution.

17 At Commission level, we examined:

- how the Commission collected and used intelligence data to combat the illicit tobacco trade;
- the policy framework and the implementation of strategic actions for combating the illicit tobacco trade, how the Commission supported the implementation of actions against this illicit activity and how it monitored them; and
- the cooperation arrangements in place, including the legally binding agreements with tobacco manufacturers.

18 In the member states, we examined:

- the strategies, procedures and customs control activities for combating the illicit trade in tobacco; and

[10] White paper for the Anti-fraud Architecture Review. COM(2025) 546. Special report 26/2025 on EU bodies fighting fraud (Annex I, Figure 1).

- the use of the administrative cooperation arrangements between member states and with relevant EU bodies (such as OLAF, Europol and the EPPO), and other relevant stakeholders.

19 The audit covered the period between 2023 and 2025, with 2023 corresponding to the year of the outcome of the second action plan of the EU strategy to fight the illicit trade in tobacco products. Our audit methodology complies with the international standards on auditing issued by the International Organization of Supreme Audit Institutions (INTOSAI).

20 We analysed the Commission's and member state customs authorities' work, their documentation, and interviewed their representatives. In each member state, we selected a sample of 10 seizures to assess how they had been conducted. EU funds provided to member states through the UAFP were not covered within the scope of the audit.

21 We also interviewed relevant stakeholders, such as Europol, the EPPO, the World Customs Organization and the tobacco manufacturers who signed legally binding agreements. This provided an important insight into the overall context of the illicit trade in tobacco. Our recent published report assessed whether, within the EU' anti-fraud architecture, the mandates of OLAF, Europol, the EPPO and Eurojust were clear as regards their responsibilities for fighting fraud and the supported provided to each other[11].

22 To complement the above sources of information, we sent a request for information in the form of an email survey, under Article 287 TFEU, to competent authorities in all member states that we did not visit. Its objective was to collect data on the nature, scale, policy responses, enforcement strategies and cooperation arrangements. We received replies from 22 of the 23 authorities surveyed.

[11] Special report 26/2025 on EU bodies fighting fraud.

Annex II – The EU policy framework and the international framework

01 In 2013, the Commission adopted an EU strategy to fight the illicit trade in tobacco products[1], which was accompanied by a first action plan[2], implemented in close cooperation with member states. The strategy proposed changes to the legislative and policy framework, such as the adoption of the FCTC Protocol and the revision of the Tobacco Products Directive. The Tobacco Products Directive included the track and trace system, which enables the movement of legal tobacco products to be monitored. The strategy also included other key measures to strengthen enforcement authorities and enhanced cooperation.

02 In 2018, the Commission decided to put forward a second action plan[3], built on the contributions from various EU institutions and ensuring continuity with the first action plan. At the same time, the second action plan sought to address this illicit activity more systematically from a market perspective, including a number of initiatives designed to interrupt either supply or demand in the illicit tobacco market. The two action plans accompanying the strategy were implemented on the basis of a roadmap with 50 actions, where the roadmap described the measures taken to implement the actions, the players involved and the timeframe.

03 The international framework is composed of two instruments:

- WHO Framework Convention on Tobacco Control (FCTC)[4]. The FCTC is the first global public health treaty adopted that provides a comprehensive framework for tobacco control, where the aim is to lower the demand for and supply of all tobacco products in order to protect public health.

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1 A comprehensive EU strategy. COM(2013) 324.

2 Commission Staff Working Document - Anti-smuggling Action Plan. SWD(2013) 193.

3 2nd Action Plan. COM(2018) 846.

4 WHO FCTC, adopted on 21 May 2003.

- The Protocol to eliminate illicit trade in tobacco products (the FCTC Protocol), based on Article 15 of the WHO FCTC. The FCTC Protocol focuses specifically on eliminating all forms of illicit trade in tobacco products through a set of detailed operational measures, including provisions relating to: (i) supply-side control, (ii) the establishment, investigation and prosecution of offences, and (iii) international cooperation.

04 The EU is a party to both instruments. DG SANTE represents the EU in the WHO FCTC, while OLAF represents and coordinates the EU and member states in the FCTC Protocol. While the WHO FCTC is the broad framework treaty on tobacco control, the FCTC Protocol is a more specific and operational instrument that establishes concrete measures to combat the illicit tobacco trade.

05 The FCTC Protocol makes a significant contribution to international efforts to eliminate all forms of illicit trade in tobacco products, and thereby fight the circumvention of tax and customs duties obligations and reduce the supply of illicit tobacco products[5]. Its implementation requires close cooperation between the parties and international organisations with expertise in the relevant areas (including customs and international crime) and, at national level, between different parts of government[6].

06 The EU and 19 member states are parties to the FCTC Protocol. OLAF represents the EU and the member state parties in the formal Meeting of the Parties of the FCTC Protocol. OLAF coordinates the common position of the EU and the member states on documents for the Meeting of the Parties meetings and the reporting exercise every two years. In these reports, OLAF decides which questions require a response from the member states, which from the EU, or which a joint response. Member states report directly through the FCTC Protocol's specific platform. OLAF provides presentations on the FCTC Protocol to various working group meetings (for example, the Fight against Illicit Trade in Tobacco expert group and Customs Union Group).

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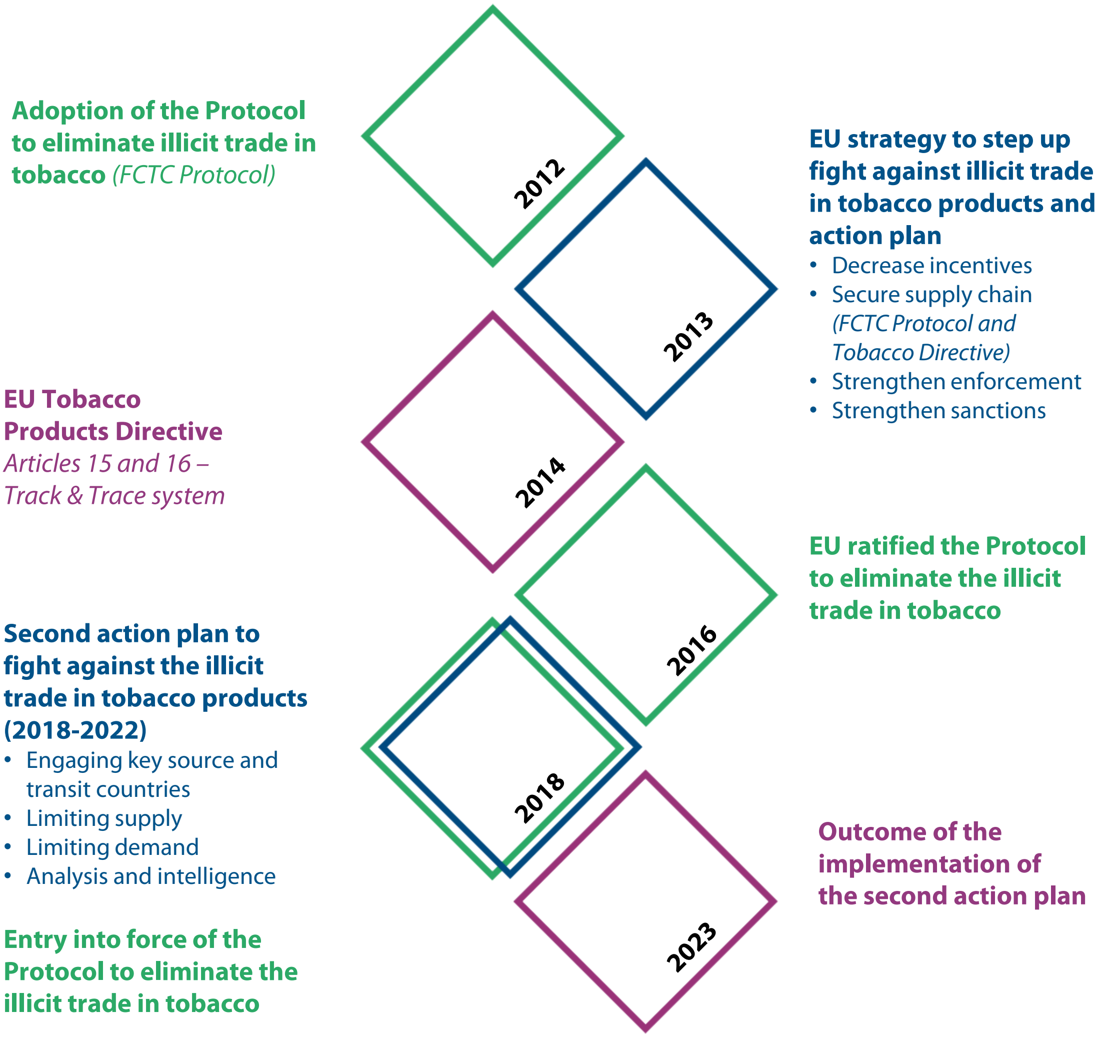
[5] Council Decision (EU) 2016/1749 of 17 June, on the conclusions of the FCTC Protocol.

[6] The Protocol to Eliminate Illicit Trade in Tobacco: an overview.

Figure 1 | Overview of the evolution of the relevant EU and international framework



Source: ECA.

Abbreviations

Abbreviation	Definition/Explanation
AFIS	Anti-Fraud Information System
DG SANTE	Directorate-General for Health and Food Safety
DG TAXUD	Directorate-General for Taxation and Customs Union
EMPACT	European Multidisciplinary Platform Against Criminal Threats
Europol	European Union Agency for Law Enforcement Cooperation
FCTC	Framework Convention on Tobacco Control
FCTC Protocol	Protocol to Eliminate Illicit Trade in Tobacco Products
JCO	Joint Customs Operation
LEWP-C	Law Enforcement Working Party – Customs
MoU	Memorandum of understanding
OLAF	European Anti-Fraud Office
UAFP	Union Anti-Fraud Programme
WGICP	Working Group on Illicit Cigarette Production

Replies of the Commission

https://www.eca.europa.eu/en/publications/SR-2026-23

Timeline

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Audit team

The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber IV – Regulation of markets and competitive economy, headed by ECA Member Petri Sarvamaa. The audit was led by ECA Member Petri Sarvamaa, supported by Benjamin Jakob, Head of Private Office and Elmo Torppa, Private Office Attaché; John Sweeney, Principal Manager; Esther Torrente Heras, Head of Task; Marion Schiefele, Giuliano Laterza and Anca Monica Staicu, Auditors. Alexandra-Elena Mazilu provided graphical support.

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The illicit tobacco trade remains a major challenge for the EU. It causes estimated annual revenue losses of €13 billion for the EU and its member states, undermines public health, and helps finance organised crime.

Our audit assessed whether Commission and member states actions to combat the illicit tobacco trade were effective. We found that reliable estimates of the market's size and economic impact were lacking, cooperation between member states was uneven, and the EU approach lacked clear priorities and an assessment of its impact. We recommended that the Commission improves market information, strengthens support for member states, promotes more consistent cooperation and enforcement, and establishes a strategic and coordinated EU response with clear priorities, and measurable objectives.

ECA special report pursuant to Article 287(4), second subparagraph, TFEU.

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