
REVIEW

Corruption and Illicit Tobacco Trade

Alexander Kupatadze

King's College London, GB

Alexander.kupatadze@kcl.ac.uk

This review critically engages with the debate on the importance of corruption for illicit tobacco trade. It proposes to solve the disagreement in the literature by advancing a nuanced analysis of how different types of corruption are linked to various forms of illicit tobacco trade. It conceptualises the role of corruption by breaking it down into necessary and sufficient conditions. The analysis shows that unlike price differential, corruption is mostly part of sufficient condition. It is a necessary condition only in the case of illicit whites whereby tobacco manufacturers are involved in one way or the other. The measurement indices and common definitions of corruption do not usually incorporate this kind of private sector corruption.

Keywords: corruption; illicit tobacco trade; smuggling; private sector corruption; organised crime

Introduction

This review critically engages with the debate on corruption as a cause and enabling factor for illicit tobacco trade. Tobacco industry has claimed that the increase in illicit trade is mostly attributed to tax-related issues, while tobacco control literature have counteracted this argument by showing that other, non-tax related factors are also important to consider.¹ These factors are many, ranging from the demand by smokers for cheaper tobacco products, government enforcement capacity, porous borders, willingness of tobacco companies to make more money, corruption, proximity to sources of cheap cigarettes, higher national income inequality, greater population density, among others (Aziani, Calderoni & Dugato 2020; Joossens & Raw 2012). Corruption has been one of the key variables discussed among industry experts and academics, with some suggesting that corruption is central for understanding why certain countries have more problems with illicit tobacco (Gallien 2020; Merriman et al. 2000; Titeca, Joossens & Raw 2011), but others reject this hypothesis, arguing that there is no empirical evidence to say that corruption plays a role (Aziani, Calderoni & Dugato 2020; Prieger & Kulick 2018). Part of the explanation for mixed findings is that econometric, large-N studies use the corruption measurement indices that lump all kinds of corruption together. These indices do not differentiate between political² and private sector corruption³ or grand⁴ and petty corruption,⁵ and they aim at evaluating the level of corruption at a national level rather than looking at it as a form of transnational, extraterritorial condition. This is important because illicit tobacco trade can be highly complex, organised, cross-border criminal activity (Shelley & Melzer 2008) as well as disorganised, petty trade within a 'coping economy' (van Duyne 2003). On the other hand, small-N qualitative studies are often based on a

¹ Both strands have their own rationale. The tobacco industry wants to lower taxes to maximise profit and tends to inflate the estimates of the illicit market, and tobacco control advocates are interested in increased taxation as a policy lever for reducing smoking without acknowledging the side effects of higher tobacco taxes.

² Defined as manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth. See <https://www.transparency.org/en/corruptionary/>.

³ Refers to private sector companies acting improperly and unlawfully to enrich themselves or those close to them, or inducing others to do so, by misusing their position. Definition by Asian Development Bank, see <https://www.oecd.org/corruption/anti-bribery/39532693.pdf>.

⁴ Defined as the abuse of high-level power that benefits the few at the expense of the many and causes serious and widespread harm to individuals and society. See <https://www.transparency.org/en/corruptionary/>.

⁵ Defined as everyday abuse of entrusted power by public officials in their interactions with citizens and businesses who often are trying to access basic goods or services. See <https://www.transparency.org/en/corruptionary/>.

single or a couple of case studies usually in the same geographic area and do not do justice to the complexity across countries and continents (see for example Lemboe & Black 2012; Zhang & Schwartz 2015).

This review proposes to solve these methodological and analytical controversies by advancing a nuanced analysis of how different types of corruption are linked to various forms of illicit tobacco trade. It conceptualises the role of corruption by breaking it down into necessary and sufficient conditions (Dul 2016). The analysis shows that, unlike price differential, corruption is mostly part of sufficient condition. It is a necessary condition only in the case of illicit whites, whereby tobacco manufacturers are involved openly or tacitly. The measurement indices and common definitions of corruption do not usually incorporate this kind of private sector corruption. Neither do they factor in types of extraterritorial corruption that often are paramount to expedite illicit trade. Illicit tobacco trade is greatly facilitated by the weakly regulated Free Economic Zones (FTZ) as well as the complex web of corrupt international service providers, including transporters (e.g., air freight, trucking and rail transit companies), international courier services, audit and law companies. For example, the FTZs in Singapore and UAE, the countries looking clean from the perspective of the corruption indices, have been instrumental in facilitating illicit tobacco trade (OECD 2017).

Price Differential

The key rationale of illicit trade is an opportunity to make a profit. These financial gains are first and foremost generated by price differentials; rising taxation and the state capacity to administer this taxation are the main drivers of the extent and pace of those price fluctuations (Aziani & Dugato 2019). Hence, price differential is a necessary condition because profits would not be possible without it. It is also part of sufficient condition because a difference in price (coupled with an availability of a group of people willing to illegally acquire, transport and sell tobacco) is enough for illicit tobacco trade to occur, albeit on a smaller scale. Illicit trade in large volumes would need additional conditions to converge.

Frequently the claim that illicit trade is insensitive to prices and taxes is linked to the research conducted in high-income countries, which tend to have lower levels of smuggling despite higher taxes (Prieger & Kulick 2018). This analysis ignores the fact that these countries have a high capacity to administer and enforce the tax laws as well as to monitor internal market and custom borders. With more heterogenous sampling of cases, one can see that countries with higher taxes and lower capacity usually have a problem of illicit tobacco trade. Even though some of this analysis ends up with trivial statements that smuggling is less prevalent in Switzerland compared to Cameroon (Buehn & Farzanegan 2012). Obviously, this futile comparative insight is not enough to infer that corruption is the primary or an important cause.

Corruption in Illicit Supply Chains of Tobacco Products

The EU illicit market is dominated by counterfeits and illicit whites, with their share growing at the expense of contraband cigarettes (KPMG 2019b). The United States is less affected by large-scale smuggling of counterfeits and illicit whites, and the market is dominated by domestic untaxed cigarettes (Reuter & Majmundar 2015). While the importance of the three categories in the table below varies across the countries, corruption does not always appear to be a necessary condition. **Table 1** summarises the argument, and the following discussion cites some empirical evidence to support this argument.

Counterfeits

Unless it is large-scale counterfeiting, corruption is only part of sufficient condition. Small-scale illicit manufacturing has been growing inside the EU for several years (KPMG 2019a), and the criminal gangs involved are investing more in evading detection than in corrupting law enforcement (Hornsby & Hobbs 2007). On the other hand, large-scale production of counterfeits in developing countries often flourishes under protection of law enforcement officials and political actors that accept large bribes from counterfeiters. Even though the information on the major actors in the Chinese counterfeiting industry is scarce, available evidence suggests that counterfeit manufacturers often have corrupt ties to the Communist party and local government officials, their involvement ranging from active participation to non-enforcement of the anti-counterfeiting laws and regulations (Shen, Antonopoulos & Von Lampe 2010; Von Lampe et al. 2012). China remains the major source of counterfeit cigarettes but has recently been cracking down on the illegal industry.⁶

⁶ See for instance https://www.chinadaily.com.cn/business/2017-07/21/content_30201115.htm.

Table 1: Summary of the argument.

Category	Counterfeit and unbranded	Contraband	Illicit whites
Definition	Manufactured illegally and sold by a non-trademark owner	Genuine products acquired in either low- or non-tax countries that are smuggled to higher priced markets	Usually manufactured legally in one country and smuggled to a market where they have no legal distribution
Legality/illegality	Whole supply chain is illegal	Production is legitimate but distribution is illegal	Production is legitimate, transportation and retail are illegal
Actors involved	Petty traders and/or organised crime groups depending on quantity and value	Petty traders and/or organised crime groups depending on quantity and value	Independent tobacco manufacturer companies, organised crime groups
Price differential and its significance	Necessary and part of sufficient condition	Necessary and part of sufficient condition	Necessary and part of sufficient condition
Role of corruption	Grand corruption, political corruption as well as petty corruption; depending on the valuation and quantities of some large bribes paid to regulatory and law enforcement officials at the transportation stage and to tax authorities at the distribution stage; extraterritorial corruption	Petty corruption in law enforcement, customs and border guards/ police; depending on the valuation and quantity, the bribes can be large; extraterritorial corruption	Grand and political corruption (linked to state actors' complicity in large scale manufacturing); petty corruption (port authorities, customs, police at the transportation stage and tax authorities at the distribution stage), private sector corruption (linked to large shipments managed by tobacco manufacturers); extraterritorial corruption
Significance of corruption	Part of sufficient condition but not necessary (except for production, transportation and retail and in big quantities)	Part of sufficient condition but not necessary	Necessary and part of sufficient condition

Contraband

Production in this type of illicit trade is legitimate; hence, corruption is relevant for the transportation and distribution stages of the supply chain. Corruption at these stages is not a necessary condition because cigarettes often move in small quantities being smuggled by the petty traders. This is known as 'survival' or 'coping' economy in developing countries (Titeca 2012). This kind of trade is often tolerated by the state for the purposes of social peace, and sometimes petty traders get away without paying a bribe at the border (Bensassi & Jarreau 2019; Shen, Antonopoulos & Von Lampe 2010). Likewise, 'ant smuggling' in the EU does not necessarily involve bribery with a number of individuals transporting cigarettes in their private baggage. In the EU, the influx of contraband tobacco is primarily facilitated by the sheer volume of cross-border trade, and only isolated cases of corrupt customs officials have been documented (Joossens & Raw 2008). Customers in the EU have been increasingly seeking to take advantage of cheaper cigarettes from neighbouring markets. For example, large inflows of contraband cigarettes have been going to France from Spain and Belgium (KPMG 2019b). In the US, contraband trade occurs primarily across state lines, with low-tax states such as Virginia and the Carolinas being the main sources (Reuter & Majmundar 2015), and again, petty corruption is rarely involved.

Depending on the sophistication of smugglers, large-scale transportation of contraband tobacco in more corrupt settings may also go undetected and, hence, could evade checks that would generate the need for a corrupt transaction. Smugglers sometimes use refined methods of disguise and concealment that make it

only a matter of luck to uncover the illicit cargo.⁷ Large- as well as small-scale contraband can also circumvent border or customs control in countries with porous borders and weak law enforcement.⁸

Illicit whites

There is some evidence that corrupt state actors may be directly implicated in organising illicit tobacco trade. North Korea has been involved in trafficking illicit tobacco that enabled the country to circumvent UN sanctions and to obtain foreign currency (Aziani & Dugato 2019). There have been allegations against high-ranking politicians in Paraguay, Montenegro, Belarus and other countries that they protect and sometimes directly manage illicit tobacco trade for the purposes of private benefit, maintaining power or filling the political party coffers (Gomis et al. 2018; Melzer & Martin 2016). Manufacturers and transporters of illicit whites often buy political protection in the countries of origin, transit and destination with profits from illicit tobacco (Shelley 2018). Having said that, not every case of smuggling in large quantities would have elements of institutionalised 'collusion' or 'protection.' All it may take is one customs employee accepting a bribe for a speedy clearance or for turning a blind eye to an irregularity in customs declaration. However, grand and petty corruption is still mostly part of sufficient condition because a) illicit whites may move and be diverted without coming up on the radars of law enforcement and regulatory agencies, especially in countries with weak law enforcement structures and b) the sophisticated smugglers avoid detection by shipping the product via complex routes in intermodal containers. The likelihood of detection and the necessity of paying a bribe is low given the average inspection rates of these containers. Worldwide, only a small portion is identified as high risk and eventually checked by customs and port authorities (Bakshi, Flynn & Gans 2011). However, this kind of 'corridorization' of illicit trade, manifested through the increased use of intermodal and multimodal transportation corridors, makes sovereign entities less important than logistical hubs and other transnational trade infrastructure (Mayer & Balázs 2018) and reinforces the importance of interjurisdictional/extraterritorial corruption.

Private sector corruption can be a necessary condition in most of the cases. As it has been previously argued, large-scale smuggling would not be possible without at least the tacit connivance of cigarette manufacturers (Joossens & Raw 2002; Shelley 2018). Historically, oversupplying/over-manufacturing had been one of the most common methods used by legal entities including Big Tobacco.⁹ Even though Big Tobacco have been trying to improve their public image by investing in ethical business practices, tobacco manufacturers elsewhere are yet to follow (Zatonski, Gilmore & Hird 2020). However, this goes far beyond the tobacco producers. In recent years, the City of New York has successfully sued FedEx and UPS for knowingly shipping massive quantities of untaxed tobacco on behalf of unauthorized cigarette dealers.¹⁰ The representatives of transport firms,¹¹ freight forwarders,¹² customs brokers companies¹³ have all been implicated in smuggling illicit tobacco. This can happen without connivance of a manufacturer in the case of contraband untaxed cigarettes, but in the case of illicit whites, producers are more or less integrated into the illicit supply chain (Reuter & Majmundar 2015).

Legal trade data gives important insights into the traffic of illicit whites. Some shipments of tobacco products have clear 'red flags' (for example, shipment of four containers of tobacco products in October 2020 from India to Uzbekistan without a consignee). In other cases, shipments are destined for countries without a legal tobacco industry or an industry that does not require that kind of volume. For example, Nepal comes

⁷ See for example Het Belang Van Limburg, "Bulgaren Smokkelen Sigaretten in Doodskasten [Bulgarians Smuggle Cigarettes in Coffins]," Het Belang Van Limburg, November 13, 2012, <https://www.hbvl.be/cnt/aid1278424/bulgaren-smokkelen-sigaretten-in-doodskasten>; The Times, 1 October 2013, available at <https://www.thetimes.co.uk/article/al-qaeda-attack-on-ship-uncovers-ira-tobacco-smuggling-fpx8l2dwg9h>.

⁸ This is the case in South Libya for example. See Eaton et al. 2020.

⁹ For recent cases see OCCPR (2021), British American Tobacco Fights Dirty In West Africa, available at <https://www.occpr.org/en/loosetobacco/british-american-tobacco-fights-dirty-in-west-africa>; BBC News (2014), <http://www.bbc.co.uk/news/business-30038328> (Nov 13, 2014).

¹⁰ See *City of New York v. FedEx Ground Package Sys.* United States District Court for the Southern District of New York October 5, 2018, Decided; October 15, 2018, Filed 13 Civ. 9173 (ER); *New York v. UPS.* United States Court of Appeals for the Second Circuit March 8, 2019, Argued; November 7, 2019, Decided Docket Nos. 17-1993-cv; 17-2107-cv; 17-2111-cv.

¹¹ See for example HM Revenue & Customs, Press Release, 9 February 2015, available at <https://www.mynewsdesk.com/uk/hm-revenue-customs-hmrc/pressreleases/transport-boss-jailed-for-cigarette-smuggling-1115123>.

¹² See for example CAN news, 25 November 2020, available at <https://www.channelnewsasia.com/news/singapore/duty-unpaid-cigarettes-changi-air-freight-centre-forwarder-13634604>.

¹³ See for example OLAF press release, 8 May 2020, available at https://ec.europa.eu/anti-fraud/media-corner/news/08-05-2020/italian-authorities-break-tobacco-smuggling-ring-thanks-olaf-tip_en.

up regularly in 2020–2021 trade data as a recipient of raw tobacco from India-based manufacturers, but the volumes are staggeringly disproportional to the processing capacity and existing demand of Nepal (roughly 100 containers a month). Large shipments to countries with non-functioning or inefficient regulatory or law enforcement bodies (e.g., shipments from India to Libya and Yemen) are equally concerning and most likely are destined for diversion and/or (in the case of raw materials such as cutrag and acetate tow) for use in underground factories. Similar to their counterparts in China, Indian manufacturers are also entangled in complex schemes of patronage and corruption, but private sector corruption is perhaps more important because governments sometimes exercise altruistic leniency towards legally produced, illegally diverted goods leaving the country (that then become ‘someone else’s problem’).

Conclusion

Econometric analysis based on large-N studies are methodologically well-versed, but they may lead to theoretical and empirical mischaracterising because of the fundamental difficulties related to measuring highly complex, illegal and hidden behaviour. This is further exacerbated by inter-disciplinary divides. Crime researchers often do not appreciate the full complexity of corruption, and this is not surprising because corruption has rarely been the focus of criminological research (Huisman & Vande Walle 2010). Recent scholarly efforts to understand the impact of Covid-19 illustrates this well. While the academic debates revolved around either the pandemic’s impact on corruption or the pandemic’s impact on organised crime, these two discussions should have been integrated for a more nuanced understanding of trends and processes (Kupatadze 2020). Corrupt private sector actors are poorly understood as perpetrators of organised smuggling, and so is the transnational condition of corruption that exists outside of jurisdictional boundaries.

This review advances a nuanced understanding of how various manifestations of corruption are linked to different types of illicit tobacco trade. It maintains that corruption is rarely a necessary condition except for large-scale manufacturing and diversion of illicit tobacco. Having said that, corruption should still be regarded as an important factor, especially in the private sector and in its extraterritorial form.

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Competing Interests

The author has no competing interests to declare.

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