



ILLICIT TRADE: The monster that eats into our socio-economic sovereignty



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PURPOSE OF THE PRESENTATION

- ❑ **Provide the nature, extent and impact of illicit trade in the economic fabric of the country**
- ❑ **Provide statistical enforcement trend analysis over a period of three years as well as the observed schemes & modus operandi**
- ❑ **Outline the strategic and operational posture aimed at addressing the scourge of illicit trade.**

Introduction and Background

What is the illicit economy and illicit Trade, and how do they manifest?

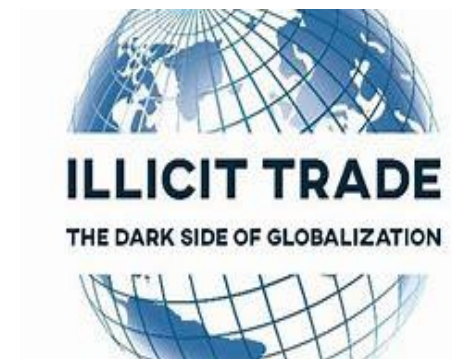
Illicit Economy is defined globally as the underground economy where transactions occur illegally, i.e., away from official eyes. We also call it the shadow economy, black economy, or informal sector.

The activities and/or transactions that occur in the underground economy are illegal for two reasons:

- ❖ A transaction that would otherwise be licit does not adhere to government's reporting requirements.
- ❖ The product or service is illegal.

Illicit Trade is the production, import, export, purchase, sale or possession of goods failing to comply with the domestic legislation of any country.

This is a serious and growing problem globally, as it is one of the major sources of funding for organized crime and terrorist organizations.



Magnitude of Illicit Trade

- It is estimated that illicit international trade amounts to roughly \$650 Billion
- Of the above, Illicit financial flows are in the order of \$1.3 trillion
- Moreover, the “illicit economy” represents approximately 15% of the world’s GDP and 7% of the world’s circulating merchandise
- The Global Financial Intelligence (GFI) report 2019 states that South Africa has an estimated outflow of \$10 Billion when using IMF data, and \$5.9 Billion when using COMTRADE data
- It thus has the potential of impacting, in a negative way, both the major and the small economies of our planet alike

Source: (World Economic Forum, 2013: Why Illicit Trade and Organized Crime matter to us all)

Risks of Illicit Trade

The impact of illegal imports includes:

- lower revenue for the fiscus (given that not all customs duties and value added tax (VAT) due to the government are paid)
- circumvention of support put in place by government for local industries
- the erosion of productive capacity in the country
- job losses, particularly in the manufacturing sector
- limiting our potential to grow and create jobs
- lower company profits, unfair competition for legitimate trade
- dis-incentivising innovation by companies
- undermining government's efforts to promote health (e.g. under-priced cigarettes), security, standards and the well-being of its people
- undermining government's efforts to curb corruption
- social tension

Impact of Illicit Trade on Revenue collection

- Over the last few decades, South Africa's trade has increased substantially with SA now exporting R1,196.4 trillion and importing R1,185 trillion (November 2019). However, the expansion of legitimate trade has, as with most other countries in the world, been accompanied by a rise in illegal and illicit trade.
- Adoption of the National Development Plan (NDP) to address poverty, inequality, and unemployment in the country, put more pressure on the Government to ensure economic growth and protect the baseline.
- In line with the NDP, the Customs & Excise Act 34 of 1997 mandates the South African Revenue Services (SARS) to collect revenue due, as well as ensure optimal compliance with tax and customs legislation.
- Failure by the Government to collect revenue due and address the concomitant prime movers such as illicit trade, spells enormous socio economic and security threat to economic growth and the ability to meet government programmes (the consequences are too dire to anticipate)

Impact of Illicit Trade on Revenue collection

SARS' efforts to realise its key strategic outputs are evidenced by its failure to meet its revenue collection targets over the past few years

According to SARS annual reports:

- 2013-18: Although Customs exceeded the revenue target during the period 2012/13 – 2014/15 financial year, Customs missed the revenue collection targets since 2016 which have since recorded negative variances of 2015/16 (924), 2016/17 (4181) and 2017/18 (1488) respectively signalling a significant increase in loss of revenue.
- The sustained surge of cheap clothing and textile goods, smuggling of tobacco and cigarette, fuel, precious metals, second hand vehicles; counterfeit goods; base erosion and profit shifting schemes and illicit trade in steel and scrap metal, calls for a different strategic and operational approach.
It is business unusual!!

Statistical performance (2016 – 2019)

Detections and Seizures

Product	No. of Seizures	Quantity	Value
CITES	175	6744.70 kg	R 957 370 002
Medicaments	2891	99 103.96 kg	R 46 800 659
VIAGRA	651	2 039 217 (pills)	R 204 892 800
Narcotics	2995	34 558.22 kg	R 1 326 159 140
Copper Scrap	45	17 792 kg	R 5 435 633
Currency	52	0	R 199 544 878
Precious Metals/Stones	58	428 kg	R 32 438 235

Statistical Performance (2016 – 2019)

Detections and Seizures

Product	No. of Seizures	Quantity	Value
Tobacco	126	49 496 kg	R 449 704
Cigarettes	1093	190 345 700 (sticks)	R 148 364 585
Alcohol	810	74 678 (litres)	R 26 029 672
Counterfeit			
Clothing	1110	3 333 209 (items)	R 433 672 751
Footwear	2230	593 902 (items)	R 728 949 057
Other (including Handbags)	2273	various	R 5 510 942 338
Clothing and Textiles	485	5 438 168 (items)	R 92 145 866

Key Focus areas

Clothing and Textile Industry

- Clothing and Textile products represent 2% of the total Customs value of goods declared
- There has been a steady increase in imported clothing and textile goods since 1994, with a rapid and sustainable surge of cheap imports
- Increased job losses in the Industry stand at 55 500 since 2002
- Official statistics show a 37% reduction in employment since 1996
- Under-declaration of Customs value in C&T has increased from R5.2bn in 2014 to R8.52bn in 2018

Key Focus areas

Clothing and Textile Industry

- Under-declared Customs value for the last 5 years averaged at around 31% of the total Clothing and Textile (C&T) declared Customs value
- In particular, under-declared Customs value for 2017 and 2018 represents 34% and 35% of the declared C&T Customs value respectively
- Nearly 95% of the undervalued goods in 2017 and 2018 are declared as Duty Paid (DP) entries, which points to the unwillingness of traders to pay Customs duty and VAT

Clothing and Textile Risks Identified

- ❑ Values of complete garments declared at amounts as low as 0.02USD cents
- ❑ Clothing destined to Retailers declared at values as low as R2.00 per shirt, for example
- ❑ More than 80% quantity in the container not declared – Excess Cargo
- ❑ Labeling infringements
- ❑ Misclassification of goods to Tariff Headings (TH's) with lower Rate of Declaration (ROD)
- ❑ IPR Infringements
- ❑ Fictitious importers' addresses
- ❑ False/incorrect responses to questionnaires
- ❑ Abuse of Rebates

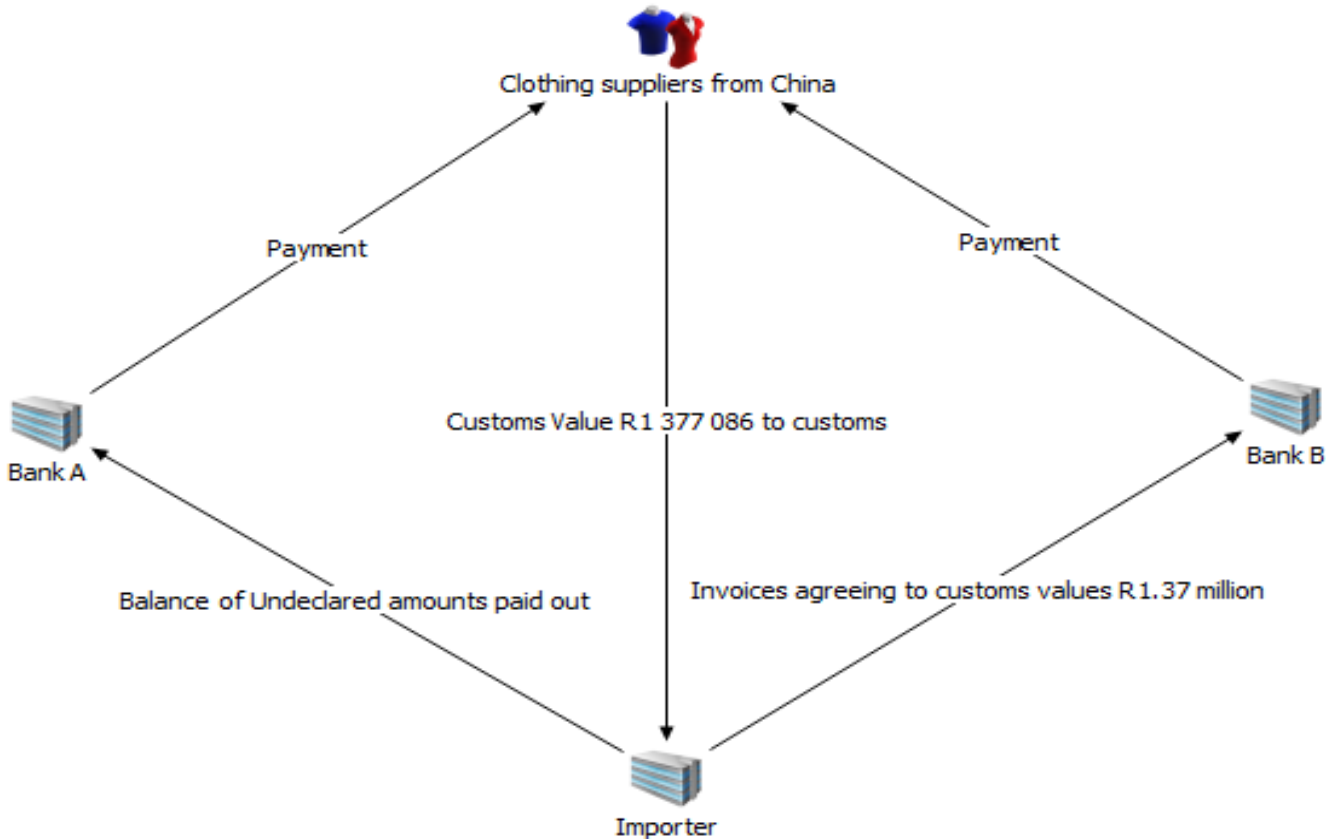
An integrated approach and criminal prosecution will ensue on the identified cases emanating from these cases.

Based on the 189 cases since September 2019, there is evidence that a significant amount of undervalued clothing is actually destined for the large retail chain stores. These shipments are typically imported by importers unrelated to the chain stores, hence the importance of a partnership with Retailers Associations.

TOWARDS IMPROVED COMPLIANCE ON CTLF IMPORTS

- The DTI and Treasury, through SARS, established an Inter-Agency Working Group (IAWG) in mid-2019, with an initial focus on Clothing Textile Footwear and Leather Industry, steel and Precious metals
- Through IAWG, the government is able to leverage on multi-agency capacity and capability, complementary pieces of legislation and pooling of resources to enhance legislative and policy tools, joint planning and operations, Institutionalised Industry focus alignment as Government, Business (e.g. retailers and manufacturers), NGOs, Labour and civil society
- We have established a CTLF Compliance focus team which takes an end-to-end inspection view on identified CTLF import declaration in the 03 main provinces where import volumes are prevalent - Gauteng, KZN and Western Cape. The team currently comprises of 62 Customs officials performing various leadership, documentary, physical inspection and post clearance audit roles.
- Activated new risk rules on suspected extreme under-valued consignments on tariff headings, are not covered by the reference pricing.
- We enhanced our scripts for each inspection role, and furthermore packaged a list of questions aimed at understanding the reasons for the low values, establishing who the real owner of the goods is, as well as the existence of the company for further investigations.
- Through the Inter-agency Working Group, we have received our first government expert report as part of our first court case. The SA Reserve Bank (SARB) has also been supportive in providing us with payment information relating to our cases.
- We are reviewing MAAs with key trade partners, so that we can fully implement the sharing of export declaration information with extensive engagements with the Chinese Trade and Customs authorities
- In September 2019 alone, a total of 20 Letters of Intent to seize were sent to traders who were found to be non-compliant in terms of value, quantity, classification, licensing & registration etc. The potential loss to the fiscus of the intended seizures, based on 25% of the total floor price value, is +-R20Million.
- Government is breaking the status quo in terms of addressing illicit trade as business-as-usual with a more audacious approach towards addressing valuation risk (this daring approach led us into our first litigation case on valuation in a long time).

CASE STUDY 1 – MONIES PAID OUT VIA 2 BANK ACCOUNTS



Case Studies

CITES (Shark-Fin)



The South African Revenue Service, Customs & Excise, Specialised Units (DDU & Marine Unit) and other law enforcement departments / agencies such as SA Police Service, Department of Environment, Forestry & Fisheries, SAMSA, etc. participated in Vessel Rummage Operations, Harbour & Coastline Patrols and Compliance Inspections in small and commercial harbours along the South African Coastline in January 2019.

An inspection on a fishing vessel in Cape Town Harbour loading dried vegetables, led to a Customs inspection at Commercial Cold Storage.

A total amount of **33 Tons of Sharkfin** were detained due to the lack of import and/or exportation permits. It was later confirmed that a large number of sharkfins detained were protected species, in contravention with the relevant legislation, taking into account the illegal possession and intended exportation read with the CITES Regulations.

Case Studies

CITES (Rhino Horn)

On 3 May 2019, a multi-disciplinary team consisting of DPCI ORTIA, EMPD SWAT & EMPD Intelligence and the Customs Detector Dog Unit conducted an intelligence-driven operation, which culminated in the seizure of one wooden crate containing 31 boxes of wine and two boxes containing Rhino horns weighing 45 kg and valued at R38 million, at a shipping exports company in Kempton Park, destined for Kuala Lumpur, Malaysia.

Investigations are ongoing to identify the perpetrators behind the shipment.



Case Studies

Narcotics



On 7 September 2019, operational intelligence was received on two containers suspected to possibly contain narcotics. The Customs team requested support and assistance from the SAPS Border Police in Port Elizabeth to secure the containers. The inter-agency teams worked together and ensured that the targeted containers were removed to the container depot; upon opening the containers it was found that the contents were bananas. The team continued to check the inside and outside of the containers and it was at the rear refrigeration unit that the detector dog reacted positively. Upon removing some of the panelling, the team discovered packages wrapped in brown tape. The team then contacted the Directorate of Priority Crime Investigations (DPCI-HAWKS) and the panelling was removed. In total, 85 bricks of cocaine, with an estimated value of R85 Million and a street value of around R 500 Million, were secured and removed by the SAPS and DPCI-Hawks investigators for further investigations.



Case Studies

Scrap Metal

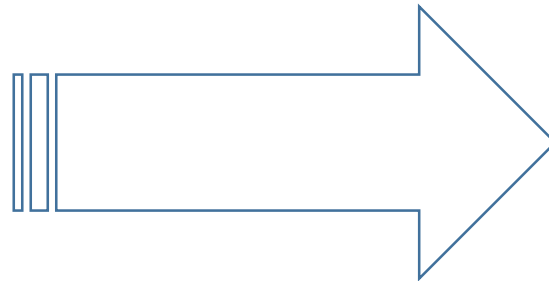


During July 2019, Customs inspected two containers belonging to Group Wreck that were being exported through the Durban Harbour. The containers were declared as unrefined copper, however, upon inspection they were found to contain scrap metal. SARS, together with ITAC, instituted criminal charges against Group Wreck for contravening Section 54(1)(a) of the International Trade Administration Act, 71 of 2002, and Section 84 of the Customs and Excise Act 91 of 1964.

The accused, Angelo Solimene, appeared in the Durban Magistrates court from 22-23 October 2019, and pleaded guilty on all four counts. He was sentenced to a fine of R500 000, half of which was suspended for five years on condition the accused does not export any goods without the relevant permits. The accused also paid R600 000 as a Section 93 amount in terms of the Customs and Excise Act 91 of 1964, in order to obtain release of his goods from Customs. The current goods will not be exported.

“Whole of Society Approach” strategy roll-out

Departs from a silo approach by Government with unco-ordinated business and civil society engagements



Institutionalised partnership approach where each sector of society plays its role in this task

Well-coordinated social dialogue within Government, Business, Labour, civil society, academic institutions, regional and global structures on Illicit Trade

Effective and efficient integrated system establishment

Three Inter-agency Working Group Strategic Objectives



Thank you
Re a leboha
Re a leboga
Ndza Khensa
Dankie
Ndi a livhuwa
Ngiyabonga
Enkosi
Ngiyathokoza