



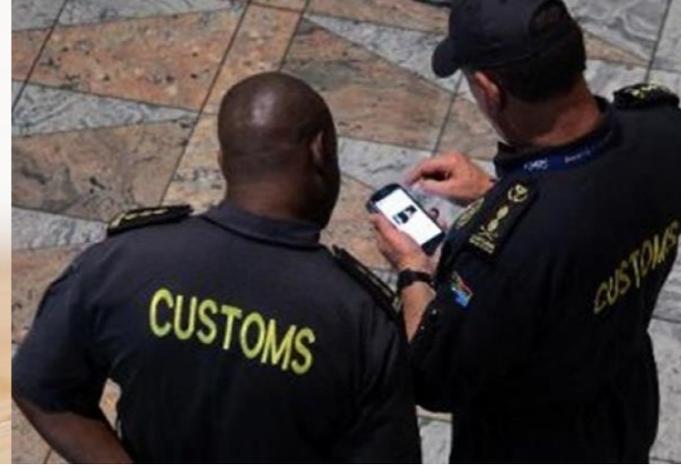
THE TOBACCO INSTITUTE OF SOUTHERN AFRICA

The Illicit Cigarette Trade in South Africa

Presentation to the Portfolio Committee on Police

06 March 2019





Disclaimer

Figures and statistics referred to in this presentation, represent an industry view based on external research and publicly available market information. The definition of “illicit trade” for purposes of this document includes any cigarette product sold to consumers below R17.85. The various brands referred to herein are assumed to be manufactured and/or distributed by the corporate entities who publicly claim to do so. TISA accepts no responsibility or liability whatsoever with regard to the information or statistics quoted incorrectly or out of context from this presentation by any person.





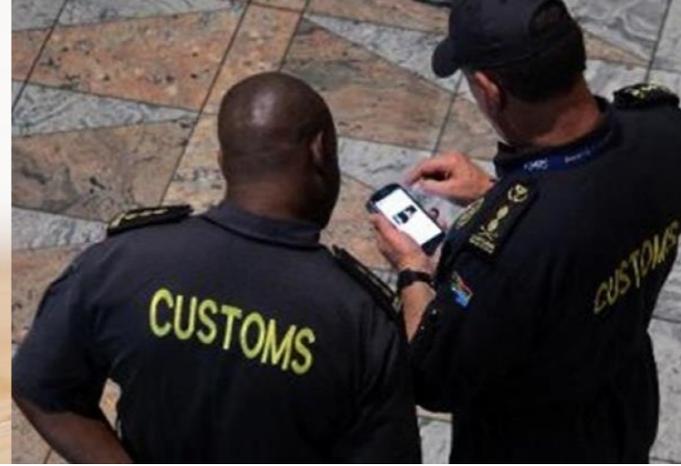
TISA Scope & Mandate

- TISA is the industry body for the legal tobacco sector in SA; mandate extends into the Southern African Customs Union (SACU) region.
- TISA represents farmers, leaf processors, leaf merchants, manufacturers, importers and exporters of all tobacco products; in the legally compliant industry.

Clear distinction between legal and illegal industry.

- Strategic objectives:
 - To ensure the sustainability of tobacco sector, including farmers.
 - Regulation (secure a reasonable regulatory framework for the sector)
 - **Illicit Trade** (strategy to bring down illicit rates in cooperation with Govt)
- TISA believes in public/private partnerships to achieve objectives for the Govt (NDP), the sector and SA pty ltd, on the basis of trust, mutual respect and good relationships.





The Ipsos findings: key take-outs

TISA commissioned Ipsos, a globally-reputable research agency, to measure the number of cigarettes selling in South Africa below the minimum collectable tax (MCT) of R 17.85. Cigarettes selling below MCT can be deemed as illicit (see slide 9).

Two market reads were done in 2018, in June and September.

The results in this presentation refers to the September read and were published in November 2018.

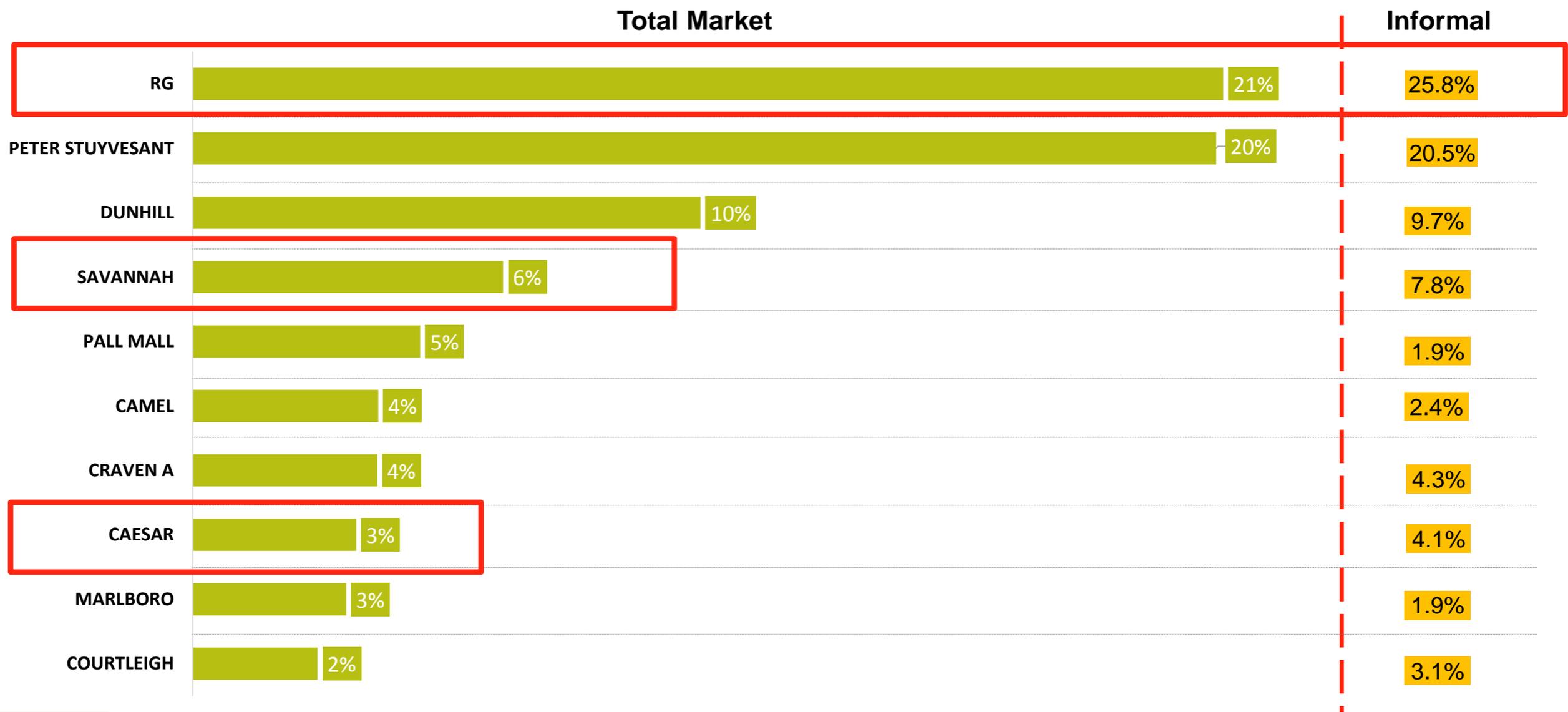
For more information, visit www.tobaccosa.co.za

- RG, an illicit brand from Gold Leaf Tobacco, showed as the biggest cigarette brand in SA
 - Selling at average price of R10 a pack. 89% of RG selling below MCT.
- Caesar from Best Tobacco identified as the second fastest growing brand in the market
 - It retails for R10 per pack
- November Ipsos results demonstrated that market share of the illicit industry has grown to 42% in the informal market, up from 33% only three months previously
- Illicit brands remain freely available in over 100,000 shops in the country
- Gene Ravele testified at Nugent Commission that inspections at cigarette factories were deliberately stopped during the Moyane era.

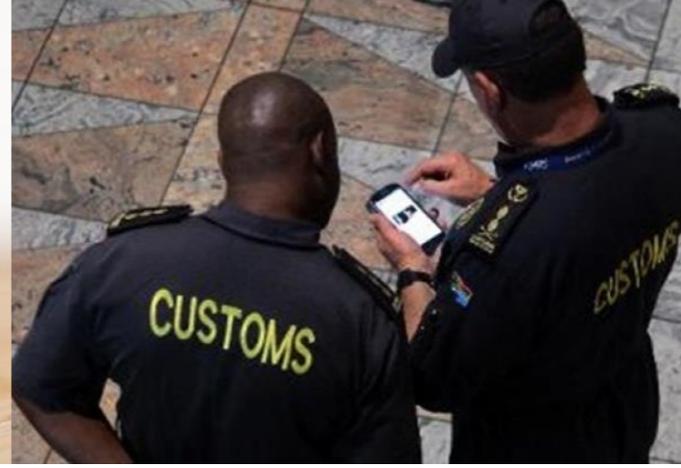




South Africa is the first country in the world to allow an illicit cigarette brand to become the biggest in the market



 = Illicit brands



Counting the cost of the illegal tobacco trade

- **Revenue loss:** Based on annualised Ipsos Wave 2 data, SARS will lose at least R8 billion in collectible taxes in the next twelve months...
- **...And if illegal cigarettes continue the current growth trajectory, it will be much more.**
- **Employment risk:** TISA members buy > 95% of the tobacco leaf produced in South Africa.
 - **12,000 direct jobs at imminent risk, impacting more than 35,000 dependants**
- **Investment reputation risk:** Local illicit manufacturers operate with impunity, while legal tax paying industry cannot compete, thus viability under serious threat – **this frightens international and local investors.**





Illegal cigarettes have now become a South African export

Statement from the Lesotho Revenue Authority

- Confiscation of 380,000 illicit cigarettes, all RG from Gold Leaf Tobacco, at Maseru Bridge
- Single biggest bust in the last five years
- RG classified as an illicit brand because it was sold below the legal R20 threshold, having avoided excise due in SA and VAT due in Lesotho
- **LRA pleads with all traders to cease from importing illicit goods into Lesotho**



The confiscation of 380,000 RG cigarettes marks the biggest bust on illicit cigarettes in Lesotho in the past five years.

Lesotho Revenue Authority (LRA) has released a statement confirming the confiscation of 380,000 illicit cigarettes at the Maseru Bridge on Sunday night.

The cigarettes were worth just over a million Loti, which is a similar amount in rands.

"This is the biggest single bust on illicit cigarettes in Lesotho in the past five years," the statement said.

The statement said the cigarettes were the RG brand, which they say was classed as an illicit cigarette brand as it was sold below the legal M20 (or R20,02) threshold.

RG is manufactured by Gold Leaf Tobacco, a company often accused of failing to pay taxes on their products.

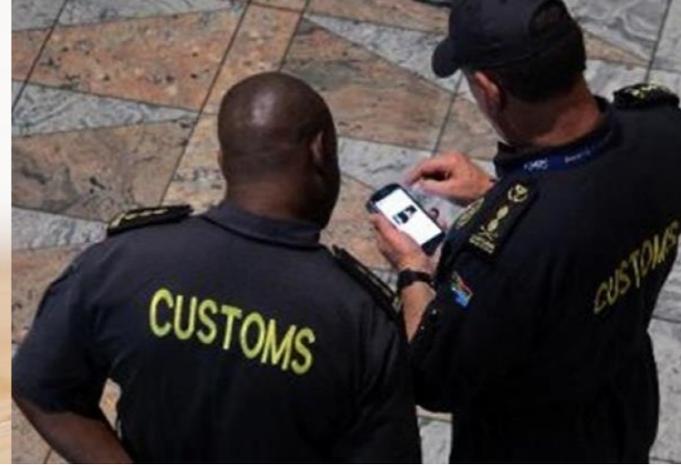
It's great to see [@LesothoRevenue](#) clamping down on South African illicit cigarettes. [@sarstax](#) [@eNCA](#) [@SABCNewsOnline](#) [@IOL](#) [@TheStar_news](#) [@TimesLIVE](#) [@TheCitizen_News](#) [@News24](#) [@TeamNews24](#) [@pretorianews](#) [@OUTASA](#) [@BedfordEdenvale](#) [@crimestoppers1](#) [pic.twitter.com/PdURhRgib1](#)

— Yusuf Abramjee (@Abramjee) November 19, 2018

Much appreciated, we are working hard to control the illicit substances from entering the country.

— LRA (@LesothoRevenue) November 19, 2018





What is to be done?

- Bulk of illegal cigarettes sold in SA are manufactured locally in factories licensed by SARS.
- To be clear: this is not about smuggling and it is not about counterfeiting. It is illegal local activity, operating in close proximity to SARS.
- Large wholesalers/retailers dealing in illicit should be raided and the market cleaned up – SAPS/SARS
- Given that the bulk of illicit cigarette trading is tax evasion, the core mandate to act lies with SARS:
 - Minister of Finance on 20 February 2019 specifically mentioned the new Illicit Economy Unit launched (within SARS) to fight the trade in illicit cigarettes.
- **This does not make the role of SAPS less important.** All law enforcement agencies have a role to play:
Effective coordination amongst law enforcement agencies is key **to ensuring successful prosecutions.**
- To assist SAPS, there is legal precedent to act immediately.





Legal precedent

- A 2015 judgment in the Eastern Cape High Court found that tobacco products selling below the tax owed must be illicit.
- In that matter, relating to sales of Gold Leaf Tobacco Company's Savannah brand for R8 a pack, a price well below the tax owed to SARS of R12.45 at the time, the judge found:

“The logical inference to be drawn is that no excise duty was paid in respect of the cigarettes in question.”

While law enforcement agencies can rely on the above court judgement, **a very powerful tool** for the SAPS and the DPCI in curbing the illicit cigarette trade is to have a **ban on sales below minimum collectable tax legislated by the Minister of Finance.**





TISA engagement with the SAPS and the DPCI

- **CGCSA Seminar on Deconstructing the Illicit Economy in South Africa – 07 Sept 2018:**

Attended by SAPS Commissioner and senior team. Outcome from the conference was the establishment of **a task team** to work with CGCSA on an MoU to address the illicit economy.

- TISA and Ipsos presented the illicit cigarette trade research to senior management of the DPCI (Hawks) on 12 September 2018.
- The CGCSA task team met with SAPS and the Hawks on 10 December 2018.
- TISA requested further meeting with SAPS Commissioner.





Eradicating Illicit Tobacco - Parliament's Oversight Role

- Why are there so few arrests and successful prosecutions of illegal tobacco manufacturers and traders?
- How well is SAPS equipped to understand and play its key role in eradicating illicit tobacco?
- Is there specific illicit tobacco knowledge and skills set within SAPS?
- Need for a departmental budget allocation for tackling illicit tobacco?
- Are roles and responsibilities clearly defined between government departments and agencies?
- Does SAPS and the NPA have a plan to play their part in tackling illicit tobacco?
- Do SAPS and the NPA report to parliament on how they are tackling the illicit tobacco economy?
- Given the massive losses to SA due to illicit tobacco trade, we offer our assistance to the Committee to ensure



this scourge is addressed very urgently.



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Thank you