

Tobacco smuggling in Eritrea

Abstract

This paper discusses tobacco smuggling in Eritrea with focus on cigarette smuggling. It reports on how cigarettes and other tobacco products are smuggled into and through Eritrea. Various cigarettes brands, both genuine and counterfeit, from different countries are smuggled into the country and marketed mostly through women and children street vendors. The illicit cigarettes are marketed at prices at 2-5 times lower than legal cigarettes, making them affordable even to price-sensitive smokers. All of the illicit cigarettes fail to comply with the packaging, health-warning labelling and marketing requirements of Proclamation 143/2004: A Proclamation to Provide for Tobacco Control, rendering the tobacco control provisions of the Proclamation inconsequential. Tobacco smuggling is conducted within broader smuggling operations and seems to be an entrenched activity. Compared to customs officers and other law enforcement entities, smugglers are better resourced, better networked and better organized.

Keywords: Tobacco, cigarettes, smuggling, illicit tobacco, street vending, tobacco taxes, Customs Department, tobacco industry

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Introduction

Tobacco smuggling also referred to as illicit tobacco, which the Department of State¹ defined as "... the trade in tobacco products that are illegally manufactured, distributed or sold", is a global problem. Cigarettes are the most dominant tobacco products circulated in the contraband market. However, smuggling is an underground activity, and the quantity of cigarettes that enter the tobacco market is difficult to know accurately. According to the World Health Organization² one in ten cigarettes may be smuggled. The Action on Smoking and Health³ stated that smuggled cigarettes account for 11.6% (or 657 billion cigarettes a year), of all internationally traded cigarettes. Moreover, the World Customs Organization (WCO)⁴ reported that illicit trade of cigarettes has increased by 40% in recent years. In monetary terms, it generates USD 50 billion every year, and it has remained stable since 2000. Even in the European Union (EU), smuggled cigarettes account for 10% of the cigarette consumption and have shown an upward trend since 2009. Every year, it is estimated that 65.5 billion illegal cigarettes, worth USD 6.5 billion, are sold in the EU.⁵ In 2007, 60 billion cigarettes were smuggled into Africa, accounting for 15% of the total cigarette consumption in Africa.⁶ This is a huge risk to public health and drain in terms of lost tax revenue. In addition to the smuggling of genuine cigarettes, there has been a significant rise in the smuggling of counterfeit cigarettes in recent years. This is the unlawful manufacturing of apparently lawful and well-branded tobacco products with confusing or apparent trademarks of the well-branded products. In 2001/02, 15% of large seizures of cigarettes made by the UK Customs officers were counterfeit. By 2007/08 this had risen to more than three-folds to 51%.⁷ Cigarette smuggling is practised by a wide range of agents, ranging from petty peddlers - bootlegging - to highly organized criminal and terrorist networks.² The literature on smuggling makes distinctions between various types of smuggling, but Merriman, Yurekli & Chaloupka⁸ distinguish two general types of cigarette smuggling: Bootlegging and Wholesale smuggling. The former refers to smuggling cases in which cigarettes are bought in one country but sold or consumed in another country without the payment of taxes and duties that are applicable in that country. Bootlegging smugglers use vehicles, luggage, hollow

materials, tyres, boats, etc. to smuggle cigarettes and other tobacco products.¹ Wholesale or large-scale smuggling, which is also called organized smuggling or transit fraud,⁴ is a phenomenon in which cigarettes are sold without the payment of taxes or duties, even in the country of their origin. It often occurs by diverting large consignments of cigarettes to the black market while in transit, and it may use cover loads such as legal cigarettes, textiles, household materials, furniture, or similar items. According to Merriman Yurekli & Chaloupka⁹ "Price differentials among countries create incentives for bootlegging, while high cigarette taxes create an incentive for wholesale smuggling—even when tax systems are harmonized".

Illicit tobacco is a highly profitable, but low-risk activity. Often the penalties and other punitive measures taken against smugglers are insignificant compared to the rewards gained. However, the consequences of illicit tobacco are very dire. Illicit tobacco sabotages the policies and legislations put in place by governments to control the use of tobacco products by making them affordable and easily accessible due to tax evasions, and by circumventing the legal restrictions and health regulations. In this way it increases the disease burden of societies. According to AHS,⁷ death from the effects of smuggled tobacco could be as high as four times the death from the effects of all illicit drugs combined. In addition to the health risks posed by illicit tobacco products, the revenue loss from smuggling falls on national treasures; the wholesalers scoop huge profits by evading taxes, while the tobacco manufacturers benefit from expanded tobacco markets.² Smugglers buy a pack of cigarettes for as low as USD 0.26, but sell it for 6 USD in Ireland compared to USD 12 per pack of legal cigarettes.⁵ More seriously, the proceeds obtained from illicit trade by certain groups are used to fund criminal and terrorist activities. Hence tobacco smuggling is often run by a group of international and domestic cartels. Thus illicit tobacco is not only an economic and public health threat but also a security threat.¹ Knowing that tax and price increase are effective means of reducing tobacco consumption, the tobacco industry argues that any increase in tax/price will promote smuggling and it tries to dissuade governments from increasing tax on tobacco products. However, available evidences demonstrate that high tobacco smuggling is associated with low tax/price. For instance, the

bulk of illicit tobacco is destined to low income countries, where taxes and prices of tobacco products are low (Table 1). Similarly, Zhang & Schwarts¹⁰ found out that Ontario and Quebec provinces in Canada have the lowest tobacco tax, but they experience the largest quantity of smuggled tobacco. Although the tobacco industry claims to support anti-smuggling measures, it is the major agent that encourages and supplies the illicit tobacco trade. Tobacco companies use it to promote their brands, penetrate markets dominated by competitors, attract new tobacco users, discourage smoking cessation by making available cheap and easily accessible cigarettes, and circumvent restrictions imposed by tobacco use control legislations. According to WHO,² the tobacco industry uses terms like No Duty Paid (NDP), Transit, General Trade, etc to refer to smuggling operations.

Table 1 The relationship between legal price and illicit trade in 2007

Source (WHO, 2015: 7)²

World Bank Income Group	Average legal price of a pack of cigarettes in US \$	Average percentage of illicit cigarette market
Low-income	1.13	16.8
Middle-income	1.89	11.8
High-income	4.89	9.8

Table 2 Value of Seized tobacco products

Source: Customs Department, Asmara

Year	I Value (Nakfa) ¹
1996	1,169,875.50
1997	1,098,803.80
1998	179,520.00
1999	286,534.00
2000	155,744.40
2001	210,273.00
2002	818,017.00
2003	850,148.00
2008	1,342,043.00
2009	775,758.00
2010	5,864,506.00

Objectives, research questions and methods of the study

Cigarette smuggling in Eritrea is a major public health and economic concern: Many types of cigarettes and other tobacco products are smuggled into Eritrea across the border with the Sudan and over the 1,200km porous, inadequately policed coastline. Due to its clandestine nature and absence of any study on it, the scale and magnitude of tobacco smuggling in Eritrea is little known. However, there are indications that there is considerable smuggling of genuine and counterfeit cigarettes and other tobacco products to Eritrea. Although *Proclamation 143/2004- Proclamation to Provide for Tobacco Control in Eritrea*, stipulates that cigarettes sold in Eritrea

must carry health warning labels written in Tigrigna, Arabic and English, and cover at least 30% of the main sides of cigarette packets, most of the cigarettes sold by street vendors and retail shops either do not carry health warning labels at all or bear health warning labels in non-Eritrean languages written on the narrow side of the cigarette packets. Smuggled cigarettes are thus sabotaging the tobacco control Proclamation. The smuggled cigarettes are sold at lower prices than the legal ones, which make them attractive to low-income smokers. Access to smuggled tobacco therefore undermines pressures to quit smoking, exacerbating health inequalities. A broader research was undertaken to assess the impact of taxation, smuggling and street vending of tobacco products on consumption and their implications for tobacco control in Eritrea. This paper presents the findings relating to smuggling. The specific objectives of the study relating to smuggling were to:

- I. Assess the trends and identify networks of smuggling and legal cross border shopping of tobacco products, and its public health and economic implications.
- II. Appraise the nexus between smuggling and street vending; and evaluate the impacts of smuggling and street vending of tobacco products on the tobacco control legislation of the country.
- III. The following major research questions were used to guide the study.
- IV. What are the 'regimes of trade' established in cross-border tobacco smuggling? What supply channels connect border markets in cross-border tobacco smuggling?
- V. What techniques do smugglers use in illicit cross-border trafficking of tobacco products? How do they beat the 'law enforcement regime.
- VI. Is Eritrea a destination, transit or multiple purpose country in tobacco smuggling?
- VII. How can smuggling of tobacco products be reduced in Eritrea?

Although the study had aimed at how smuggling of tobacco products is affecting the fiscal revenues of Eritrea, it was not possible to do so because of lack of relevant data. In order to address the research questions and achieve the specific objectives stated above the collection of data and analysis required a combination of methodological approaches and data types. Thus, the study used a research design that combined archival studies, survey, and case studies. Qualitative and quantitative archival information were collected from relevant offices, particularly the head and branch offices of the Customs Department, and from extensive review of relevant literature. The survey method was primarily used to collect information from street vending adults and children. The information collected has been used to assess the extent to which the tobacco industry and smugglers jointly use street vendors as their marketing channels for their legal and illegal cigarettes and other tobacco products in Eritrea, to identify supply chains and brands of illicit cigarettes, and to collect data on prices of different brands and why women and children are engaged in street vending. Two separate structured questionnaires were developed for adults (a sample of 400) and children street vendors (200). The survey of tobacco street vendors was carried out in the capital cities and major towns of the six Zobas (Administrative Regions). A purposive sampling method was used to select 400 adult and 200 child street vendors. In addition

to information collected using structured questionnaires, street vendors were asked to present a sample of the packets (brands) of the cigarettes they sell. Enumerators inspected cigarette packets carefully and record their observations on indicators like absence/presence of tax stamps, presence/absence of health warning labels as stipulated in Proclamation 143/2004, cigarette brands, price of each brand, forms of packaging, origin of the cigarette (when available) or other tobacco product, location of street vendor relative to schools and/or other institutions, display patterns or methods, possession of tobacco related items, etc. The information collected is expected to shed light not only on the tobacco smuggling, but also on the tactics the tobacco industry is using to increase sales and beat the tobacco control legislation of the country. In-depth interviews were also conducted with few, selected street vendors and business people. Moreover, qualitative approaches were employed for in-depth understanding of the norms, values, attitudes, and knowledge of tobacco consumption, marketing and control. In order to understand the smuggling trend and practice in Eritrea, qualitative information were collected from customs officers, customs finance police, security agents, from ex-smugglers and knowledgeable informants using semi-structured interviews. This sample size was determined with the margin of error (e) of 4.25%, 95% confidence level for the estimates ($z=1.96$), and prevalence of the variable of interest (p) of 50%. The formula used to determine the sample size (n) was

$$n = [z^2 p (1-p)]/e^2$$

The final sample size was determined by adding 12% to 'n' as safety margin for non response. After establishing a ratio by direct observation, the total sample was split on 2:1 adult: children ratio. Due to absence of background information on the target population, non-probability purposive sampling approach was used. The research team visited different parts of the towns from which samples were to be taken to locate street vendors. Then street vendors were selected from different parts of the towns. Since some street vendors are mobile, data was collected from different locations at the same time, and only from those who were willing to be interviewed. Street vendors who do not sell tobacco products were excluded from the survey. Following the definition of a 'minor' by the Tobacco Proclamation, street vendors whose age was greater than 18 years were included in the adult category whereas street vendors less than 18 years old were included with children. The data collected was subjected to various analyses. Data collected through surveys was summarized and analysed using frequency tables, percentages and descriptive statistics (e.g. mean, mode, ranges, standard deviation whenever applicable) to examine and characterize the distribution of responses for the variables of interest. The qualitative data collected via focus group discussion and in-depth interviews was transcribed around meaningful themes. The information extracted and insights obtained from this exercise were used to support the quantitative data and for triangulation of data to corroborate the findings of the survey.

Building trust

The collection of data canvassed sensitive issues such as smuggling networks, supply chains of smuggled cigarettes, income from street vending of smuggled tobacco products, etc. Respondents may thus either show reservation in responding to such questions or supply false information. To avoid any suspicion, the research team built on previous similar studies. When approaching street vendors in particular, the survey team was accompanied by a local representative of an appropriate organization like the National Union of Eritrean

Women and Ministry of Labour and Human Welfare, with whom street vendors have very close relationships. All street vendors who participated in the survey were properly informed on the purpose of the study and ensured that the information gathered will be kept confidential and will never be passed to a third party. Only vendors willing to participate in the survey were surveyed. The experience gained in, and lessons learned from similar studies by some members of the research team, was also used to build rapport with informants.

Cigarette smuggling in Eritrea

It is difficult to estimate the quantity of cigarettes smuggled into the country. There are no official estimates of the quantity smuggled; even the quantities intercepted and seized by customs' officers are not properly documented. Customs' officers mention that they do intercept smuggled cigarettes, but the exact quantity, the site, date and time of interception, the conditions in which they were intercepted, whether the intercepted cigarettes were lone items or intermingled with other legal or illegal items, the person in whose hands the contraband cigarettes were seized, the measures taken, etc. were not always properly documented. However, most of the cigarettes smokers smoke are smuggled ones and such cigarettes dominate the market, visibly in the streets and retail shops. Due to its strategic location along the Red Sea, British-American Tobacco (BAT) and other tobacco industries see Eritrea as a strategic place for routing and marketing their tobacco products in the Horn of Africa. The overall plan of BAT seems to use Eritrea as a distribution hub for BAT products to the Middle East, Eastern Africa and North-eastern Africa. Thus, BAT has decided not to quit Eritrea even if its current business does not yield good profits. The country is now a destination and route for a broad array of smuggled and counterfeit cigarettes. Inside Eritrea, street vending provides an optimal marketing outlet because it does not require any license or business permit, and it is difficult for the Government to regulate and control due to its diffuse and mobile nature. These features make it very attractive not only for the distribution of contraband cigarettes and other tobacco products, but also for their promotion. Smugglers and the tobacco industry are exploiting various gaps and techniques to smuggle in cigarettes and other tobacco products: inadequate policing of the coastline, incompetent or corrupt government employees, diverse smuggling land and sea routes, networking, bond and comradeship among smugglers, protection nodes in the smuggling networks, shortage of legal cigarettes in the domestic market, and unregulated marketing outlets. The research team has identified a wide array of cigarettes and other tobacco products that are sold openly by street vendors in all surveyed towns. The Customs Department informed the research team that excepting the two cigarette brands supplied by BAT (Pall Mall Red and Pall Mall Blue) all other cigarettes that were on sale in the country during the survey were illegal.

Types of smuggled cigarettes

Along the major streets of Eritrean towns, vendors selling various brands of cigarette packages squat off the sides of the streets. Vendors pile up their cigarette packages on a small wooden table and sell them mostly in single sticks to adults and minors. In recent years, smuggled brands, which are sold at lower prices, have increased. The study revealed that:

- 1) There is now an assortment of smuggled tobacco products, particularly cigarettes, in the country. Some of the smuggled cigarettes that are openly marketed in the country are: Reds (most

dominant), Royals (second dominant), Rothmans (two types and probably counterfeit), Bringi, Jockey, Marlboro, Modern, Fisher, Double Happiness (From China), Prime Gold (pack of 10 sticks), Manchester, MAC, Gold Coast, Gold Mount, Tradition, Blues (pack of 10 sticks) Napoli Red, Napoli Blue, Dunhill, and Macbeth (rare small pipes with filter from Brazil). A cigarette brand called Goal was found only on the border with the Sudan.

- 2) Some of the source countries, as stated in the packets, are Egypt, The Sudan, Yemen, Turkey, Italy, the UK, Bulgaria, Brazil, and China. Some of the packs have no indication of country of origin.
- 3) Excepting the two brands supplied by BAT, (Rothmans, Pall Mall Red and Pall Mall Blue), which are the only legal cigarette brands, none of the other cigarettes comply with Proclamation 143/2004, in terms of packaging and health warning labels, rendering the tobacco control legislation impotent.
- 4) The smuggled cigarettes— genuine or counterfeit – sell at a much lower price than the legal ones. Whereas the legal cigarettes are sold at an average retail price of 6.5 -10.00 Nakfa per stick, smuggled cigarettes are sold for 0.75 to 2.00 Nakfa per stick. Smuggled cigarettes are thus 2-5 folds cheaper than legal cigarettes. In this way, illicit trade increases the accessibility and affordability of tobacco products thus fuelling tobacco consumption. The availability of cheap cigarettes encourages early initiation of smoking among the youth, instilling addiction at an early age making them life-long smokers. Smuggled cigarettes are also attractive to price-sensitive smokers, and it reduces the pressure to quit due to problems of affordability. The low price of smuggled cigarettes tends to neutralize the effects of taxation and price increase as public health strategies. Some of the retail price of a pack of 20 cigarettes are as follows:
 - a) Pall Mall Red 65-100 Nakfa (65 in Asmara; up to 100 in Massawa)
 - b) Reds 20-25 Nakfa
 - c) Modern 40 Nakfa
 - d) Rothmans 60 Nakfa (probably counterfeit)
 - e) Bringi 20-25 Nakfa

Whereas the retail price of the legal cigarettes tends to change from town to town (towns further from Asmara have higher retail prices), the price of illicit cigarettes remains almost constant over the geographic space. Smuggled cigarettes are least affected by the friction of distance, perhaps due to multiple entry points. Many of the cigarettes sold by street vendors are smuggled and/or counterfeit. The counterfeit cigarettes come in shades of colours that are different from the original ones. Most of them do not have health warning labels and even if they bear labels, they are different from the labels on genuine ones. Most of the counterfeit cigarette packets do not indicate the country in which they are manufactured. The Customs Department has intermittent records on seized tobacco products. The available data shows that excepting during 1998-2001, the amount intercepted and seized was high. The 1998-2000 represents the border war with Ethiopia, and due to heavy movement of army, smuggling seems to have been reduced. Although data is not available for 2004-2007, the trend is an upward one. This was also stated by all customs officers during focus group discussions and expert interviews (Figure 1).



Figure 1 Sample of smuggled cigarette brands.

Sources of smuggling and points of entry

The major sources of smuggled cigarettes and other tobacco products are listed below.

- i. Procurement of duty free cigarettes: individuals can bring in duty free up to 40 packs of cigarettes, allegedly for self consumption;
- ii. Transit: cigarettes enter the country in transit, mainly destined to the Sudan, but are diverted back to the domestic market after nominal crossing of the border, or even without crossing the border;
- iii. Importation of counterfeit cigarettes: there is no legal or institutional mechanism to check or control counterfeit cigarettes in the country, and businesspeople are exploiting this gap. The Customs authorities say their duty is to control or prevent smuggling, while the Standards Authority says that it has no mandate to check counterfeit products against genuine ones.
- iv. Cigarettes enter the country intermingled with other commodities, and pass Customs without detection;
- v. Some of the smuggled cigarettes come with declarations that are false or forged and often it becomes difficult for inexperienced Customs officers to verify them.
- vi. Many of the small ports along the long coast of the country, where there are no customs offices and have loose police patrols, are used as entry points for contraband items. According to information provided by Custom's officers at the Port of Massawa, Royal and Reds are smuggled from Yemen through settlements located between the Port of Assab and the border with Djibouti.
- vii. Parts of the Southern Red Sea Region enjoy special trade privileges because of their location and livelihood problems. These privileges are often abused and used to cover smuggled cigarettes and other goods. Some traders present declarations for goods that are permitted for the Southern Red Sea Region when seized. These goods are returned to that region, but they are often rechanneled to other parts of the country. In this way, many items

earmarked for those areas are sold throughout the country. Many small settlements in this region like Thio, Edd, Hirshelle, Gelaello, etc. act as entry points for such goods.

- viii. Border posts on the Eritrean-Sudanese border through which smuggled items are believed to enter or leave Eritrea were visited. Although extracting information on smuggling was not easy due to the sensitivity of the information, the research team was able to learn that shisha (water pipe tobacco) is smuggled into Eritrea from the Sudan, while some cigarette brands, mainly Reds, pass to the Sudan as transit items.
- ix. In general, tobacco smuggling is part of a larger illicit trade in the country, which has been growing steadily in the last years. It has become a common practice for legal or licensed businesspeople to do business with illicit traders (Figure 2).

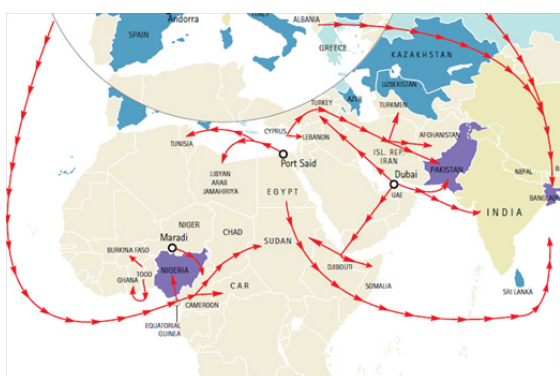


Figure 2 Generalized routes of tobacco smuggling clipped from Tobacco Atlas.

Condition promoting smuggling

- x. Eritrea has been trying to control the consumption of tobacco products since 2004 through legislative measures. In that year, it promulgated *Proclamation 143/2004 – Proclamation to Provide for Tobacco Control in Eritrea*. The Proclamation includes a number of tobacco control tools like banning of advertisement, compulsory health warning labels, banning of smoking in public places, prohibition of sales of tobacco products to minors, etc. but there is lack of institutional commitment to the imperatives of the Proclamation. There is neither an institutional arrangement for its enforcement nor a litigation procedure for non-compliance, and the country has now low regulatory resistance to tobacco promotional activities and illicit tobacco trade. Moreover, the Proclamation is not properly integrated into the national health policy and other legislations. Various tobacco industry agents are using this gap to promote their tobacco products through T-shirts and other items that bear cigarette brand names. For instance, Reds is being promoted via T-Shirts and plastic bags, even though they are prohibited from use by the Proclamation; Modern uses T-Shirts as its promotional tool. Both of these cigarettes are illegal. Smuggling and street vending are interrelated. According to Joossens¹¹ large-scale smuggling requires a willing market and a local distribution network. Street vending provides unregulated retail outlet to smuggled tobacco products, and makes smuggling more likely. Street vending does not require license, and due to its diffuse nature, it is difficult to regulate. Street vending often acts as retail outlets and points-of-sale advertisement for illegal tobacco products. Smugglers use street vendors to channel their

smuggled tobacco products to the market through connections and networks that are complex. The tobacco Industry also use street vendors, most of whom are poor women and children, as retail outlets to sell smuggled cigarettes that do not comply with the Proclamation, thereby expanding its market to its products. Street vending of cigarettes and other tobacco products provides a divisible or convenience shopping of tobacco products. The survey of street vendors showed that 86.3% of the smokers who buy their cigarettes from street vendors buy in single sticks only; 0.3% buy in packs regularly while the rest (12.4%) buy some times in single sticks and sometimes in packs. Chew tobacco is also sold in small quantities (as small as one dose) in plastic wrappings. Since street vending does not require trade permit or license in Eritrea, making it immune to government regulations and restrictions, they use street vendors to sell their smuggled and counterfeit tobacco products. This provides easy access to cheap cigarettes, which tends to undermine the effectiveness of the measures taken to reduce tobacco consumption. The availability of cheap tobacco products in Eritrea is encouraging smokers to continue and the youth to start smoking. A new phenomenon in Eritrea is the increasing number of female and underage tobacco users (Figure 3). Sales of smuggled cigarettes also hurt legitimate business. Street vending of cigarettes has numerous health and social implications:

- Health warning labels, even if written on packs, do reach smokers who buy in single sticks.
- It makes cigarettes affordable and accessible which encourages early uptake by the youth.
- It relieves the pressure to quit smoking by prices sensitive smokers.
- It intensifies addiction, and
- Hence it increases the health burden

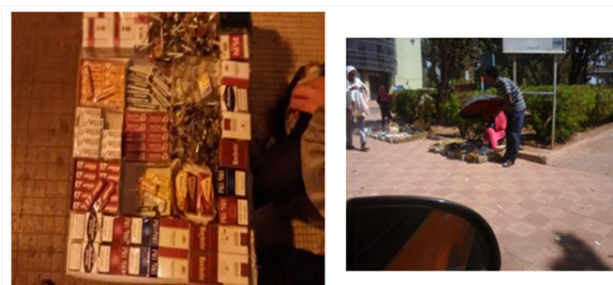


Figure 3 Street vending of cigarettes.

Illicit cigarette trade thus represents a tactical attack on the public health and tobacco control policy of the country.

Another factor that encourages smuggling in the country is the existing trade policy. The restriction of trade permits for legal trade and shortage of commodities in the national market has made smuggling a thriving and profitable activity. Due to low income of many workers and limited job opportunities, particularly for unskilled or semiskilled workers, many people are joining smuggling even on part-time basis. Smuggling follows low-protection routes. The long, porous border and long sea coast, the greater part of which is not inhabited, is another factor that encourages or promotes smuggling. The Customs Department has limited personnel, and hence limited

spatial coverage, compared to the level of smuggling in the country, and it is not able to cover all potential smuggling routes and entry points. Most of the smuggled cigarettes and tobacco products from Yemen like Reds (dominant cigarette in Yemen and Djibouti) and Royal enter the country along the coast between the Eritrean port of Assab and Djibouti, some of which was en route to Ethiopia. Small settlements along the Red Sea coast like Thio, Edd, Gelalao, Hassile and Abo are used as entry ports for smuggled cigarettes and other tobacco products. Local people here, the Afar, mainly depend on the sea, and some members are deeply involved in smuggling. In general, the Red Sea seems to be the major conduit for smuggled tobacco products. Moreover, as one head of Zoba Custom's office explained, smugglers are more organized; they have better communication/transportation facilities and better resources than the Customs' employees and even other law enforcement forces. The Customs office in Zoba Semienawi Keih Bahri, for instance has no facilities like speed boats or vehicles to police or monitor the long coast. Sometimes, the Eritrean Navy and the Eritrean Army cooperate in capturing contraband goods, but the Customs Department believes that what is captured by these forces is an insignificant proportion of the illicit trade. For instance, in September 2014, about 4.8 million sticks of counterfeit Bringi (600 cartoons x20 packs per cartoon x20 packets per packs x20 cigarettes per packet) were captured by the Eritrean Navy on behalf of the Customs Department. The Customs Department was informed of the consignment by the World Customs Organization. The consignment was destined to Chad. This suggests that Eritrea is not only a destination, but also a conduit for smuggled cigarettes. Smugglers also exploit weaknesses and/or gaps in the transit system. The Customs Department aims at controlling or monitoring goods targeted for the national market. It has no mandate to control or monitor items declared for personal use or in transit. These loop-holes are also exploited by smugglers. Individuals can bring in duty free up to 40 packs of cigarettes, allegedly for self-consumption. Smugglers often ask travellers to carry such packs for them. Once the entry point is passed (e.g. airport), they collect the packs from the travellers and sell them to retail outlets without paying any tax. It looks little checking is done beyond the entry points. Although checking for smuggled goods is done at various sites including bus stations, it is often done irregularly or loosely. Some cigarettes and other tobacco products also pass in transit but are later on channelled to the local market. Reds is one such example. Shisha tobacco is another one which is destined to the Sudan, but part of it is channelled to the local market. The use of Shisha, previously little known in Eritrea, is now expanding, particularly in the bigger towns. It is being used as a social activity where friends and relatives gather for some purposes and it is offered as a sign of hospitality. Thus, smuggling seems to be an entrenched activity in the country. One Customs' officer stated that at one time, the Tobacco Monopoly (BAT now) had even asked the Customs Department to do its best to control smuggling and protect its legal cigarettes. In the past, particularly, up to 2001, huge cartoons or camel loads of cigarettes used to be caught along the Red Sea Coasts. Along the Sudan border, the quantity of cigarettes smuggled into the country compared to other commodities is small and less frequent, according to the Customs officers working in that locality. In conclusion, the major drivers of smuggling in Eritrea are:

- i. Inadequate supply of legal cigarettes due to foreign currency restrictions;
- ii. High price of legal cigarettes;
- iii. Unregulated retail/marketing outlets to smuggled cigarettes

- iv. Strong networking, bond and comradeship among smugglers;
- v. inadequate law enforcement resources, and/or lax enforcement of anti-smuggling laws;
- vi. Smuggling networks; and
- vii. Established protection nodes along the routes.

The proliferation of illegal business activities on one hand and the limited personnel and resources of customs office on the other hamper effective control of smuggling in the country. One custom's officer informed the research team that there are too many illegal traders to deal with; there are also many suspect smugglers, but the office cannot sue them unless there is evidence. Legally, the office can file civil and criminal cases. The civil case usually implies that smuggled commodities are confiscated, but this has little deterrence effects. In fact smugglers tend to intensify their smuggling to recover their losses (Figure 4).



Figure 4 Border Post on the Sudanese side of the Eritrean-Sudanese border.

Who are the smugglers?

Many people are now engaged in smuggling. The smugglers may be divided into two groups: the primary or professional and secondary or amateur smugglers. The former are regular smugglers who operate on large scale. These smugglers are well organized, networked and better equipped. They have developed good rapport with individuals at various sites which act as protection nodes for their smuggled commodities. They are also suspected of having links with government officials who provide them with vital information, and sometimes protection. The secondary smugglers are many in number and operate on small scale. These are amateur smugglers who get their products from the primary smugglers or their agents. One Customs officer referred to it as 'trade by small bags'. This group of illicit traders operate on irregular basis to augment their income, and some of them may even have regular employment. As one Customs officer put it, "even government employees with low salary engage in such [smuggling] activities". This group of smugglers is interested in reaping maximum profit and they have no concern about the damaging effects of the cigarettes or tobacco products from which they profit.

Modes of transport used by smugglers

Smugglers use various types of transport. Most often, they use powerful lorries that can negotiate tough roads. Smugglers also use least-protection routes. The routes that such lorries follow are the ones that are least covered by the Customs Department, or where protection can be sought in case the products are under the risk of seizure. When pursued by Customs officers, smugglers distribute their smuggled items to people along the routes that cooperate (and are paid) in hiding the items for them. Another method used is to send smuggled products in small consignment along with legal commodities or using small vehicles or even pack animals.

Motive for smuggling

On the smugglers side, the major motive for smuggling is to maximize profit by avoiding tax. On the tobacco industry's side the advantages of smuggled tobacco products are many: to convince government to reduce tax, to popularize their tobacco products, to encourage tobacco up take by making cigarettes available at cheap price, to thwart price sensitive smokers from quitting, to escape regulations imposed on them on packaging, health warning labelling, discloser of contents, etc. By making new brands available to actual and potential smokers through smuggling and unregulated or informal retail outlets, the tobacco industry is influencing consumer attitudes and even creating new demands that serve its corporate interests. Smuggled cigarettes have higher addictive impacts. Through smuggling, the tobacco industry tries to control smokers by offering cheap cigarettes and thus sway them from campaigns and measures that try to encourage cessation. The tobacco industry knows that once addicted, smokers accommodate to their smoking habits and find it difficult to break away from that habit. They would go for cheap ones rather than quit smoking due to the urges of nicotine. The tobacco industry is deploying smugglers as sales specialists and promoters of its products. The criminal case involves penalties as stipulated in *Proclamation 112/2000-The Customs Proclamation*. The current penalties are not harsh enough to deter smuggling. The overall penalties constitute of a fraction of the profits that smugglers get. Moreover, the solidarity that prevails among smugglers cushions them against seizures as forfeit and financial penalties. Smugglers often compensate one another through voluntary contributions whenever their commodities are seized and confiscated by the Customs Department.

The existing legal tools are too weak or too leniently applied to effectively counter the growing activity of smuggling. Due to lax measures and lenient penalties, there is no fear among smugglers. As one Customs officer put it, almost all commodities in the national market are smuggled ones. According to another Custom's officer, smuggler will always find ways of breaking or countering any measures taken by the Customs Department because they are strongly organized, better resourced, and better networked. Any viable arrangement for the control of smuggled cigarettes must take into consideration internal and external realities within which smuggling emerges and thrives. According to Customs Department, the solution to smuggling lies in the reform of the trade policy. This will greatly reduce smuggling, although it will not eliminate it altogether.

Neopatrimonialism in smuggling

The interest of smugglers and the tobacco industry have great overlaps. Smuggling is antisocial; so is the use of tobacco products. Smugglers and the tobacco industry are not guided by social values; their activities are dictated by the imperatives for profit. The business ends and practices that smugglers exercise stand in contrast to the economic and health interest of the population but continue with impunity. Smuggling is embedded in neopatrimonial models of reciprocal relationships. According to Sneyd¹² neo patrimonial relations imply a situation in which high ranking officials and lesser government functionaries distort their public duties and use their powers and influences for in-group enrichment. In this way, official actions and officially allocated powers are often diverted from serving public interest and used instead to promote and protect self-interests. Smugglers have developed complex, yet firm mechanisms to circumvent legal measures or mitigate the penalties taken against them: resource pooling, networking, protection nodes and patronage,

benefit/cost sharing, etc. The patronage system is particularly widely sought and used by smugglers to get protection against possible actions against them by law enforcement agencies. The patrons are often those with powers and prepared to use their powers and influence either to completely block legal/punitive measures against smugglers or to dilute them. With the interference of those in power, the control institutions become incapacitated in their duties and the whole process of countering smuggling is vitiated. Patrimonial connections and entrenched patron-client networks encourage the business of smuggling and may explain its persistence. One of the regional Customs officer actually remarked: "What is the use of taking a smugglers to court if the judge happens to be a friend or relative of the smuggler?" Moreover, many customs employees are not free such corrupt behaviours. In fact, even corrupt Customs workers have been apprehended by the Government due their connections with smugglers.

Smuggling and the legal regimes

There are international and national legal tools that aim at curbing illicit trade in tobacco products. In response to the growing movement of illegal tobacco products across borders, the fifth session of Conference of the Parties (COP) of the WHO Framework Convention on Tobacco Control (FCTC)¹³ adopted the Protocol to Eliminate Illicit Trade in Tobacco Products on 12 November 2012, in Seoul, Republic of Korea. The protocol calls upon all Parties to take "... into account that effective action to prevent and combat illicit trade in tobacco products requires a comprehensive international approach to, and close cooperation on all a aspects of illicit trade ". The Protocol calls for stronger cooperation between the Convention Secretariat and the UN Office on Drugs, and Crime (UNODC), the World Customs Organization (WCO)⁴ and other bodies, as appropriate. The Protocol has comprehensive recommendations such as obliging all persons engaged in the supply chain to maintain complete and accurate records and to take measures to prevent the diversion of tobacco products into illicit trade channels; prohibiting intermingling of tobacco products with non - tobacco products at time of removal from free zones; subjecting duty-free sales to all the relevant provisions of the Protocol and conducting evidence-based research to ascertain the extent of illicit trade related through duty-free sales, etc. The Eritrean legal regime contains various proclamations and articles that cover acts of smuggling either directly or tangentially and these articles can be invoked to initiate legal procedures against smugglers. Some of these articles are direct on smuggling while others make references to crimes against the economic interests of the country. The leading legislation on the smuggling of tobacco products is *Proclamation 143/2004, A Proclamation to Provide for Tobacco Control*.¹⁴ Article 4 of this Proclamation provides for detailed regulations for the packaging and labelling of tobacco products in their manufacture, sale or import. Whenever tobacco products that do not meet these packaging and labelling rules are found, the manufacturer, wholesaler or importer are liable, upon conviction, to pay a fine not exceeding Nakfa 3000 (three thousand Nakfa) and in the case of a retailer or other individual, a fine not exceeding Nakfa 500 (five hundred Nakfa). These penalties are very small compared to profits from illicit trade of tobacco products. The parent legislation, *Proclamation 112/2000, the Customs Proclamation*,¹⁵ promulgated on 23 October 2000, which entered into force on the same date, lays out the basic rights and obligations with regards to persons in relation to the issue of Eritrean customs. It is a very comprehensive legislation with 77 Articles and numerous sub articles. The Proclamation has various provisions on the powers of Customs officers and penalties for offences and

contraventions of the Proclamation and Regulations pertaining to Customs procedures. Article 3 of the Proclamation defines smuggling as “an allegation used to describe a contravention of this Proclamation that occurs when a person intentionally evades the payment of duties by bringing dutiable goods into Eritrea without declaration at Customs or deliberately brings goods into Eritrea which are prohibited, controlled, or regulated under any law of the State of Eritrea, without declaration at Customs”. There are two articles which are particularly relevant to smuggling. Article 61 of the Proclamation defines the powers of search of Customs officers, while Article 62 deals with offences, contraventions and penalties. The former article specifies the powers of search and procedures that customs officers will have to follow during search and inspection operations. The powers that this article bestows on Customs officers include the authority to:

- I. Search persons, luggage, containers, any means of transport or conveyance if the officers suspect concealment of goods, or anything in respect of which the Proclamation may be contravened, or is about to be contravened;
- II. Ensure that all goods subject to a customs procedure are duly reported in accordance with the proclamation.
- III. Cause to be opened any mail, package, or containers and take small samples for examination, classification, valuation, testing or analysis in order to ascertain the duties payable;
- IV. Seize as forfeit the goods, any conveyance used to transport the goods, or any conveyance altered to conceal goods provided the customs officers have reasonable ground to believe that the Proclamation or Regulations or other laws of the country have been contravened;
- V. Search buildings, by securing court warrants, suspected of holding goods in contravention of the Proclamation or Regulations, and remove such goods along with any accounts, records, or correspondence operating to those goods to be used when a judicial proceeding is instituted.

Article 62 of the Proclamation lays out offences, contraventions and penalties for violating provisions thereof. The Proclamation postulates three types of penalties: seizure as forfeit, fine and imprisonment. The offences and contraventions can broadly be grouped into the following categories; the penalties that go with them are also indicated.

- i. Smuggling: this is considered the biggest offence and carries the highest penalty. Sub-article 4 clearly states that “Every person who smuggles or attempts to smuggle into the State of Eritrea any goods subject to duties and taxes or any goods the importation of which is prohibited, controlled, restricted, or regulated by any Eritrea shall be guilty of criminal offence. . . .” This crime is punishable by definite imprisonment of up to one year; the court may also impose a fine of up to 5000 Nakfa. This is the only offence which carries the penalty of imprisonment according to the Proclamation.
- ii. Deception: this includes making deceptive statements, orally or in writing, avoidance of compliance with the Proclamation by destroying, altering, mutilating, hiding, or disposing of records, documents or books of account, or making deceptive entries in records or books of accounts, or omission of particular materials for records or books of accounts, or any wilful evasion or attempt to evade compliance with the Proclamation, or use of documents or descriptions that do not correspond with the actual goods.

This is a criminal offence punishable by fine up to 4000 Nakfa. Other forms of deception like falsification of values, quantity or description of imported goods to avoid payment of any duties or taxes, or possession, sales, purchase, exchange of goods which are restricted, controlled, prohibited or regulated by the Proclamation or other laws of the State of Eritrea is a criminal offence punishable by fine up to 2000 Nakfa.

- iii. Unlawful tampering: this involves unauthorized opening or unpacking of containers, conveyance or package of imported goods; breakage of seals, locks or fastenings that have been placed on goods, conveyances, bonded warehouses, duty free shops; failure to report imported or exported goods; unloading of goods prior to reporting; unauthorized removal of goods from conveyance, transit warehouses, container depots, bonded warehouses, duty free shops or other Customs areas; breaking bulks before reporting; throwing things overboard. These are punishable by a fine not exceeding 2000 Nakfa unless there is a justification for the action taken. Goods and conveyances may also be detained until the amounts outstanding are paid.
- iv. Obstruction: hindering, obstructing, assaulting Customs officers in the lawful performance of their duties, refusal of access to Customs officers in the performance of their duties to warehouses, container depots, duty free shops and offices or places under the control of an operator; wilful failure to comply with any lawful demand of customs officers in the lawful performance of their duties are criminal offences punishable by a fine up to 1000 Nakfa

The Customs Department believes that the penalties for offences and contraventions are too small to act as effective deterrence to smuggling. The penalty for smuggling, 5000 Nakfa, for instance, is insignificant compared to the profits that smugglers recoup. Moreover, initiating a judicial process and subsequent litigation is a long process, often complicated by the intervention of patrons in power; this discourages Customs officers from taking smugglers to court. The Proclamation has also provided for appeal by smugglers and for release of seized goods. Sub-article 3 of Article 63 states that smuggled goods which are not prohibited importation into the country can be released on payment of an amount that does not exceed the value of the goods for duty purposes plus taxes and duties applicable at the time of seizure. Moreover, smugglers can invoke Article 64 (Appeal on Seized Goods and Fine for Contravention) to appeal to the Minister of Finance within 30 days of the seizure of their goods or the date of notice of penalty imposed on them for contravention of the Proclamation. In addition to the two Proclamations cited above, there are other legislations that are relevant to smuggling, like the tax laws (Proclamation 64/1994, Sales and Excise Tax Proclamation, as amended by Proclamation 117/2001), which specifies the applicable taxes for tobacco products; business licensing laws (Proclamation No. 128/2002, A Proclamation to Amend the Business Licensing System Control, and Proclamation No.72/1995 the Business Licensing Office Establishment) which specifies offences for engaging in the business of tobacco transaction without a business license. The Penal Code of Eritrea contains a number of provisions that punish smuggling of any product, inclusive of tobacco products, into Eritrea or the distribution of such items in Eritrea as well as the passing off of products, inclusive of tobacco products, as containing the trademarks of others. Offences related to smuggling under the Penal Code include Falsification and Adulteration (Art. 399), Uttering (Art. 400), Importation, Acquisition, and Storing (Art. 401), Manufacture, Adulteration, and Sale of Injurious or Damaged Products or Foodstuffs. (Art. 511), and Infringement of

Marks, Declarations of Origin, Designs or Models (Art. 674). All of these are under the category of “serious offences” of the Penal Code in contrast with the other category of “petty offences” of the same Code. The Penal Code also makes references to people who in one way or another assist offenders. The Penal Code has also provisions to combat the abuse of power and corrupt practices. Article 424, Traffic in Official Influence, clearly states that any civil servant who receives sums of money, gifts, presents or other advantages in consideration for his procuring favours, deals, in general an advantage or favourable decisions for another, through the exercise of the influence he enjoys by reason of being a public servant is punishable with simple imprisonment from three months to a year and a fine not exceeding ten thousand Nakfa according to the gravity of the case. Moreover, Article 425, Corrupt Practices, states that “Any public servant who, in consideration for his performance of or omission of an act, in violation of the duties proper to his office, seeks, exacts a promise of receiving a gift or any other advantage to which he is not entitled, is punishable with simple imprisonment for not less than three months, and a fine”. Similarly, the Transitional Civil Code of Eritrea, on top of the various criminal penalties imposed on the offences related to the manufacture, import, sale, distribution etc. of tobacco products, puts additional civil liabilities on the persons who have been found guilty of such offences and were made to pay administrative penalties to make good the damage that may have been caused to any person. The general principle under Article 2028 of the Civil Code is that “Whosoever causes damage to another shall make it good.” Despite all of these legal provisions, smuggling continues unabated in the country. There is a serious problem of enforcement. Litigation takes long time and the legal process becomes muddled with interferences. Thus, the actions taken most frequently are seizure and confiscation of smuggled products. These measures have little deterrence effects as smugglers are compensated for their losses by fellow smugglers. In February 2015, the Government took an important step to control smuggling. Anti-smuggling committees, composed of the Customs Department, the Eritrean Police, the Eritrean Defence Forces, the Security and other relevant institutions, were formed at Zoba and Sub-Zoba levels in all areas through which goods are smuggled into the country. The committees, in cooperation with the police and the army will intercept, seize smuggled goods, and chase smugglers and bring them to justice.

How tobacco smuggling impacts societies

It is now widely recognized that illicit trade in tobacco products has serious health, economic and social consequences. Some of these consequences are listed below. Smuggled cigarettes are serious threats to public health. Smoking cigarettes is harmful to the health of smokers and people around them, but smoking smuggled cigarettes is even more detrimental because the toxins they contain are far in excess of those contained in legal ones. Moreover, some of their contents remain unknown. Chemical analyses of some smuggled or counterfeit cigarettes show that they contain very dangerous substances. The International Chapter of Commerce (ICC, 2007),¹⁶ for instance, reported as follows:

- a. “Studies have shown that when compared to legal cigarettes, fake smokes can contain five times the level of cadmium, six times as much as lead, 160 percent more tar and 133 percent more carbon monoxide. Cigarettes recently intercepted by the Royal Canadian Mounted Police (RCMP) Border Integrity Unit were found to contain human feces, dead flies, mould and insect eggs.”
- b. Similarly, chemical analysis of a sample of smuggled cigarettes

by the National Research Centre (NRC) of Egypt showed that they contained 24 unknown chemical compounds.¹⁷ With respect to the health hazards of components, the NRC declared that one component could “lead to irregularities in cell division, which increases the possibility of developing malignancy” while another causes “harmful effects to the nervous system.” However, smokers are never aware of the lethal substances that smuggled and counterfeit cigarettes contain. They think that all cigarettes are the same; they also believe that smuggled cheap cigarettes with known brand names are genuine ones.

- c. Smuggled cigarettes reduce government revenue. One of the major reasons for cigarette smuggling is to evade excise taxes. For the smuggling of counterfeit cigarettes, it is both to evade tax and prohibition of sales of such cigarettes. Smuggling thus cuts government revenue. The USA loses USD 10 billion every year due to smuggling. The annual loss incurred by the UK is USD 5.4 billion, and that of Canada is 1.5 billion.^{5,17} The tobacco industry engages in smuggling and then uses this argument to lobby for lowering excise taxes on cigarettes and other tobacco products.
- d. Smuggling undermines tobacco control policies. Increased taxation is one of the most effective and widely used tobacco use control policy by governments. However, smuggling undermines this policy by bringing in cheap cigarettes and other tobacco products to the market. The availability of affordable cigarettes in the market stimulates consumption, deters low income or price-sensitive smokers from quitting, and encourages smoking initiation at an early age. The cumulative consequences are increase in the health and economic burden of societies.
- e. Smuggling finances crime and terrorism. Smuggling of cigarettes and other tobacco products is a profitable activity. Terrorist and criminal groups thus engage in smuggling to raise the resources they need not only to survive but also to execute their terrorist and criminal plans/activities.
- f. Smuggling creates pressure on governments. As smuggling of goods increases, governments will have to allocate more resources to curb it. Thus smuggling often diverts resources from productive activities to preventive activities.

What needs to be done to control smuggling

It might not be possible to control smuggling totally in Eritrea in the immediate future, but it can be greatly minimized by taking some key policy measures such as:

- i) Trade reform: allow for legal importation of goods by traders by removing current restrictions on such imports;
- ii) Promote and support for anti-tobacco use advocacy: inform actual and potential smokers on the harmful effects of tobacco use, particularly the youth, through educational and anti-tobacco campaigns, supporting quitting, enforcing the anti-tobacco legislation, and regulating the sales of all tobacco products.
- iii) Strengthen the Customs Department: The Customs Department is an under-resourced entity both in its personnel and means of control or facilities. There is an urgent need to supply it with enough trained personnel, vehicles, speed boats, advanced communication equipment, etc. to enable it perform its lawful duties.
- iv) Revise the Customs Proclamation: the Proclamation needs to be revised in view of the current magnitude of smuggling. The penalties are too small to deter smuggling and need to be revisited.

- v) Cooperation with neighbouring countries: Source and route countries of smuggling must work together to monitor the international movement of tobacco products. They should also create links with international organization like the World Customs Organization.
- vi) Training: Customs officers must get continuous training to improve their inspection and tracking skills. Smugglers devise various techniques to beat the law, and Customs officers must be prepared for such techniques.
- vii) Collaboration with World Customs Organization: The Customs Department must strengthen its relations with the World Customs Organization to get information on the movement of smuggled goods, for training and networking with regional and global anti-smuggling bodies.
- viii) Implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC) and associated protocols. Article 15 of the WHO FCTC urges governments to "...take measures to eliminate the illicit trade of tobacco products, including smuggling, illicit manufacturing, and counterfeiting." In support of Article 15, the Protocol to Eliminate the Illicit Trade in Tobacco Products was approved in 2012. Governments are called upon to ratify and implement this protocol.
- ix) Identify tobacco companies that supply illicit tobacco trade and take strong legal and/or punitive measures against them.
- x) Identify smuggling networks and their patrons and take sever legal and punitive measures against them.

Conclusion

Smuggling of tobacco products, particularly cigarettes, is a serious public health concern in Eritrea. A large array of cigarettes, both genuine and counterfeit, from different countries is smuggled into and through Eritrea. The Red Sea coastal areas are the main entry points for smuggled tobacco, but some products like Shisha, chew tobacco and a cigarette brand called Goal are smuggled through the Eritrean-Sudanese border. Smuggled tobacco products are marketed through diffuse retail channels like street vending by women and children. Smugglers are better organized, better resourced and better networked than law enforcement bodies. Although regulations and strong legal tools exist to combat smuggling, their lax application or absence of focal institutions to monitor their implementation has left loopholes that are exploited by smugglers. The existing legal tools need to be updated and strictly applied. Additional measures like trade reform, close collaboration with global and regional anti-smuggling organizations, training and resourcing of law enforcement entities and public awareness campaigns is also necessary to minimize smuggling.^{18–31}

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Conflicts of interest

Author declares that there is no conflict of interest.

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