



Since 1910
SACU

SOUTHERN AFRICAN CUSTOMS UNION

*REPORT ON OPERATION TOPLIQ - A SACU AND WCO JOINT
CUSTOMS OPERATION - NOVEMBER 2014 - MARCH 2015*



ABBREVIATIONS

SACU	SOUTHERN AFRICAN CUSTOMS UNION
WCO	WORLD CUSTOMS ORGANISATION
CL	CUSTOMS LEGISLATIONS
CET	COMMON EXTERNAL TARIFF
CRP	COMMON REVENUE POOL
ESA	EASTERN AND SOUTHERN AFRICA
RILO	REGIONAL INTELLIGENCE POOL
JCE	JOINT CUSTOMS EFFORTS
JCO	JOINT CUSTOMS OPERATIONS
IPR	INTELLECTUAL PROPERTY RIGHTS
SIDA	SWEDISH INTERNATIONAL DEVELOPMENT AGENCY

EXECUTIVE SUMMARY

The report outlines the outcome of illicit trade in tobacco and alcohol in the SACU region. Illicit trade affects credibility of trade facilitation and economic prosperity of any Country. In SACU, illicit trade undermines the application of customs legislation, uniform implementation of the Common External Tariff (CET) and results in revenue that could otherwise be collected through the Common Revenue Pool (CRP) being foregone. Tobacco and alcohol attract an excise duty in SACU, which is remitted into the CRP. Excise revenue has gained significance and currently accounts for 46 percent of the CRP on average since 2005/06 financial year. This broader impact on revenue highlights potential risks of illicit trade in the Common Customs Area.

SACU Joint Customs Enforcement (JCE) efforts have been implemented as part of broader enforcement and risk management approach to safeguard the border and protect the regional economy and its citizens. Enforcement actions at national and regional level have yielded a number of positive effects around compliance in general including closer cooperation between customs and other law enforcement agencies to combat illicit trade. Tightening borders in the region through joint operation is key towards identifying routes used, modus operandi and concealments methods. These results and lessons learnt will culminate into the regional customs enforcement and risk management strategy.

Between November 2014 and March 2015 the region embarked on a joint customs enforcement operation targeting tobacco and liquor products. This operation was named operation "TopLiq". The highlights of the operation include:

1. Fourteen arrests for the smuggling of illicit products mainly cigarettes and tobacco.
2. A total of 9 485 637 cigarettes amounting to 9 400 master cases were detected and seized across the region and a total of 40 000 litres of un-denatured (100% alcohol with no additives) alcohol.
3. The revenue lost that would otherwise have been collected through legal trade is estimated at R72 Million.
4. In contravention of Customs Law, most cigarettes did not have a diamond stamp which is used to indicate that duties have been paid.

The operation was under the auspices of the SACU-WCO Connect Project, with the financial and technical support provided by the Swedish Government, and the World Customs Organisation, respectively. The operation also benefited from cooperation from the Regional Intelligence Liaison Office (RILO) for East and Southern Africa (ESA).

1. *INTRODUCTION*

1.1 Customs is tasked with exercising control over the movement of goods, ensuring that the necessary duties and taxes are collected and to a larger extent, fighting against smuggling and counteracting customs fraud. SACU Member States customs administrations focus is on ensuring that illicit goods are not smuggled into and through SACU borders by unscrupulous traders and travellers. These, remain a challenge for the limited resources of the respective Member States and underpins the importance of a rational and cost-effective border management strategy encompassing all border enforcement agencies. A move away from a fragmented border control approach, in favour of cooperative border management approach, is the recognised international best practice.

1.2 This report aims to provide the results of the SACU wide joint customs enforcement operation, named operation "TopLiq". The operation covered liquor and tobacco products. Statistical findings of the operation TopLiq such as the total number of detections and seizures, the number of cigarettes seized, and total revenue prejudice of the seized goods are highlighted.

2. *BACKGROUND AND RISK EVALUATION*

2.1 The SACU regional customs policy is based on three pillars namely: protection of the economy and society, trade facilitation and border control. Risk management remains key to achieving the objectives of SACU regional customs policy. Drawing from the contextual risks to achieving the objectives of the SACU regional customs policy, it is imperative for SACU countries to have a robust risk management mechanism that does not only rely on the given and presumably static risk profile but also that allows for changes in the regional risk profile through detecting changes in the profile and identification of new and emerging risk profiling factors. This therefore requires that mechanisms are put in place to enable building and maintaining a reliable, relevant and adequate risk profile for the region. This in turn can allow enforcement agencies and customs to focus on the already identified risk areas, as well as enable proactive management of new and emerging risks as well as the dynamics of the SACU regional risk profile in the entire movement of goods.

2.2 Tobacco and tobacco products are fast moving consumer goods which are price inelastic. Therefore, increasing the price through taxes and levies have a limited effect on consumption. Put differently, a large percentage of smokers will not stop smoking despite increased taxes and prices. Cigarettes have particular appeal to potential smugglers because taxes often account for a large share of their price, making them a highly profitable product to smuggle.

2.3 Similarly, liquor products attract excise duties (which is levies in addition to customs duties). Excise duty and levies evasion create profit incentives for smugglers. A common challenge with liquor products is misclassification with the aim to pay lower customs and excise duties.

3. *EFFECTS OF ILLICIT TRADE*

3.1 Illicit trade is strongly connected and linked to other transnational crimes. Proceeds from illicit trade are used to finance serious crimes such as terrorism, human trafficking and piracy among others. Trading in illicit goods often means that such goods have been manufactured without adherence to certain safety standards and required taxes also not paid. For instance, the manufacture of illicit tobacco products does not adhere to required prescriptions on amount of nicotine or tar in the products. As such this makes such goods hazardous to human consumption. The situation is more alarming when considering illicit trade in medical goods which have been manufactured without adherence to health requirements. Illicit trade affects revenue collection initiatives, safety and security of regional and national economy, Intellectual Property Rights (IPR) laws and drug trafficking and environmental considerations.

4. *JOINT ENFORCEMENT OPERATION TOPLIQ*

4.1 In 2014, the region designed and implemented a new enforcement operation named operation “TopLiq”. The operation focussed on liquor products and tobacco products and was implemented for a period of five months (150 days) commencing on 1 November 2014 and ending on 31 March 2015.

5. *FINDINGS AND STATISTICAL ANALYSIS*

5.1 A number of successes have been registered by the region as a collective and by individual Member States in some areas. All Member States participated in this operation although not all were able to register seizures. The operation also required preliminary inspections of the manufacturing facilities in Member States. The total number of messages registered in the CENcomm was 137. CENcomm is the data capturing platform used under the cooperation with the WCO.

Table 1: Summary statistics on the outcome of operation “Topliq”

No. of sticks/litres	Duty Prejudice (R)	No. of arrests	Brands
93 484 600	72 510 441	14	cigarettes and other tobacco products
40 000	7 172 507		Ethyl Alcohol
<i>N/A</i>	<i>79 682 948</i>	<i>14</i>	

5.2 Table 1 above highlights that 93 484 600 cigarettes and 40 000 litres of alcohol were intercepted. Most of the cigarettes seized in this operation did not have a diamond stamp which is common to all SACU member administration in contravention of Customs Legislation, indicating that most of the seized cigarettes were either illicit or smuggled. In addition to seizures outlined in Table 1 above, related to tobacco and tobacco products, the operation detected few cases of dagga and other alcoholic products

6. *STAKEHOLDERS SUPPORTING REGIONAL INITIATIVES*

6.1 The outcome of the operation was due to the cooperation and collaboration by Member States. The cooperation indicates that different stakeholders recognise the ill effects of illicit trade. In particular, it was noted that the following stakeholders have provided significant support:

6.2 *National Police Service:* National Police Service in Member States have supported the operation through various means including the following:

(a) *Roadblocks:* in some Member States, customs authorities have no legal powers to establish roadblocks along national roads. These powers are vested into the Police Service and their cooperation in setting up roadblocks assisted customs to undertake required searches to detect illicit goods;

(b) *Arrest:* Similarly, in some Member States customs authorities have no powers to arrest suspects, making it difficult to arrest persons found in possession of illicit goods. The Police assisted the operation by effecting arrests as necessary.

6.3 *National Defence Force/Army:* smuggling goods across borders often uses the weak controls at the border lines. Customs in some Member States have limited capacity to patrol the borderlines between Member States. This makes detection of smuggling along the borderlines difficult. As such the National Defence Force in Member States have supported customs to undertake patrols and in most instances provided detected illicit goods to Customs for further action.

6.4 *Communities:* communities in the form of whistle blowers and informants in Member States played a major role in alerting Customs and Police officials about suspected incidences of cigarettes smuggling. Community based support has provided valuable information to intercept the illicit goods.

7. *CONCLUSION*

7.1 Illicit trade is an all-inclusive challenge that affects all sector of the society. This requires broader educational initiatives with the communities closer to border crossings. The society needs to be educated more around the effects of illicit trade in particular illicit tobacco products.

7.2 The ongoing work on SACU risk management and enforcement strategy will inform priority areas to provide increased level of compliance throughout SACU. This strategy will support the existing national and regional cooperation between Member States which aim to align it with the WCO Policy framework on customs to customs partnerships and custom to business partnership.

ABOUT SACU

The Southern African Customs Union (SACU) consists of Botswana, Lesotho, Namibia, South Africa, and Swaziland. The SACU Secretariat is located in Windhoek, Namibia. SACU was established in 1910, making it the world's oldest Customs Union in operation.

The customs union collects duties on local production and customs duties on members' imports from outside SACU, and the resulting revenue was allocated to member countries in quarterly instalments utilizing a revenue-sharing formula. Negotiations to reform the 1969 Agreement started in 1994, and a new agreement was signed in 2002. The new arrangement was ratified by SACU Heads of State.

The Economic structure of the Union links the Member states by a single tariff and no customs duties between them. The Member States form a single customs territory in which tariffs and other barriers are eliminated on substantially all the trade between the Member States for products originating in these countries; and there is a common external tariff that applies to non-members of SACU.

ABOUT SACU WCO-CONNECT PROJECT

SACU WCO Connect Project is a SACU Customs modernisation capacity building initiative funded by the Swedish International Development Agency (the "Sida"), through the WCO. The objective of the project is to build the capacity of Customs administrations in the SACU region to be better prepared to contribute to enhanced regional integration and trade facilitation. This project focuses its capacity building effort on Customs Information Connectivity, Trade Partnerships, Risk Management & Enforcement and Customs Legislative Reform. The Project is currently in its second phases that started in 2014 and will end in 2018.

The overall program objectives are to contribute towards Poverty reduction efforts in beneficiary regions by: Fostering regional economic development through sustainable and improved trade while addressing the illegal flow of goods and related integrity issues and promoting sustainable development and gender equity

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