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## Addressing Implementation Challenges of the Excisable Goods Management System in Kenya: A Pathway to Curtailing Illicit Tobacco Trade



### Policy Brief No: 3 2023

#### Key Takeaway

The Excisable Goods Management System (EGMS) introduced by the Kenyan government in 2013 to combat the illicit trade in tobacco products is facing enormous challenges that are hampering its implementation. Although in 2014 the EGMS led to a reduction in undeclared production volumes and a potential substitution of illicit tobacco with licit tobacco, the system's effectiveness is limited by factors such as corruption, the complexity of the system and increased costs for small businesses. Based on these findings, the government and relevant agencies should take steps to raise consumer awareness of the EGMS and support small businesses.

## 1. The issue

Illicit trade in tobacco products is a significant issue in Kenya, posing substantial challenges to public health and tax revenue collection. To address this, the Kenyan government introduced the Excisable Goods Management System (EGMS) in 2013, a system that requires manufacturers and importers of excisable goods, including tobacco, to register and activate excise stamps online. The EGMS includes excise stamps, a track and trace system, production accounting system, and related software and hardware, all aimed at enhancing excise tax revenues and controlling illicit trade.

However, the implementation of the EGMS has not been without challenges. The government attempted to repeal the EGMS 2013 with the EGMS 2017, intending to bring additional excisable products under its purview and change the pricing of excise stamps. However, this decision was suspended due to court petitions by industry and consumer lobby groups.

The EGMS's effectiveness in controlling illicit trade is influenced by various factors such as corruption levels, intensity of monitoring by authorities, and the penalties applicable for offences. Illicit trade can be undertaken by both unregistered illicit players and legitimate players whose business operations contravene applicable laws and regulations. For instance, legitimate players can contribute to illicit trade if they participate in activities such as under-declaration of production or smuggling back of products declared for exports.

The EGMS can potentially increase accountability and monitor products along the supply chain from production to the final point of consumption. However, the extent to which illicit trade thrives in Kenya depends on multiple factors, including the level of corruption, the intensity of monitoring by authorities, and the penalties for offences. These factors highlight the need for an independent appraisal or assessment of the EGMS, particularly regarding its implementation challenges and contribution to controlling illicit trade in tobacco products. Such an appraisal can provide a basis for policy interventions in Kenya and offer lessons to other developing countries intending to roll out similar systems.

## 2. Key findings and implications

### EGMS impact on controlling illicit trade:

The study provides evidence that the Excisable Goods Management System (EGMS) has had a positive impact on controlling illicit trade in Kenya. Following the introduction of the EGMS in late 2013, the number of legally declared cigarettes and cigars produced grew by 21.3% in 2014. This significant increase suggests that the EGMS led to a reduction in the quantity of undeclared production volumes. Furthermore, domestic consumption of cigarettes and cigars increased by 56.1% in 2014, indicating a potential substitution of illicit tobacco with licit tobacco.

### EGMS impact on revenue:

The introduction of the EGMS led to an average increase in excise revenue of Kshs. 1,304 million. For goods subjected to the EGMS, the increase in revenue was even higher, averaging about Kshs. 3,215 million. When focusing on a narrower range of goods, including tobacco (treated), cosmetics and mineral water (untreated), the introduction of the EGMS led to an average revenue increase of Kshs. 785 million. The increase in revenue was higher for goods subjected to the EGMS, averaging about Kshs. 3,749 million.

### EGMS challenges:

The implementation of the EGMS has faced several challenges. These include increased costs of doing business, particularly for smaller firms, corruption, and system breakdowns. Higher costs result from the lengthy process of acquiring stamps, travel-related costs associated with obtaining the stamps, inflexible modes of payment for stamps, and the cost of the stamps themselves.

These findings suggest that while the EGMS has had a positive impact on controlling illicit trade and increasing excise revenue, there are significant challenges that need to be addressed. The system's effectiveness can be limited by factors such as corruption, the complexity of the system, and the increased cost of doing business for smaller firms. These challenges highlight the need for further policy interventions to enhance the effectiveness of the EGMS.

### 3. Main policy recommendations

The study's findings suggest several key policy recommendations to enhance the effectiveness of the Excisable Goods Management System (EGMS) in controlling illicit trade and increasing excise revenue in Kenya.

#### **Address operational challenges:**

The government should streamline the process of acquiring stamps to reduce the time and cost associated with this process. This could involve decentralizing the distribution of stamps to reduce travel-related costs and introducing more flexible modes of payment.

#### **Improve system reliability:**

Efforts should be made to improve the reliability of the EGMS to prevent system breakdowns that can disrupt business operations and undermine the effectiveness of the system. This could involve regular system maintenance and upgrades, as well as providing technical support to businesses using the system.

#### **Enhance market surveillance:**

The effectiveness of the EGMS in controlling illicit trade can be enhanced by increasing market surveillance of product stamps by the regulator and relevant agencies. This would help to ensure that all products on the market are legitimate and that any illicit products are quickly identified and removed.

#### **Combat corruption:**

The government should intensify efforts to combat corruption, which can undermine the effectiveness of the EGMS. This could involve strengthening anti-corruption institutions, enhancing transparency and accountability in the operation of the EGMS, and enforcing strict penalties for corruption related to the system.

#### **Raise consumer awareness:**

The government and relevant agencies should undertake initiatives to raise consumer awareness about the EGMS and how to verify product authenticity using the system. This could involve public awareness campaigns and the development of user-friendly tools and resources to help consumers verify the authenticity of products.

#### **Support for small businesses:**

Given the increased cost of doing business associated with the EGMS, particularly for smaller firms, the government should consider measures to support these businesses. This could involve providing financial assistance or incentives to help offset the costs associated with the system. In conclusion, the study's findings suggest that EGMS has had a positive impact on controlling illicit trade in Kenya. However, the system faces challenges that underline the need for further policy interventions to strengthen the effectiveness of the EGMS.

### 4. Further reading:

#### **For more detailed information, please refer to the full study:**

*Tobacco control in Kenya: appraisal of the excisable goods management system.*

[<https://repository.kippra.or.ke/bitstream/handle/123456789/3940/DP252.pdf?sequence=1&isAllowed=y>]



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