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RCMP



ROYAL CANADIAN MOUNTED POLICE

2008

CONTRABAND TOBACCO ENFORCEMENT STRATEGY

Customs & Excise Branch
Border Integrity, Federal & International Operations



Royal Canadian Mounted Police
Gendarmerie royale du Canada

Canada



Dear Reader,

The contraband tobacco market is complex and continually evolving. The development of an RCMP Contraband Tobacco Enforcement Strategy is the first step in what will be a strategically driven process to tackle the growing illicit contraband tobacco market in Canada.

The RCMP's key concern is the increased involvement of organized crime implicated in illegal tobacco activities for monetary gain. The public needs to be aware that profits from illegal tobacco products are also funding other criminal activities, such as drug and gun trafficking. Furthermore, some of these organized crime groups are known to use violence to ensure profit. Be aware that you are funding criminal activity if you are purchasing products that are not sold legitimately. We all have a role to play in combating the contraband tobacco market.

Another disconcerting trend related to the illicit tobacco market is the increasing involvement of youth in contraband tobacco activities for organized crime groups. The lure of easy money and minimal risk is a situation that some can't resist.

It is important that we not only address the supply of, but also, the demand for contraband tobacco. Combating the illegal tobacco market includes targeting those who purchase the illegal products. As such, the overall goal of the Strategy is to nationally reduce the availability of and decrease the demand for contraband tobacco, in turn supporting government health objectives.

Given the broad interest in tobacco-related enforcement, we have spoken with a variety of federal, provincial and Aboriginal partners, non-governmental organizations, academia, industry and key police services. I would like to thank those that participated in the consultation process. While it is always difficult to draw the line at the number of individuals and groups to speak with, the RCMP feels that it has developed its first Contraband Tobacco Enforcement Strategy from a sampling of diverse views across the country.

In closing, the solutions to achieving our goal will not come easily or quickly, but the RCMP is dedicated to ensuring that Canadians continue to enjoy safe and secure communities.

William J.S. Elliott
Commissioner
Royal Canadian Mounted Police

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I TABLE OF CONTENTS

I.	Executive Summary	4
II.	Introduction	5
i.	Evolution of Combating Contraband Tobacco	
III.	The Strategy	10
IV.	Overview of the Canadian Tobacco Environment	11
i.	Defining Contraband Tobacco	
V.	The RCMP’s Role in Contraband Tobacco	19
VI.	Old Commodity – New Twist	21
i.	National Overview	
ii.	Regional Trends	
VII.	Impacts on Canadians	26
VIII.	Contraband Tobacco Market Drivers	27
IX.	Perspectives	28
i.	Canadians	
ii.	Canadian Smokers	
iii.	Aboriginal People	
iv.	National consultation participants	
X.	International Efforts	34
XI.	Meeting the Challenge	36
XII.	Effective Accountability and Reporting	41
XIII.	Summary	42

Appendix 1 – Roles and Responsibilities of Partners and Stakeholders

Appendix 2 – Related Acts

Appendix 3 – Customs and Excise Program Logic Model

Appendix 4 – Glossary



I. EXECUTIVE SUMMARY

Illicit sales of contraband tobacco contribute to an underground economy worth hundreds of millions of dollars. Traditionally seen as a victimless crime, tobacco trafficking is now regarded as a significant source of income for all levels of organized crime, who reinvest the substantial profits to support other criminal activities. The linkages between the illicit tobacco market and organized crime have increased exponentially over the last six years. While tobacco is a legal substance that is consumed by approximately 5 million Canadians, a growing number are purchasing contraband tobacco without realizing the negative impact it is having on Canadian communities and Canada's economic integrity.

By definition, contraband tobacco is any tobacco product that does not comply with the provisions of all applicable federal and provincial statutes. This includes importation, stamping, marking, manufacturing, distributing and payment of duties and taxes. Contraband tobacco originates from both domestic and international activities. The current trend of manufacturing, distributing and selling contraband tobacco products, which has developed exponentially over the last six years, involves organized crime networks exploiting Aboriginal communities.

The expansion of the contraband tobacco distribution networks to the east and west coasts signify that the illicit tobacco market is a burden on all Canadians. Contraband tobacco directly:

- decreases government revenue for various programs (e.g., health and social) by hundreds of millions annually,
- increases criminal justice spending,
- undermines health objectives, and
- opens the door for easy and unmonitored accessibility by youth.

Through the implementation of the Contraband Tobacco Enforcement Strategy, the RCMP's strategic outcome is to reduce the availability of and decrease the demand for contraband tobacco nation-wide, as well as support government health objectives. In an effort to ensure that the Strategy is effective, regular reviews and updates will be conducted as the illicit market evolves, including reviews of enforcement efforts.

Aboriginal participation in public safety and anti-organized crime efforts is fundamental in achieving successful long-term outcomes for all communities. With this in mind, the RCMP is sensitive to long-standing Aboriginal claims concerning trading rights (e.g. inter-Nation, inter-Tribal) and jurisdiction. It is through open, ongoing dialogues with various Aboriginal leaders that collaborative efforts can be made to address public safety concerns.



II. INTRODUCTION

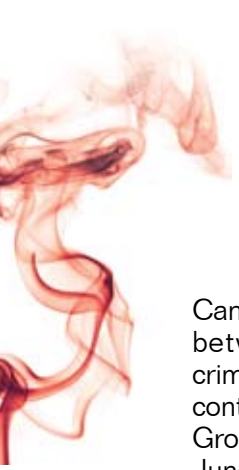
The illicit trade in tobacco products presents a serious threat to public safety and health in Canada. According to recent threat assessments, approximately 105 organized crime groups¹ of varying levels of sophistication are currently known to be involved in the illicit tobacco trade. Compounding the problem is that 69% are also involved in drug trafficking, mainly marijuana and cocaine, and/or weapons trafficking. Furthermore, 30% of these groups are known to have violent tendencies. The increasing trend of organized crime involvement in the illicit tobacco market is a growing concern for the RCMP because it undermines Canadians' expectations of community safety, public health and economic integrity.

The sale of contraband tobacco contributes to a major underground economy worth hundreds of millions of dollars, and growing. While in the past, many individuals benefited from the illicit tobacco trade, this practice is regarded as a significant source of income for all levels of organized crime, income that is often reinvested to support other criminal activities. An illegal tobacco manufacturing and distributing operation evading all federal and provincial duties and taxes can sell its product for as little as \$6 for 200 cigarettes (equal to one carton), while legitimate tobacco products are sold for \$75-90 for one carton.

¹ The Criminal Code defines organized crime as a "criminal organization", however organized, that: (a) is composed of three or more persons in or outside Canada; and, (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences, that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any one of the persons who constitute the group.

On September 20, 2006, a Windsor, Ontario resident pleaded guilty in Detroit on racketeering charges for his role in an alleged smuggling ring that dealt in contraband cigarettes, counterfeit Zig-Zag rolling papers and fake Viagra, and steered some of the profits to Hezbollah guerrillas. The group ran a multimillion-dollar cigarette-trafficking ring out of Dearborn, Michigan. The group also transported stolen property, laundered money, and solicited money for Hezbollah's support of families of those killed in suicide bombings and other terrorist operations. See http://www.iht.com/articles/ap/2006/09/21/america/NA_GEN_US_Smuggling_Ring.php for the full story.

While extremely difficult to methodically estimate, losses to the federal and provincial governments could be in the order of hundreds of millions annually from the contraband tobacco market. Even more concerning are the potential links between the illicit trade in tobacco products and the funding of terrorist activities – as documented in recent foreign investigations.



Canadian smokers are not making the connection between cheap/illicit tobacco products and criminal activity. The Canadian tobacco industry contracted a third-party research company, GfK Group, to assess smoking trends in Canada. In June 2007, their research indicated that 22% of smokers are consuming illegal tobacco products. This estimate is up from 16.5% in 2006².

Based on the growth of the illicit tobacco market in recent years, it is evident that current deterrent efforts need to be enhanced and expanded. Presently, individuals who are prosecuted for tobacco-related offences are often the low-level “runners” who smuggle and distribute contraband goods. According to individuals regularly involved in the judicial process, the majority are low-income earners and repeat offenders who rarely pay their fine in full, creating an added burden on our court systems, primarily the Fine Recovery Units. For the most part, current enforcement efforts are focused on the trafficking and smuggling networks. The combination of supply, demand and inconsistent application of existing deterrents (e.g. penalties) are creating a low-risk – high-profit opportunity for criminal organizations.



² At the present time the federal government does not conduct similar research.



i. Evolution of Combating Contraband Tobacco

This is not the first time Canada has seen a significant increase in contraband tobacco. In order to raise needed revenue and to deter individuals from taking up or continuing smoking, tax increases on tobacco products occurred prior to the mid 1990s. During this same time period, contraband tobacco seizures also reached epidemic proportions, primarily because legitimate industry was exporting its products to the United States, which were then being smuggled back into Canada and sold on the black market. Through this network, untaxed Canadian brand name cigarettes became available, predominantly to Ontario and Quebec smokers, at a discounted price.

To address the situation, a coordinated Government of Canada approach was implemented in 1994, called the National Action Plan to Combat Smuggling, which included federal tax cuts, measures to reduce smoking through public education and awareness as well as legislation and regulatory amendments. In addition, structural changes to the tax system, including an export tax on tobacco products, addressed the principal source of contraband. The tax structure was further strengthened in 2001 through revisions to the export tax, the traveller's exemption, and the treatment of ships' stores and duty-free shops. In addition to federal tax cuts and changes, some provinces voluntarily lowered their tobacco tax to assist in tackling the problem.

Finally, the Plan also committed to increasing enforcement capacity through the Anti-Smuggling Initiative (ASI). The enforcement component of ASI allocated new resources to the RCMP and Canada Border Services Agency to intensify efforts along the Canada-U.S. border and in high-risk areas across the country.³ Efforts were focused on disrupting the illegal trade, primarily in tobacco but also in alcohol, drugs and firearms. According to officers in the Cornwall/Valleyfield region, when the tax rollbacks were implemented, smuggling of tobacco disappeared almost overnight. Consequently the contraband market shifted to the diversion of legal products from central Canada to the East and West because of the discrepancies in taxes among provinces. The tax decreases were a short-term measure until enforcement actions could effectively tackle the contraband market. It is important to mention that criminal charges and civil lawsuits have been brought against specific tobacco manufacturers involved in tobacco smuggling during this time period. The outcome is still pending.

³ Public Prosecutions Canada was also provided resources to enable them to manage the increased criminal prosecutions resulting from enforcement efforts.

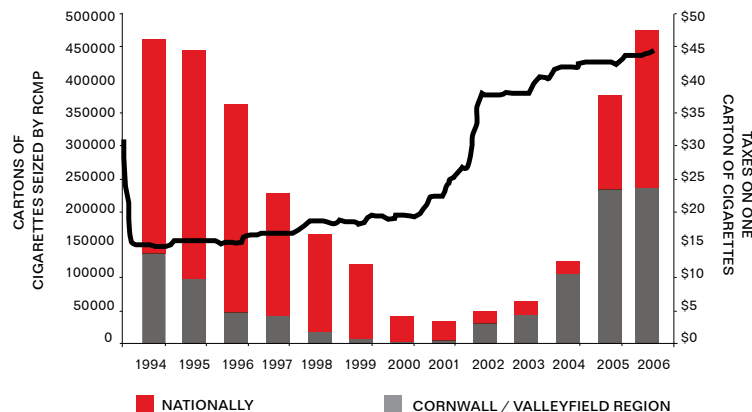


In 2001, Health Canada led the development of the Federal Tobacco Control Strategy (FTCS). The 10-year objective for the FTCS is to reduce tobacco-related disease and death in Canada. The four key elements that drive the health component of the Strategy are prevention, cessation, protection and harm reduction (presently referred to as product regulations). Additional resources to federal departments and agencies, including the RCMP, were allocated to monitor and assess the effectiveness of tobacco tax changes in reducing contraband tobacco activities. RCMP resources, along with other partners' efforts, enable Finance Canada to assess the effectiveness of the current tax structure and determine the size and timing of future tax increases.

Taxing tobacco at a high and sustainable level has been a key element in the strategy for reducing smoking and improving health outcomes. By June 2002, the federal government had restored excise taxes and duties to their pre-1994 level. In 2002 and 2003, the provinces also implemented substantial increases in tobacco taxes and they have continued these increases. According to non-governmental organizations, it is estimated that a 10% increase in the price of tobacco products reduces consumption by 4.5% to 4.7%⁴.

That being said, the objective of the FTCS is to find a balance between tax increases and the development of a contraband market, which can reduce the effectiveness of the tax increases. As the chart below illustrates, the increase in RCMP seizures mimics the fluctuation of taxes over the years. While the chart shows an increase of seizures over the last several years, RCMP resource levels had in fact dropped over the same period.

AVERAGE TAX RATES AND CONTRABAND TOBACCO



⁴ Estimating price elasticities when there is smuggling: the sensitivity of smoking to price in Canada, *Journal of Health Economics* 22 (2003) 821-842, Jonathan Gruber, Massachusetts Institute of Technology, Anindya Sen, University of Waterloo, and Mark Stabile, University of Toronto

CONTRABAND TOBACCO



Over the past several years, the RCMP along with several of its domestic and international law enforcement partners undertook several complex investigations (e.g. Project Blulette, Project Crawler, and Operation Smoking Dragon/Royal Charm). All were successful due to the active participation of the various law enforcement partners. Enhanced coordination and cooperation has become one of the most effective ways to handle complex investigations.

In Budget 2006, the federal government allocated funding for 1,000 more RCMP officers and federal prosecutors to focus on such law-enforcement priorities as drugs, corruption and border security. In total, 71 new resources were allocated to the RCMP Customs and Excise Program⁵. These resources will focus on renewing efforts to proactively combat tobacco smuggling, and contributing to the Government's overall stance on tobacco control.

They also will be directed to other priority investigations, including the smuggling of firearms, alcohol, diamonds and jewelry, and the illicit traffic in critical high technology, strategic goods and cultural property. The new resources will be spread across the country, with the majority going to central Canada and British Columbia.

Given that the level of contraband tobacco has again returned to the forefront, it can be concluded that the solutions put in place to date have not had a long-term influence on the illicit tobacco market. In an effort to achieve more long-term results, the RCMP Contraband Tobacco Enforcement Strategy will provide a plan to respond to the growing threat of contraband tobacco to Canada and its communities with a variety of measures.

⁵ See Section V for a brief description of the Customs and Excise Program.

III. THE STRATEGY

The increasing availability of contraband tobacco is a growing concern among federal and provincial levels of government as well as many external stakeholders. RCMP seizures reached historic highs in 2006, surpassing the 1994 ASI seizure benchmark (456,333 cartons) by 3.5%, or a 16-fold increase since 2001. In response, the RCMP has developed the Contraband Tobacco Enforcement Strategy to guide RCMP operations, and to generate partner support and involvement in broader initiatives that are also expected to assist in decreasing the upward trend of the illicit market. With this in mind, the strategic outcome for the Strategy is:

to nationally reduce the availability of and decrease the demand for contraband tobacco.

Based on the purpose and strategic outcome, the related objectives are as follows:

- Enhance the skills of our members to effectively address the current contraband tobacco environment;
- Disrupt organized crime groups involved in illicit tobacco activities;
- Enhance intelligence gathering/sharing while leveraging investigative capacity; and
- Increase public and law enforcement awareness through a variety of communication initiatives.

The approach developed for the Strategy is in line with each of the RCMP's overarching strategic priorities to:

- reduce the threat and impact of organized crime in Canada;
- support activities that contribute to the health and safety of Aboriginal communities;
- work with youth to prevent crimes involving them either as victims or offenders;
- ensure economic integrity in order to minimize the occurrence of illegal economic activity that either rob or diverts funds away from hard-working Canadians; and
- reduce the threat of criminal terrorist activity in Canada, including illegal activities that provide financial support.

There are many avenues that can be taken to address the growing levels of contraband tobacco seizures in Canada. It will be important to monitor efforts undertaken in this strategy as the current environment evolves, successes are achieved, and new challenges emerge. Such efforts will assist in making a lasting difference on the contraband tobacco market. The RCMP is also committed to exploring and contributing, where possible, to a variety of policy efforts outside operational enforcement activities, including educational, economic and social objectives that will reduce the contraband tobacco market.



IV. OVERVIEW OF THE CANADIAN TOBACCO ENVIRONMENT

According to Health Canada's 2006 Canadian Tobacco Use Monitoring Survey, approximately 5 million Canadians, 15 years and older, are current smokers. While Canadians are well educated about the health implications of tobacco, approximately 19%⁶ of Canada's population continues to smoke and uptake among youth is still occurring. Statistics Canada reports that Canadians spent \$14.5B⁷ on tobacco products in 2005. In contrast, the Canada Centre on Substance Abuse conducted a study in 2002 which found that tobacco use placed a burden on Canadian society equivalent to approximately \$17 billion. The three highest contributors to the substance-related costs were health care and law enforcement costs as well as losses of productivity in the workplace or at home resulting from premature death and/or disability.

The current cost of a legitimate carton of cigarettes is \$75-90, depending on the province or territory. Approximately 70-75% of the retail cost is federal and provincial taxes. As the retail price of cigarettes increases, those who continue to smoke, especially those who are sensitive to price, are motivated to find lower cost options to satisfy their addiction.

Historically, Canadian smokers have been brand-loyal to Canadian blend cigarettes. There are three major legitimate manufacturers of tobacco for the Canadian market: Imperial Tobacco Canada, Rothmans Benson and Hedges Inc. and JTI MacDonald Corp. The primary retail source for their products is the 6,000 plus convenience stores across the country. Half of these businesses are family-run and have indicated⁸ that they depend on the sale of tobacco products to survive.

There are a variety of federal and provincial departments and agencies that have roles and responsibilities related to tobacco. These organizations are responsible for health objectives, regulatory regimes, taxation, enforcement and Aboriginal and international relations. The combination of their responsibilities results in layers of regulations, taxation, interdependent objectives, and multi-jurisdictional enforcement. Therefore, no one department or agency can act alone. See Appendix 1 for a list of partners and stakeholders, and their role in tobacco.

⁶ CTUMS, 2006

⁷ Statistics Canada, Canadian Socio-Economic Information Management System (CANSIMS), 2006

⁸ Researchology, Canadian Convenience Store Association Contraband Tobacco Merchant Study, July 2007



i. Defining Contraband Tobacco

By definition, contraband tobacco is any tobacco product that does not comply with the provisions of all applicable federal and provincial statutes. This includes importation, stamping, marking, manufacturing, distributing and payment of duties and taxes. Contraband products are currently entering the Canadian tobacco market through four major sources:

- Unlawfully/lawfully manufactured in the US and then smuggled into Canada or unlawfully manufactured in Canada,
- Counterfeit tobacco products and other brands entering the country illegally;
- Diverted GST/HST-relieved and provincial tax-exempt tobacco products; and
- Other related criminality (e.g. convenience store and cargo thefts, truck high-jackings).

Historically, the tobacco black market has proven to be very responsive to government efforts to minimize the illicit market. As previously outlined, in response to measures implemented in the 1990s to target the cross-border smuggling of domestically produced cigarettes, the illicit market shifted to intra- and inter-provincial diversion methods. The current trend of manufacturing, distributing and selling contraband tobacco products, which has exponentially developed over the last 5 years, involves organized crime networks exploiting Aboriginal communities and the politically sensitive relationship between these communities and the different levels of government and enforcement agencies, as well as counterfeit tobacco products arriving in Canada mainly from China.



SMUGGLING



Illicit Manufacturing in Canada and the US

The largest source of illegal tobacco in Canada is manufacturing operations Aboriginal Territory based on the US side of Akwesasne and Kahnawake in Quebec and Tyendinaga and Six Nations in Ontario. The map above shows the location of these communities.

Not all manufacturing operations in these communities are illegal, and not all community members support the illegal operations which may be occurring within their communities. This trend started in 2001 and has been growing exponentially. The clear plastic resealable bags or “baggies” of 200 cigarettes are the most popular, and account for the largest proportion of seizures by police and provincial revenue enforcement agencies. These cigarettes come from different manufacturing operations, ranging from small ad-hoc operations to fully equipped manufacturing plants involving serious organized crime groups. Conservatively, tens of millions of contraband cigarettes are being produced each year. The baggies are available across Canada in various venues including the hundreds of smoke shacks/shops on reserves, door-to-door delivery, retail outlets, and schools. As of July 2007, a baggie of 200 cigarettes could be bought for approximately \$6 direct from one of the noted community’s smoke shops/shacks. These smoke shops/shacks, which are designed for large volume cigarettes sales, are becoming increasingly accessible and they serve as major distributors for the underground market to non-Aboriginal traffickers and end-users.

PRIMARY ILLICIT MANUFACTURING LOCATIONS





Figures for 2006 indicate a total of 315 known bulk sales locations, but new locations continue to open.

COMMUNITIES	NUMBER OF SMOKE SHOPS/SHACKS
Kahnawake	125
Six Nations	100
Tyendinaga	40
Kanesatake	28
Kitigan Zibi	12
Curve Lake	10

Currently, the largest proportion of all contraband tobacco seized by the RCMP originates from illicit manufacturers on the US side of the Akwesasne Territory. The Cornwall/Valleyfield area is the hub of extensive smuggling activities between ports of entry. While some of these products may be legitimately produced in the US, they presently do not meet the proper importing requirements or comply with all applicable Canadian legislation in order to be lawfully sold on the domestic market.

Based on intelligence as well as previous and ongoing cases, the links to organized crime and the contraband tobacco market are clear. For example, in November 2006, after a two-year investigation, the Cornwall Combined Forces Special Enforcement Unit with support from RCMP Cornwall Detachment and police partners arrested 12 individuals who have been charged with a total of 115 counts for various offences including drug possession, conspiracy to traffic in drugs, cigarette smuggling, conspiracy to smuggle cigarettes and possession and sale of unstamped manufactured tobacco. Using runners, the two ringleaders arranged for the transportation of drugs and tobacco by boat across the St. Lawrence River between the Canadian and the US side of the Akwesasne Mohawk Territory.

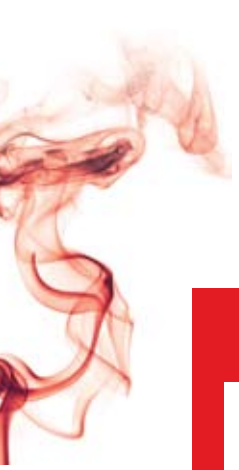


Counterfeit and international tobacco products

Counterfeit tobacco products involving domestic and international brands are making their way into the country via sea containers. According to RCMP and Canada Border Services Agency (CBSA) intelligence, the majority of the counterfeit products are arriving from China. Globally, the most common counterfeit tobacco product intercepted is Marlboro cigarettes. In Canada, seized counterfeit Canadian brands have been identified only among the most popular brands. Licensed Canadian tobacco manufacturers receive several hundred customer complaints about their products annually. Upon inspection, these products are often counterfeit. Once counterfeiters are able to replicate the taste it will be virtually impossible for smokers to know the difference, except for the price. In 2006, approximately 22% of RCMP and joint RCMP-CBSA contraband cigarettes seized were counterfeit. Due to the international nature of counterfeit networks, the majority of seizures are joint efforts by CBSA and RCMP. Intelligence from CBSA further exposes the extent of counterfeit and international tobacco products on Canada's illicit market. Between 2003 and 2006, CBSA seized 823,303 cartons of cigarettes, of which 478,705 cartons were counterfeit Canadian brands and 87,507 cartons were counterfeit Marlboro cigarettes. Other international brands seized were mostly Chinese cigarettes.

There are also markets for specialty international tobacco products, which generally occur along cultural lines, and are predominantly found in major centres like Toronto. For example, an Egyptian water-pipe (also known as a hookah, sheesha, narg-eelay, hubble-bubble, or gouza) is a tall container with water at the bottom through which air is bubbled, and it has a long hose coming out of it that people smoke through. In most instances the tobacco is imported from the United Arab Emirates, Jordan, Egypt and Saudi Arabia. While water-pipe tobacco is legal in Canada, a smuggling trend has been noticed in Canada in the past few years.

Other foreign tobacco products are beedies (small unfiltered cigarettes wrapped in brown leaves and tied with a short length of thread) and chewing tobacco mixed with betel nuts, which are popular in East Indian communities. Use of beedies may be developing within the largely trend-driven youth market. In fact, reports state that beedies are gaining in popularity among non-East Indians in British Columbia and Toronto. In 2006, approximately 6% of RCMP seizures included illegal foreign tobacco products.



July 16th, 2007, a joint forces operation involving the RCMP Greater Toronto Area Customs and Excise Section, CBSA Investigations and Intelligence Divisions for the Greater Toronto Area and CBSA Container Examination Facility Division in Vancouver, resulted in the seizure of 49,000 cartons of various

Chinese brands of cigarettes with an approximate total value of \$2.4 million. See http://www.rcmp-grc.gc.ca/on/press/2007/07-07-16_ted_ces_e.htm for the full story.

The monetary benefit from selling counterfeit and international tobacco products is evident. As an example, in Vancouver and Toronto, marine containers are used to smuggle contraband tobacco, both counterfeit and Chinese brands, from China into Canada. When shipping the goods, it is common practice for criminals to inaccurately describe the goods as other commodities (i.e. cover load) in an attempt to mislead CBSA inspectors. The potential financial gain is high; one container of contraband cigarettes (approximately 50,000 cartons) landing in Canada for \$100,000 could net profits of up to \$2.4 million on the black market.

Diversion of tax-relieved/exempted tobacco products

Status Indians (as defined in the Indian Act) are required to pay taxes on the same basis as other Canadians except where the exemption under section 87 of the Indian Act applies. Section 87 stipulates that the personal property of a status Indian or a status Indian Band situated on a reserve is not subject to tax.

Excise duty is imposed on tobacco products at the manufacturing level and is payable by the manufacturer, or in the case of imported tobacco products, by the importer prior to the product entering the domestic Canadian market. The excise duty forms part of the cost of the product. Under section 87 of the *Indian Act*, tax of the exemption does not apply to the excise duty. It is the subsequent sales taxes, whether a federal tax, such as the Goods and Services Tax/Harmonized Sales Tax (GST/HST), or a provincial tobacco/sales tax, that is subject to the section 87 exemption.

A status Indian must present a Certificate of Indian Status card to a vendor on a reserve in order to acquire tobacco products without paying the GST/HST. The purchase of tobacco products on a reserve by other persons is subject to the normal GST/HST rules.

TRAFFICKING



Many provincial governments have a system in place that allows status Indians to obtain their tobacco products on a reserve without paying the provincial taxes. These systems are usually based on a quota system based on the community's population. In order to purchase provincial tax-exempt tobacco on a reserve, some provinces require that the individual's band card be presented. In some cases, the provincial tobacco tax is paid by the vendor who receives the tobacco products, and the vendor then applies for a refund of the provincial tobacco taxes based on those sales that qualify as tax-exempt.

In addition, certain provinces/territories distribute tobacco products intended for sale on-reserve that differ in appearance from provincial tobacco products intended for sale off-reserve. These products have a peach-coloured EXCISE DUTY PAID DROIT ACQUITTE tear tape (stamp).

These products are sometimes described as 'black stock', which means that they are stamped in accordance with federal requirements but not marked in accordance with the provincial requirements that apply to tobacco products for sale in circumstances where the provincial tobacco tax applies.

GST/HST-relieved and provincial tax-exempt tobacco products are being diverted from Aboriginal communities throughout Canada, and end up being illegally sold in Toronto, Halifax, Vancouver and other cities across Canada. Such a scheme allows the seller, who received the GST/HST-relieved and provincial tax-exempt tobacco products, to offer the product at a discounted rate, which makes it appealing to non-status Indian customers. The seller also gains, as non-status Indian customers frequently purchase tobacco products in bulk to redistribute to friends and colleagues.



Other related criminality

According to threat assessments, organized criminal groups have become more involved in the distribution of illicit tobacco products, which provides significant profits to support other illegal activities. The frequency of large-scale and multi-commodity seizures are increasing, revealing that these groups are also involved in the movement of drugs, weapons, counterfeit cash and money laundering operations, and human smuggling.

Project Royal Charm/Smoking Dragon – On August 22, 2005, a coordinated effort of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Immigration and Customs Enforcement and the Royal Canadian Mounted Police, led to the seizure of more than \$2 million USD in **counterfeit cigarettes**, \$3.3 million USD in **counterfeit currency**, 36,000 **ecstasy pills** and approximately half a kilogram of **methamphetamine**. There was also an agreement between the undercover agents and the defendants to purchase \$1 million USD of various weapons, including **rocket launchers and silenced sub-machine guns**. See http://www.usdoj.gov/opa/pr/2005/August/05_crm_426.htm for the full story.

Along with the increasing involvement of organized crime in contraband tobacco activities, crimes associated with tobacco have also been increasing. For example, convenience stores in large metropolitan centres are experiencing break-ins and armed robberies. Long-haul truck drivers are also being intimidated and threatened into unwillingly giving up their loads. Such actions show that there is a growing disregard for the law and escalating violence within the contraband tobacco trade. While theft and assaults are crimes within the jurisdiction of the local police, the examples serve as a good indicator of the level of violence and crime related to tobacco products within some communities across Canada, and the level of demand for contraband tobacco products.

A truck **driver was shot** in Vaughan early in the morning of July 25 when his cargo, consisting of \$200,000 worth of **cigarettes**, was **hijacked**. Three bandits drove the truck to a nearby parking lot where they shifted the cargo into another truck and fled. See the Toronto Star website www.thestar.com for the full story.



V. THE RCMP'S ROLE IN CONTRABAND TOBACCO

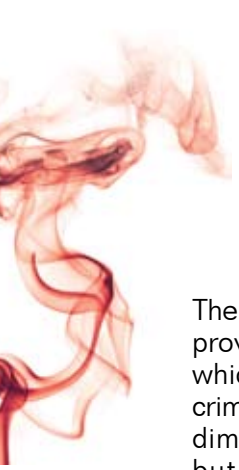
As Canada's national police service, the RCMP has the authority to enforce any Act of Parliament and its related regulations in order to achieve public safety and security.

The RCMP's Customs and Excise Program (C&E) has a wide-ranging mandate to enforce Canadian laws relating to the international movement of dutiable, taxable, controlled or prohibited goods; the manufacture, distribution or possession of contraband products including tobacco and spirits; the illicit traffic of critical high technology and strategic goods, and legislation or regulations that impose non-tariff (permit) controls on the international movement of commodities. Appendix 2 outlines the RCMP's illicit tobacco enforcement tools.

Other areas of the RCMP that play a supporting role in ensuring that the C&E Program can achieve its mandate include the Proceeds of Crime (POC) program which identifies, assesses and restrains illicit and/or unreported wealth accumulated through criminal activities. POC units investigate or assist in the investigation of cases involving the possession and laundering of the proceeds derived from the designated offence, including those related to contraband tobacco.

The RCMP's Aboriginal Policing Coordinators, on a regular basis, meet and consult with Aboriginal leaders, partners and communities on the issues associated with the contraband tobacco trade and organized crime. In addition, the National Aboriginal Policing Services of the RCMP has an established National Public Safety Protocol with the Assembly of First Nations to foster a cultural approach among all RCMP service lines.

The Pipeline/Convoy Interdiction Program is designed primarily for uniformed officers regularly involved in traffic stops. The purpose of the program is to prevent criminals and terrorists from using transportation routes and systems to smuggle or transport people and contraband. Emphasis is on police having heightened awareness based on enhanced observational, conversational and investigative skills. Given the extent to which some of the contraband tobacco networks have expanded across the country, such programs play a key role in preparing officers for encounters with tobacco traffickers.



The Criminal Intelligence Program and Services provide criminal information and intelligence, which enables officers to detect and prevent crime having an organized and national-security dimension within Canada, or internationally but affecting Canada. This information is manifested in threat assessments and ongoing analysis of tobacco-related criminal activities.

The RCMP has several channels that provide outreach to communities across the country. Programs such as National Aboriginal Policing Services, Drugs and Organized Crime Awareness and Youth Services, all play a key role in providing the contraband tobacco message at the local level.

The Learning and Development Program provides courses and training opportunities that are needed to ensure that all RCMP officers, primarily C&E officers, are well equipped to carry out their mandate. Technical operations also provide specialized support services such as electronic surveillance support and border monitoring. Other RCMP functions that support C&E efforts include undercover agents, human source development and the source Witness Protection Program.





VI. OLD COMMODITY – NEW TWIST

i. National Overview

Canada's present contraband tobacco market has grown significantly since 2001, and continued growth is inevitable without an appropriate response. In 2006, various assessments reported some level of organized crime involvement in contraband tobacco activities in all provinces, from traditional organized crime, which is highly sophisticated, well established and potentially violent, to small independent groups, which operate on an ad-hoc basis. The assessments also found that the predominant illicit contraband tobacco product is the clear resealable baggy. Several criminal organizations involved in illicit tobacco activities are also involved in multi-commodity criminal operations, mainly drug-related.

Throughout the country, contraband tobacco is distributed through a variety of different channels. Domestically, the products are known to be sent through the mail or moved by couriers, buses and personal or rented vehicles. For the most part, international products (i.e. counterfeit international brands) are smuggled in vessels across the St. Lawrence Seaway or via marine containers at West Coast marine ports. Nationally, smuggling within the Cornwall region of the St. Lawrence Seaway accounts for the majority of RCMP seizures.





ii. Regional Trends

Central region (Ontario, Quebec)

The central region is home to 64.1%⁹ of Canadian smokers. Since January 2001, both provinces have significantly raised taxes on cigarettes. (see chart 1)

Canada's contraband tobacco market is largely defined by related illegal activities within the central region. This region is also the largest consumer of contraband tobacco. Although the illicit tobacco market in the central region is dominated by baggies, the region has seen an increase in activity from all sources of contraband tobacco. Presence of tobacco-related organized crime activities is also most predominant in the central region, because forty-two criminal organizations directly linked to contraband tobacco activities operate in the Cornwall/Valleyfield region alone. Intimidation is often used in illicit tobacco activities, as a result of the high level of competition in this lucrative market.

Historically, central region illicit tobacco networks distributed their products into the Maritimes. While these networks continue to operate, the RCMP is aware of expansion onto reserves in the country's Northwest region.

Common points of sale for illicit tobacco products at street level are bingo parlours, flea markets and the workplace. Availability continues to grow. Home delivery services are even being reported in the Montreal and Toronto area. The 401/20 highway corridor between these two cities continues to see countless arrests for contraband tobacco offences. Based on research by the GfK Group, it is estimated that 31% of the tobacco consumed in the central region is contraband; the highest in the country.

Tobacco farmers in Ontario are reporting large decreases in revenue due to a declining demand for their crops. A decreased demand through the legitimate market could be an incentive for some tobacco farmers to liquidate their stocks through illicit channels.

CHART 1

JANUARY/01 – JANUARY/08	CURRENT PROVINCIAL PRODUCT TAXES	REAL INCREASE IN PROVINCIAL TAXES ¹⁰
Quebec	\$20.60	106.5%
Ontario	\$24.70	182.4%
	Federal Excise Duty	Real Increase in Federal Taxes
All provinces and territories	\$17.00	35.7%

⁹ Statistics Canada, Canadian Community Health Survey (CCHS3.1), 2005 CANSIM table 105-0427

¹⁰ Consumer Price index was taken into consideration in the computation of the real tax increases.



Atlantic Region (New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland & Labrador)

7.7%¹¹ of Canadian smokers live in the Atlantic region. Over the past six years, there have been tax increases within all the eastern provinces: (see chart 2)

This region has the second largest percentage of consumers of contraband in Canada. Organized crime involved in tobacco trafficking is taking on a drug-style approach, which includes acts of intimidation and turf wars within certain areas. As the potential for profit from illegal tobacco activities increases, so will the involvement of various organized crime groups, which will lead to disputes over illicit market share.

Investigations have demonstrated that Atlantic Canada contains a large client base for the Kahnawake and Akwesasne distribution networks. In addition to baggies, several unknown brands of fine cut tobacco products have been found in the region. Finally, over the past year, police reports have indicated that robberies targeting tobacco products are on the rise.

CHART 2		
JANUARY/01 – JANUARY/08	CURRENT PROVINCIAL PRODUCT TAXES	REAL INCREASE IN PROVINCIAL TAXES ¹²
Newfoundland & Labrador	\$36.00	42.9%
Prince Edward Island	\$34.90	127.1%
Nova Scotia	\$33.04	173.9%
New Brunswick	\$23.50	121.2%
	Federal Excise Duty	Real Increase in Federal Taxes
All provinces and territories	\$17.00	35.7%

11 Statistics Canada, Canadian Community Health Survey (CCHS3.1), 2005 CANSIM table 105-0427

12 Consumer Price index was taken into consideration in the computation of the real tax increases.



Pacific Region - (B.C. & Yukon)

Smoking rates in B.C. & Yukon are the lowest in the country, but the Pacific region still accounts for 11.0% of smokers in Canada¹³. Over the past six years there have been the following tax increases in the region: (see chart 3)

The majority of known illicit tobacco activities are concentrated in the downtown eastside of Vancouver. Products from all sources are available, including illegally manufactured, tax-diverted tobacco products, internationally smuggled tobacco products (counterfeit and foreign brands) and stolen tobacco products.

Baggies from central Canada are very popular in downtown Vancouver. A smaller portion of the illegal market is GST/HST-relieved and provincial tax-exempt tobacco products, which are mainly obtained from any of the smoke shops/shacks which are located in Aboriginal communities around the province.

As an aside, inter-provincially diverted tobacco products are not as profitable as they used to be, due to the fact that the difference in provincial taxes between the central and Pacific regions are not as great as they have been in the past.

The West Coast is the main point of entry for counterfeit and foreign cigarettes, by way of marine sea containers from China. However, the majority of known shipments are destined for central Canada.

Finally, at street level, the main source of violence in B.C. surrounding tobacco, throughout 2006, was the ongoing incidence of retail store armed robberies. These robberies typically involved small weapons that were used to coerce store attendants into handing over tobacco products and cash.

CHART 3		
JANUARY/01 – JANUARY/08 ¹⁴	CURRENT PROVINCIAL PRODUCT TAXES	REAL INCREASE IN PROVINCIAL TAXES ¹⁵
British Columbia	\$35.80	40.3%
	Federal Excise Duty	Real Increase in Federal Taxes
Federal	\$17.00	35.7%

¹³ Statistics Canada, Canadian Community Health Survey (CCHS3.1), 2005 CANSIM table 105-0427.

¹⁴ Quantity increase in Yukon is negligible compared to the provinces.

¹⁵ Consumer Price index was taken into consideration in the computation of the real tax increases.



Northwest Region –[Alberta, Saskatchewan, Manitoba, Northwest Territories & Nunavut]

Lastly, 17.2%¹⁶ of Canadian smokers live in the Northwest region. Over the past six years, consumers of tobacco products have seen the following tax increases: (see chart 4)

The Prairie Provinces reported an influx of contraband tobacco products, noting that the street level market for contraband is significant and widespread throughout the area. Illegal tobacco is moved through the region by organized crime with ties to central Canada’s illicit manufacturing and distribution networks. A distant second is the presence of Chinese cigarettes or Egyptian tobacco here and there throughout the region. Thefts involving tobacco at retail locations continue to be reported in all three provinces.

CHART 4		
JANUARY/01 – JANUARY/08 ¹⁷	CURRENT PROVINCIAL PRODUCT TAXES	REAL INCREASE IN PROVINCIAL TAXES ¹⁸
Manitoba	\$35.00	74.7%
Saskatchewan	\$36.60	77.9%
Alberta	\$37.00	127.8%
	Federal Excise Duty	Real Increase in Federal Taxes
All provinces and territories	\$17.00	35.7%

¹⁶ Consumer Price index was taken into consideration in the computation of the real tax increases.

¹⁷ Quantity increase in the NWT and Nunavut is negligible compared to the provinces.

¹⁸ Statistics Canada, CANSIM, table 105-0427 and Catalogue No. 82-221-X, 2005

VII. IMPACTS ON CANADIANS

The largest impact on Canadians, including Aboriginal communities, is the prevalence and ongoing involvement of organized crime in the contraband tobacco market. Organized crime affects Canadians' basic rights to peace, order and good government. Although the effects of illegal tobacco activities are not obvious, all Canadians, in one way or another, feel the repercussions of these activities in the form of:

- victimization,
- eroding respect for the law, which minimizes the serious consequences of this type of criminal activity,
- undermining of public health efforts to decrease tobacco use,
- the loss of millions in federal and provincial government revenues, money that could fund social programs, education, employment programs and health care,
- preventing legitimate businesses from carrying out their activities in a climate of fair competition,
- young people taking up smoking through unrestricted access to inexpensive cigarettes, and
- continuing growth of organized crime and commission of other offences.

Youth are being lured into contraband tobacco activities by the appeal of easy money. Local police have seen the results of youth being involved in organized crime, namely an increase in violent behaviour and general disrespect for their community as well as for others. A

On July 26, 2007, CBSA, RCMP and OPP officers approached two suspects believed to be **trafficking contraband tobacco** in the Cornwall, Ontario area. In addition to the 1,000,000 baggie-packed cigarettes, it was apparent that one of the individuals driving was **in the process of injecting** with what was believed to be liquid amphetamine. See http://www.rcmp-grc.gc.ca/qc/comm/2007/07/070731_e.htm for the full story.

number of youth, predominantly in Ontario and Quebec, are being exploited by organized crime via the contraband tobacco trade, which can be a gateway to involvement in other criminal activity.

The Assembly of First Nations, which is a national Aboriginal advocacy organization, passed Resolution No. 70 in February 2007 to develop and implement a National First Nations Youth Gang Prevention Strategy focused on the prevention of gang activity involving First Nations youth. The Resolution links poverty as the key driver of youth involvement in organized crime activities, such as prostitution, smuggling, drugs and other forms of violence and corruption. The resolution also calls for meetings with internal representatives and key Ministers to support the Strategy.¹⁹

¹⁹ Assembly of First Nations – Resolution No. 70, <http://www.afn.ca/article.asp?id=3555>



VIII. CONTRABAND TOBACCO MARKET DRIVERS

The demand for **cheaper tobacco products** is evident by the increased number of locations where illegal tobacco products can be purchased (e.g., smoke shacks and shops, independent distributors, home delivery). While the federal and provincial governments are raising taxes to discourage people from either taking up smoking or continuing to smoke, RCMP seizures are also increasing.

Tax evasion has traditionally been the primary driving force behind tobacco smuggling operations. The difference in price between contraband and legal tobacco products allows for a significant profit to be made. Simply put, organized crime involvement in the contraband tobacco market is driven by **greed**. Additionally, this particular criminal activity is viewed by many as virtually risk free, easy to carry out and requiring no particular skills. It is common practice within certain communities, and the monetary payback is quick. These views entice individuals to get involved in contraband tobacco activities.

Some First Nations believe that it is the **sovereign** right of their members to produce tobacco products without the interference of the Canadian government. This position has been raised primarily by those involved in the manufacturing and/or selling of illegal tobacco products. There are those who believe these individuals are taking advantage of the current politically charged situation to benefit from criminal activities.

On July 17, 2007, RCMP and CBSA combined efforts led to the arrest of a **71-year-old** male resident of Ohsweken, Ontario. A total of 1,350 re-sealable bags of contraband cigarettes, manufactured in the United States and smuggled into Canada, were seized. See http://www.rcmp-grc.gc.ca/qc/comm/2007/07/070724_e.htm for the full story.

Lastly, there are Canadians who believe that illicit tobacco production, distribution, sale or end-use is a **victimless crime**, meaning that no one is directly impacted by the illicit activities. The only negative impact is felt by the government, and “sticking it to the tax man” is a viable rationale for participating in contraband tobacco activities.



IX. PERSPECTIVES

Canadians have widely diverse perspectives on the illicit tobacco trade. These perspectives are defined by an individual's upbringing, cultural beliefs, place of employment and social pressure. In an effort to increase its understanding of Canadians' perspectives, the RCMP reached out to a number of sources.

i. Canadians

A survey conducted by EKOS Research Associates in summer 2007 indicated that 74% of Canadians see the illegal tobacco trade in Canada as a “somewhat” to a “very serious” problem and almost half the participants identified unregulated “smoke shacks” in Aboriginal communities as the primary source for illegal tobacco. The survey also found that 76% of Canadians think law enforcement should place a “moderate” to “high” priority on combating the illegal tobacco trade in general, and even more (81%) say a “moderate” to “high” priority should be placed on combating cross border trafficking (i.e. smuggling). Interestingly, when asked about the most concerning consequences of the illegal tobacco trade, the fact that it is a source of revenue for organized crime tops the list. These findings show that Canadians see illegal tobacco as a problem, are aware of the linkages between points of sale in Aboriginal communities and organized crime, and be a priority for law enforcement.²⁰

²⁰ Results are based on a telephone survey with a national random sample of 1,013 Canadians that was conducted between June 21 and June 30, 2007. The findings were statistically weighted to ensure that they are representative of the Canadian public 18 years of age and older.





The media play a significant role in informing Canadians about issues that affect their lives. A year in review analysis of national, regional and newswire print publications in French and English revealed a high frequency of coverage of RCMP efforts to combat contraband tobacco activities, compared to other enforcement issues. Coverage was highest in Ontario and New Brunswick, followed by Prince Edward Island. Unfortunately, national coverage only made up 2% of the articles published. Given the high level of trafficking in certain Aboriginal communities, a review of articles directly linking contraband tobacco to Aboriginal communities or individuals from those communities indicated that 1 of 3 articles published on contraband tobacco linked the illegal activity to certain Aboriginal communities, mostly in Ontario and Quebec.

ii. Canadian Smokers

Phoenix SPI was commissioned by Health Canada in 2007 to conduct research on the knowledge, attitudes and behaviours of smokers in key Quebec and Ontario cities²¹ with respect to discount cigarettes, including contraband products. Their study revealed that 92% of survey respondents pointed to price as the main benefit of buying discount cigarettes²², with 82% identifying price as the only reason they buy them. There was a considerable difference of opinion and uncertainty about the legality of buying cigarettes on First Nations reserves. The perception that it is legal for members of the general public to purchase lower-cost, tax-reduced cigarettes on First Nations reserves was perhaps the most widespread misconception among participants²³.

That being said, participants provided reasons that help make such a misconception understandable, including the open advertising of discount cigarettes on highways, the lack of police presence and enforcement, the lack of publicity/information about this being illegal, and the health warnings included on packs of aboriginal cigarettes.

21 The survey results are not generalizable to the general population, to Canadian smokers, or to smokers in Quebec and Ontario.

22 For the purposes of the study, discount cigarettes were defined as cigarettes available through regular retail channels at reduced price, cigarettes manufactured, purchased or otherwise originating in a First Nations community, and contraband cigarettes or cigarettes which may have been smuggled

23 Phoenix Strategic Perspectives Inc., Discount Smokers in Ontario and Quebec - Exploratory Analysis (April 2007), Health Canada POR Number: 06-75



iii. **Aboriginal People**

Tobacco is viewed differently within Aboriginal communities. While the origin of tobacco is South America, First Nations people were already using tobacco when Europeans first arrived in the western hemisphere²⁴. Some used the leaf for spiritual purposes while other communities used it on a regular social basis. One explanation for the importance of tobacco in some Aboriginal Nations can be found in the teaching that tobacco was originally a gift from the Creator²⁵, but that since tobacco could not be grown in the spirit world, it was necessary to offer tobacco to the spirits in exchange for their protection and continued harmony between the natural and the spirit world²⁶. The historical use and social climate relating to tobacco might explain why smoking has been and continues to be high among some First Nations communities (the national average among First Nations smokers 18 years and older is 58.8%)²⁷. However tobacco use is viewed very differently depending on the Aboriginal community.

In fact, some Aboriginal communities have implemented smoke-free efforts similar to some provincial initiatives, as well as strict limitations on establishing manufacturing operations or smoke shops/shacks. The acceptance of tobacco

24 Towards Effective Tobacco Control in First Nations and Inuit Communities, Physicians for a Smoke-Free Canada, March 2007

25 Aboriginal Cancer Care Unit, Aboriginal Tobacco Strategy, Newsletter Volume 2, Number 1, 2005

26 Towards Effective Tobacco Control in First Nations and Inuit Communities, Physicians for a Smoke-Free Canada, March 2007

27 First Nations Regional Longitudinal Health Survey (2002/03)

activity within a community is largely driven by the views of the community leaders and Elders.

While there are a wide range of views on tobacco within First Nations communities, there are certain activists, albeit not supported by all, who openly encourage non-compliance with Canadian legislation and regulations:

"I know that the government of Canada takes a very particular position - and a very specific position - on the legality of the creation of tobacco products and their distribution certainly within the Canadian state. There is a framework of applications, processes and approvals that govern when and how a manufacturing company can exist, so I don't disagree that the government assessment of what we do as being not legal. But that is not the same position that we've taken." ²⁸

From a different perspective, there are those that see the growth of illegal tobacco activities as negatively impacting their communities and ability to carry-out legitimate business;

"Communities need to look at the type of people they are attracting to their communities when they become involved in illegal tobacco activity. It is organized crime that is benefiting, not the communities. They are wolves in sheep's clothing – a beast that can't be control. There are

28 Shawn Brant, Tyendinaga, CBC News interview – <http://www.cbc.ca/sunday/brant.html>



*solutions to the problem, solutions that put the safety of our community first. That requires the federal government and Native leaders should provide a level playing field for all manufacture retailer and consumers guidelines to protect underage people and total traceability of the product is an international responsibility.*²⁹

Some First Nations communities are making efforts to formalize tobacco activities as economic sources. In the Mohawk Territory of Kahnawake, the Kahnawake Tobacco Association (KTA) is designed to bring together all individuals who trade in tobacco products within the Territory. KTA states that it is a non-profit organization and legislative body within the Territory that makes policy, enforces and controls all aspects of trade and commerce of tobacco products on the Mohawk Territory of Kahnawake for the benefit of Mohawk Peoples and to protect Mohawk sovereignty. The Association website outlines that they (KTA) are exercising their rights and jurisdictions to operate tobacco trade and commerce on Mohawk Territory, without interference (i.e. by the Canadian government, its regulators or enforcement). The establishment of associations such as the KTA are viewed by some as avenues to developing self-sufficiency and autonomy in Aboriginal communities.³⁰

From a broader law enforcement perspective, several communities have formalized working relationships with the RCMP and other partners through initiatives such as the Aboriginal Combined Forces Special Enforcement Unit in Quebec and the Akwesasne Mohawk Police Joint Investigative Team. The focus of these groups is to combat organized crime in and around their communities. These cooperative measures have been in place for several years and partners see such arrangements as beneficial. The key component in the success of such partnerships is the unique approach taken in operations, depending on the community where they are being carried out.

Efforts are being made to engage in ongoing consultations with leaders (i.e. councils) and local police in key communities where the RCMP feel there is the highest level of interest in discussing the issue of tobacco, and with the Assembly of First Nations to better understand and develop a constructive way forward.

²⁹ Jerry Montour, Grand Rivers Enterprises, Six Nations

³⁰ Kahnawake Tobacco Association Web site, September 2007



iv. National Consultation Participants

During the summer of 2007, over 70 individuals with diverse backgrounds and experts in tobacco activities took part in the national consultation process in an effort to gather and analyse the perspectives of RCMP partners and stakeholders. Each had the opportunity to share their views on the current environment, partnerships and shortcomings and to suggest recommendations. Most were supportive of the RCMP moving forward on identifying collaborative and effective solutions. Sixty-one recommendations were suggested, several were mentioned repetitively throughout the process. There were three categories of recommendations: RCMP (internal), Collaborative Efforts, and Non-mandated RCMP recommendations. It should be mentioned that of the Canadian government officials, industry and NGO participants, over 64% suggested measures to address contraband tobacco that are not within the RCMP's mandate. The consultations were also seen as an opportunity to open lines of communication for longer-term discussions and cooperative efforts that currently do not exist.

Informed government and police partners consultations among RCMP officers, Canadian government officials and police partners who play a direct role in tobacco monitoring, regulating and enforcing, gave insight into their perspective on the current environment, partnerships, shortcomings and suggested ways forward. The consultations revealed that all informed individuals are aware of the source of the contraband tobacco and do not think that it is solely the job of the RCMP to address the problem. Almost 100% linked the source of the illicit trade to central Canada and illicit manufacturing and distribution networks originating in specific Aboriginal communities. The level of partnership and integration of efforts within a province is clearly dependent on the magnitude of the contraband tobacco problem and the government's priorities.

A vast majority also spoke of the need for the RCMP to maintain stability and continuity among its C&E resources. In recent times, relations with C&E officers have been difficult to build because there is regular staff turnover. Additionally, given that the RCMP is aware of the source of the illicit tobacco products, enhanced resources should be positioned in central Canada for the long term.



Industry

When the law is broken, there is always a victim. In the case of contraband tobacco, some of the most visible victims are legitimate manufacturing operators and retailers. Since the solutions to the issue are, for the most part, outside of the private sector's purview, there is a feeling of helplessness. Of the industry representatives consulted, all had implemented awareness campaigns to educate management, employees and/or the public, including independent surveys and research. Recently, the Canadian Convenience Stores Association and the Canadian Tobacco Manufacturers' Council commissioned third-party research to better understand the latest national trends. Such efforts are undertaken because the financial loss to manufactures and retailers is significant. For example, revenue loss to convenience stores is reported to be approximately 30%. This deficit can send family-run operations into bankruptcy. The need to enhance restrictions on growing, manufacturing and distributing raw materials and related equipment should be a priority for the government departments and agencies which are responsible.

Non-Governmental Organizations (NGOs)

NGOs with an interest in tobacco-related issues include the Canadian Cancer Society, Physicians for a Smoke-free Canada and the Non-Smokers' Right Association. NGOs spoke primarily to a variety of gaps that could be addressed, for the most part through regulatory measures such as increased bans on advertising and enhanced ability to monitor and enforce activities related to the raw materials and the equipment. While there is definitely a responsibility for the RCMP to lead the discussion on contraband tobacco, it was clear that NGOs felt that the solution did not lay solely with RCMP enforcement activities. A national strategy with participation from all impacted federal and provincial departments and agencies would be essential in making a comprehensive long-term impact.



X. INTERNATIONAL EFFORTS

Contraband tobacco is not just a domestic phenomenon. It is a dilemma that is plaguing countries worldwide. The Framework Convention Alliance, a coalition of NGOs, estimates that the illicit trade results in worldwide losses of \$40-50 billion USD. In 2005, the Framework Convention on Tobacco Control (FCTC) came into force recognizing that a component in the fight to decrease tobacco use is the need to tackle the illicit tobacco market. At the time of publication, one hundred and fifty countries have signed the treaty; Canada was the 38th country to ratify the FCTC on November 26, 2004. Article 15 specifically speaks to signing states' responsibility to address the illicit tobacco market:

The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control.

Taking into account the need to further develop the obligations set out in Article 15 in an internationally binding legal instrument, Parties to the FCTC recognized that international collaboration for the control of illicit trade is an important area of tobacco control, and decided to convene an expert group to prepare a template for a protocol on illicit trade.

The template, with measures relating to controls on production and distribution of tobacco products, law enforcement enhancements and international cooperation, will be the basis for initiating negotiations by an intergovernmental negotiating body. The first meeting will be held in Geneva in early 2008.





The world-wide illicit tobacco market is also combated through other multi-national organizations including the European Anti-Fraud Office, Europol and the World Customs Organization (WCO). According to the WCO, in 2006, global seizure levels reached their highest level since 2001. Over half of the cigarette seizures reported to the WCO were intercepted at seaports, with more than one third of occurrences at nine seaports. More specifically, China and the United Arab Emirates were the main departure countries for smuggling routes on which seizures occurred. China's State Tobacco Monopoly Administration continues to battle the counterfeit problem. In 2006, the Administration seized 9.07 billion counterfeit cigarettes³¹.

Many countries are also developing domestic strategies to support their international commitments and address the growing illicit tobacco market domestically. As an example, the United Kingdom implemented a multi-mission (enforcement, education and awareness) tobacco smuggling strategy in March 2000 to combat the rapidly growing contraband tobacco market. With one in three cigarettes being smuggled, contraband was creating serious law and order problems as well as losses to government of over £3 billion annually³².

Since its implementation, which included significant resource and technology increases, UK authorities have broken up over 320 criminal

gangs involved in the large-scale smuggling and supply of illicit cigarettes, and they have seized over 11 billion cigarettes at UK seaports, airports and inland as well as en-route to the UK. As of 2003-04, these efforts have resulted in a decrease in revenue losses of £800 million³³.

Similarly, efforts are under way in Brazil aimed at curbing the tremendous influx of contraband tobacco products. In 2006, Brazil's illicit cigarette trade represented 35% of the market, 20% smuggling and 15% illicit manufacturing. Specifically, 21 billion cigarettes were smuggled into Brazil, representing an approximate loss of \$340 million USD in government revenue. In addition to the smuggling problem, only the two major cigarette companies were paying the taxes on cigarettes. Fourteen smaller Brazilian cigarette companies, which produce 16 billion cigarettes annually, were not paying the cigarette tax on industrial products. This represents 70% of the total federal revenue from the sector, and an additional revenue loss of \$280 million USD³⁴.

Many countries require their own unique combination of efforts to address their situation. Canada's current situation is significantly linked to battling the illicit manufacturing and sales occurring in Aboriginal communities, which is unique within the global context only to Canada and the U.S.

31 World Customs Organization - Customs and Tobacco Report 2006

32 HM Revenue and Customs and HM Treasury - New Responses to New Challenges: Reinforcing the Tackling Tobacco Smuggling Strategy, 2006

33 Ibid

34 Brazilian Ministry of Finance - The Illicit Cigarette Market in Brazil, 2006



XI. MEETING THE CHALLENGE

There are a variety of challenges facing the RCMP in its effort to reduce availability and decrease the demand for contraband tobacco across Canada. Based on research, analysis and national consultations, the RCMP has identified the following priorities for the next three years. Every effort will be made to work with appropriate partners to achieve positive outcomes.

i. Disrupt Organized Crime and the Supply Chain

As noted previously, the illicit trade in tobacco products, which has grown exponentially since 2001, is dominated by criminal organizations. These criminal syndicates are motivated by the lure of huge profits and relatively low risks. Enforcement actions must be directed at significantly increasing the risks for organized crime by dismantling illegal manufacturing facilities, disrupting the distribution supply lines, apprehending key figures and seizing the proceeds of their criminal activity, which will support successful prosecutions. In particular, the RCMP will:

- work with domestic and international law enforcement partners to identify and target criminal organizations as well as seize the proceeds of their crimes;
- develop, support and employ innovative law enforcement models, such as Project ACCES, Akwesasne Mohawk Police Joint Investigative Team and SHIPRIDER, to target and disrupt smuggling and distribution networks;

- conduct coordinated surge enforcement operations in high-risk locations to disrupt the contraband tobacco supply chain. Resources will be temporarily deployed from other regions of Canada to support these short-term operations; and
- enhance coordination and awareness with Public Prosecutions and the Courts to ensure the appropriate application of federal law controlling contraband tobacco and organized crime-related offences.

ii. Coordination, Collaboration and Partnership Development

A wide range of public, private-sector and non-governmental entities have an interest in the illicit tobacco trade. In Canada, tobacco products are heavily regulated, and several federal and provincial departments (e.g. health, revenue, finance, customs) are involved in implementing tobacco control policies. Given this complex environment, there is a need for strategic and tactical coordination of activities. No single department, agency or entity has the expertise, mandate or resources to single-handedly combat the illicit tobacco trade. Moreover, advances in tobacco control enforcement are most noticeable where efforts have been integrated. In short, organized government and law enforcement efforts are required to effectively combat organized crime. To this end, the RCMP will;



- pursue the establishment of a national committee comprised of senior representatives from relevant federal, provincial and territorial departments and agencies to increase strategic-level coordination of efforts and cooperation to reduce the impacts of the illicit tobacco trade on public safety, public health and fiscal policies;
- establish regional operational coordination committees comprised of federal and provincial law enforcement partners to enhance information sharing, improve target identification and selection, and coordinate operational responses;
- appoint, in each RCMP Division, a coordinator to oversee the implementation of this tobacco strategy. The Director, Customs and Excise Branch, will chair a quarterly meeting of coordinators to strengthen national and inter-divisional implementation, identify challenges, and share best practices and lessons learned;
- collaborate with law enforcement partners to co-locate intelligence resources in order to develop a complete picture of the illicit tobacco trade and identify the highest priority threats; and
- pursue the development of information sharing protocols with key partners, such as the Canada Revenue Agency.

The benefits of information sharing cannot be overstated;

- finalize the guidelines which clarify the division of roles and responsibilities between the RCMP and CBSA in relation to the enforcement of the Customs Act; and
- in partnership with the CBSA, the Canada Revenue Agency, the US Alcohol and Tobacco Tax and Trade Bureau and the US Bureau of Alcohol, Tobacco, Firearms and Explosives, hold an annual workshop on the illicit tobacco trade to increase cross-border collaboration and information sharing, and support the development of bi-national initiatives to tackle tobacco diversion.

iii. Outreach

Currently, the contraband tobacco market is dominated by tobacco products originating from Aboriginal communities in central Canada. Progress in addressing the illicit tobacco trade will be limited unless we develop an understanding of the underlying issues associated with the tobacco industry in Aboriginal communities (e.g. ancestral rights). In addition, the tobacco industry possesses detailed knowledge of tobacco markets and suppliers. Such information needs to be shared both internally and with external partners and stakeholders. The RCMP will:

- use current mechanisms (i.e.: National Aboriginal Policing Services; the RCMP and Assembly of First Nations Public Safety Protocol) as well as develop new lines of communication to increase dialogue with Aboriginal governments on issues associated with the contraband tobacco trade and seek opportunities to develop joint strategies to reduce associated harms inside and outside of their communities; and
- educate private sector entities (e.g. suppliers of cigarette machinery, paper and packaging, and hydro companies) and financial institutions (e.g. credit card and Interact companies) about the nature and scope of the illicit trade in tobacco products and seek their support in reporting suspicious activity and, where appropriate, terminating business relationships with illicit operations.

iv. Effective Use and Allocation of Resources

The illicit tobacco trade is concentrated in Ontario and Quebec, and contraband tobacco products from these provinces are surfacing nation-wide. In addition, over 60% of Canada's smoking population is located in these provinces. Given the availability of finite resources, there is a need to ensure resources are deployed in support of operational priorities and client demands. With this in mind, the Customs and Excise Branch will:

- monitor resource allocation and use according to the Federal and International Operations (FIO) Accountability Framework to ensure program focus is maintained; and
- develop, in partnership with Internal Audit, Evaluation and Review, a Customs and Excise Program Evaluation Framework to assess program effectiveness and make improvements, where appropriate.
- work in close partnership with Aboriginal Policing Coordinators and their initiatives aimed at reducing Aboriginal criminal involvement and victimization.





v. Impact Crime through Education and Awareness

Public opinion research indicates that there is uncertainty about what constitutes contraband tobacco. Raising awareness of the tobacco black market and the consequences of purchasing and possessing contraband tobacco is essential to reducing the demand. Furthermore, the results of our consultations suggest the need to increase awareness of the nature and extent of the illicit tobacco trade among key government and enforcement decision makers. In an effort to reduce demand for contraband and increase awareness of the impacts of this criminal activity, the RCMP will, in partnership with other government agencies and non-governmental organizations:

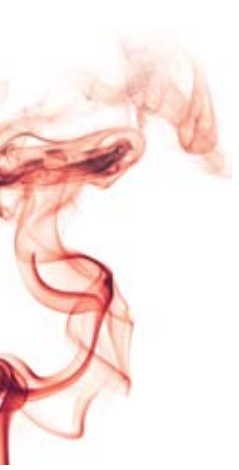
- heighten awareness about the public safety and health consequences of the illicit tobacco trade;
- develop and communicate targeted messages for the general public, smokers, and Aboriginal communities.
- produce and publish declassified versions of our strategic intelligence assessments on the illicit trade in tobacco products;
- seek hearings with key decision-making bodies, such as the National Coordinating Committee on Organized Crime, the Canadian Association of Chiefs of Police the Canada-US Cross-Border Crime Forum and Aboriginal organizations to raise awareness about the significant growth of this criminal market; and

- maximize the use of the RCMP Internet and Intranet sites to communicate the latest information.

vi. Contribute to the Development of Legislative and Regulatory Tools

Experience has demonstrated that strengthening tobacco controls (e.g. export tobacco tax measures) can significantly reduce the profitability of the illicit tobacco trade. The RCMP is uniquely positioned to identify shortcomings and vulnerabilities in our legislative and regulatory framework which are being exploited by organized crime. With this in mind, the RCMP will work with the interdepartmental community to:

- identify current legislative and regulatory control mechanisms that will further deter organized crime's involvement in the illicit tobacco trade;
- assess the viability of additional amendments to enhance the government's ability to reduce the impact of the illicit trade and reduce its profitability, including innovative arrangements with Aboriginal communities; and
- contribute to the development of an illicit trade protocol under the auspices of the World Health Organization Framework Convention on Tobacco Control.



vii. Conducting Research

Estimating the size of Canada's contraband tobacco market has been a challenge for the law enforcement community in the past. Non-governmental organizations have communicated their dismay over the lack of government or independent estimates. Moreover, there is limited research on the demographics of contraband users and effective anti-contraband measures. In an effort to address these deficiencies, the RCMP will:

- collaborate with the interdepartmental community, academia and non-governmental organizations on research projects, such as the knowledge synthesis study of anti-contraband tobacco measures being undertaken by the Ontario Tobacco Research Unit, in order to increase knowledge of the illicit tobacco trade; and
- develop metrics that will enable the RCMP and its partners to better gauge our success in decreasing the contraband market and the availability of tobacco to smokers. Such additional information would assist in assessing the impact of enforcement, regulatory and policy actions.

viii. Employee Selection and Development

Conducting organized crime investigations in a complex legal environment requires highly skilled investigators who have experience in the preparation of judicial authorizations, the development and handling of human sources, and the employment of major case management techniques. In addition, given the interconnectedness between Aboriginal communities and the contraband tobacco market, members deployed within or in close proximity to Aboriginal communities must possess an increased awareness of Aboriginal issues, such as culture, traditions and governance. When asked if they had the training and support needed to provide service delivery to Aboriginal communities, 72% of Aboriginal members agreed. By comparison, only 52% of all respondents felt adequately prepared. With a view to improving service delivery, the RCMP will:

- review the competency profile for C&E investigators;
- work with Learning & Development to enhance the skills and abilities of C&E personnel so that they may effectively perform their duties; and
- identify, with the assistance of National Aboriginal Policing Services, resources that could be engaged to assist in increasing the cultural competency of C&E members.



XII. EFFECTIVE ACCOUNTABILITY AND REPORTING

Given the responsiveness of the illegal market, challenges and priorities linked to outcome measures are expected to shift over the coming years, depending on how effective the RCMP and its partners are at making an impact on the current situation. In order to gauge the RCMP's efforts, performance measures will be developed and monitored over the coming years. These measures will provide the RCMP, its partners and the public with information that will better define the illicit market, align time frames to Program outcomes and guide finite resources focused on combating the contraband tobacco market. A full performance measures outcome matrix will be completed, based on the Program's Logic Model (Appendix 3).

Updates on the RCMP's progress will be published in an annual Strategy update and the RCMP's Departmental Performance Report, along with any strategic adjustments that may be required. Additionally, every three years a comprehensive review of the Strategy will be undertaken in order to ensure that priorities reflect the current contraband tobacco environment.



XIII. SUMMARY

The sale of contraband tobacco products does not represent any medium or long-term benefit for anyone except the individuals making profits. There are negative health consequences (disease and death), economic consequences (loss of revenue and jobs for legitimate businesses) and public safety consequences (a variety of criminal activities linked to organized crime) for Aboriginal and non-Aboriginal communities.

Realistically, elimination of the contraband tobacco market is not foreseeable in the near future. That being said, current levels are unacceptable to the RCMP. Success in minimizing the current market is heavily dependent on effective partnerships and common priorities across impacted partners and stakeholders. To this end, the RCMP is committed to working internally as well as with its partners and stakeholders to ensure that every effort is made to enhance public safety and economic integrity across Canada.



APPENDIX 1

ROLES AND RESPONSIBILITIES OF PARTNERS AND STAKEHOLDERS INVOLVED IN TOBACCO

Tobacco control involves a variety of health, enforcement and tax authorities spread among several departments and agencies at different levels of government, as well as external stakeholders:

Canada Revenue Agency is a tax agency focused on compliance rather than enforcement. The CRA oversees federal taxation of tobacco, and regulates activities involving the manufacture, possession and sale of tobacco in Canada. Additionally, the CRA issues tobacco licences and audits the activities of licensees.

Canada Border Services Agency is responsible for controlling imports through ports of entry (land, marine, air), as well as targeting and investigating contraband shipments, including illicit tobacco products. The Agency also monitors the impact of tax changes on the illegal international movement of tobacco.

Provincial enforcement is based on each province's tobacco tax legislation. Each province has the authority to apply its own tobacco-related laws, including enforcement and penalties. Normally the provincial effort is focused on the point in the tobacco cycle where the collection of tax occurs, primarily the retail level.

Health Canada leads the initiative to reduce or prevent the use of tobacco and highlight the negative health impacts associated with smoking. HC is responsible for regulating the manufacture, sale, labeling and promotion of tobacco products.

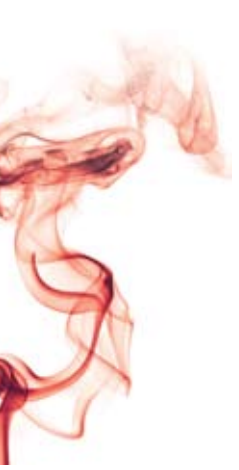
Finance Canada is responsible for federal tobacco taxation policies and the legislative framework for the federal tobacco taxation structure. This includes ensuring that the structure supports federal enforcement and compliance programs.

Public Prosecution Services of Canada prosecutes smuggling offences, as well as offences concerning the unlawful manufacture, distribution and possession of contraband tobacco products.

Public Safety Canada provides policy advice and support on smuggling issues and works with stakeholders to develop strategies to address contraband tobacco.

Indian and Northern Affairs Canada and the **Department of Foreign Affairs** and **International Trade** do not directly have responsibilities linked to tobacco, but given their broader responsibilities within the Government of Canada, respectively Aboriginal communities and Canada-U.S. relations, their participation should be encouraged in addressing the current contraband tobacco market.





Non-Government Organizations interested in tobacco-related issues are focused on raising and advancing efforts to further decrease smoking among Canadians. They promote their positions and research by meeting with politicians, all levels of government, the private sector and influential public policy groups.

The legitimate industry (manufacturers and retailers) is found throughout Canada and is looking to play an active role in developing solutions that see all tobacco manufacturers and retailers compete fairly, under the laws and regulations established by the Government of Canada.

Aboriginal leaders and communities - Tobacco issues varies from community to community. Both leaders and the community have a role to play in ensuring public safety, establishing health objectives and seeing to legitimate economic viability as it relates to tobacco activities.

US law enforcement partners such as Customs & Border Protection, the Bureau of Alcohol, Tobacco, Firearms and Explosives, Immigration and Customs Enforcement, the Department of Justice and the Alcohol and Tobacco Tax and Trade Bureau all have a role to play in eliminating the contraband tobacco market that is using our border as a tool to conduct illegal activities.

Academia provides unbiased analysis and research related to contraband tobacco and other related issues (e.g. links between Aboriginal communities and organized crime).

APPENDIX 2

RELATED ACTS

In partnership with clients, partners, and the community, the RCMP enforces laws, within Canada and along the uncontrolled border, that govern:

- the international movement of goods;
- the illicit manufacture, distribution or possession of contraband products (including tobacco and spirits);
- the illicit trafficking of critical high technology and strategic goods; and
- regulations that impose non-tariff (permit) controls on the international movement of commodities.

There are three federal Acts that are the main enforcement tools in countering the different aspects of the illicit tobacco trade. Other Acts, not specifically related to tobacco but directly involved in some aspect of the contraband tobacco market, are also identified:

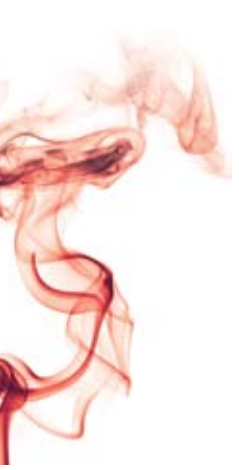
I. *Customs Act*

This Act deals primarily with the importation of any product into Canada, and the subsequent possession of any product that has not been properly reported. The most common charges relate to possession of smuggled goods and the non-reporting of persons and goods upon entering Canada.

The Customs Act is enforced by both the Canada Border Services Agency (at designated ports of entry) and the RCMP (between ports, and inland). Members of the RCMP are designated as Customs Officers under the Customs Act. More specifically, the RCMP:

- conducts criminal investigations requiring the employment of specialized police techniques (electronic surveillance, mobile surveillance, undercover operations and protection and relocation of informants) and involving threats to the safety of individuals.
- investigates smuggling and is responsible for enforcing the *Customs Act* along unmanned borders between CBSA ports of entry.
- has the delegated responsibility for customs enforcement on all Aboriginal reserves (excluding CBSA ports of entry located on reserves)
- at the request of CBSA, will provide assistance and police operational techniques for cases that fall under the CBSA mandate, as well as any criminal investigations requiring the use of police operational techniques.





II. *Excise Act, 2001*

The *Excise Act, 2001* deals with the production and possession of alcohol and tobacco products. The most common charges relate to possession of tobacco for which the proper duties have not been paid and to the illegal manufacturing of tobacco products. This may apply to either imported or domestically produced products.

Criminal enforcement of the *Excise Act, 2001* is carried out by the RCMP, with the Act administered by the Canada Revenue Agency. Members of the RCMP are defined as “Officers” under the *Excise Act, 2001*.

III. *Tobacco Act*

This Act deals primarily with the health aspects of regulating tobacco products, restricting youth access, providing information on the health hazards through health warning messages, and restricting promotion of tobacco. The most common offences deal with the lack of proper health warnings on packaging, the promotion of tobacco products, the improper packaging and sales of tobacco to minors and through the mail.

The *Tobacco Act* is enforced and administered by Health Canada. The RCMP is not mandated to enforce this Act, although in some contract divisions, agreements are in place to provide security during HC inspections of premises. As this is a federal act, the RCMP may investigate offences pursuant to the *RCMP Act*.

OTHER RELATED ACTS

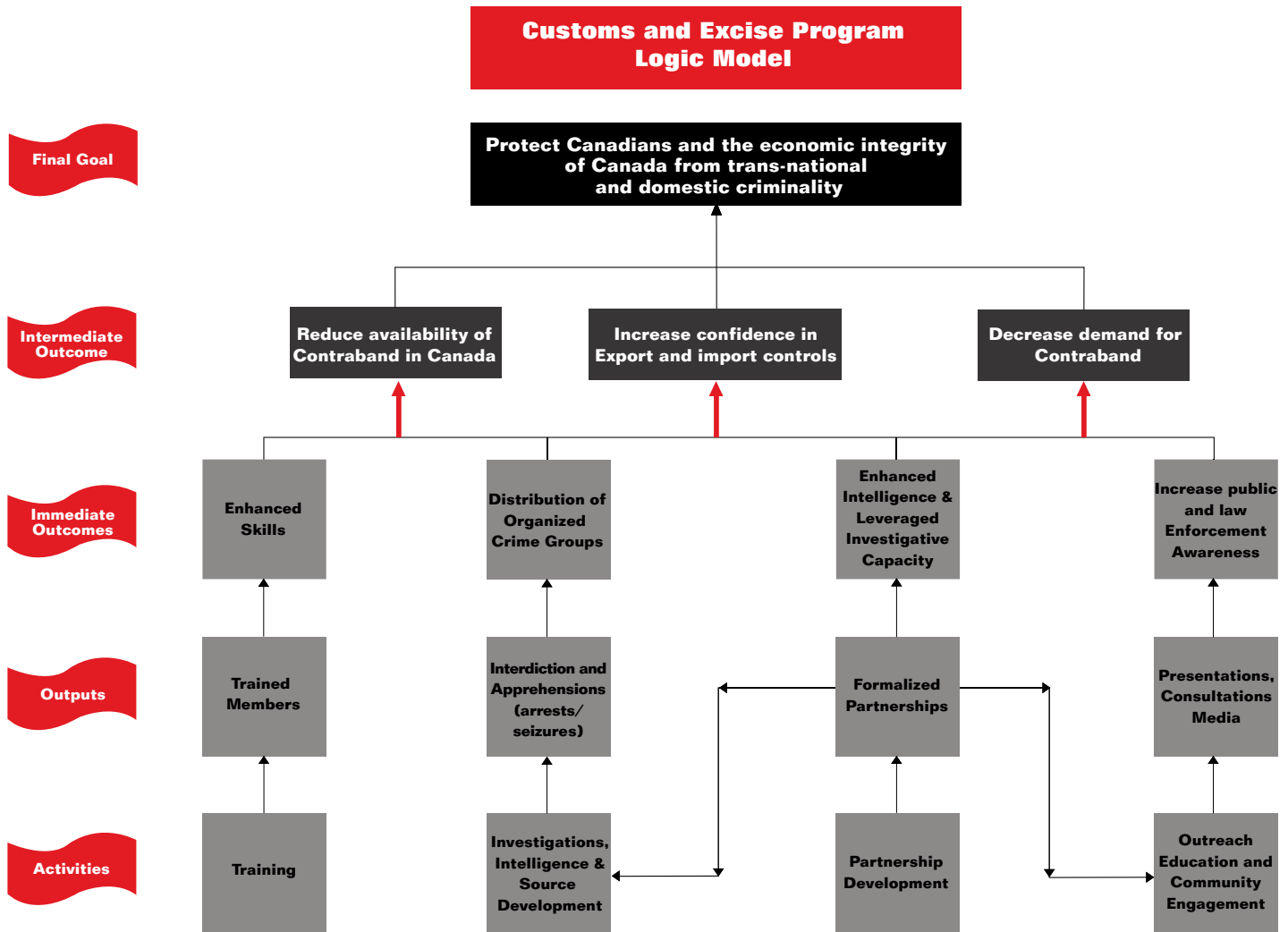
I. *Excise Tax Act*

The *Excise Tax Act* is the legislation that governs the Goods and Services Tax/ Harmonized Services Tax (GST/HST). The *Excise Tax Act* is administered and enforced by the Canada Revenue Agency. However the Commercial Crime Section will provide assistance to the CRA if requested.

II. *Copyright Act and Trademark Act*

The RCMP, Federal Enforcement Branch, is responsible for investigations relating to these two Acts. There also exists a variety of provincial laws that deal with the transport and possession of tobacco products. It is not within the mandate of the RCMP Customs and Excise program to investigate offences. In some contract provinces, members are appointed as provincial tobacco tax inspectors/ investigators and may be seconded to various provincial tobacco enforcement units

APPENDIX 3





APPENDIX 4

GLOSSARY

Canadian brands - Brands which are produced for Canadian consumers and the Canadian market.

International brands - Brands which are destined for a non-Canadian market and not traditionally consumed by Canadian smokers

Aboriginal cigarettes - includes cigarettes that are legally manufactured and sold to non-aboriginal or aboriginal consumers, and cigarettes that are manufactured and sold illegally.

Aboriginal people - is a collective name for the original peoples of North America and their descendants. The Canadian Constitution (the Constitution Act, 1982) recognizes three groups of Aboriginal people - Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

First Nation(s) - A term that came into common usage in the 1970s to replace the word "Indian," which some people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term "First Nations people" refers to the Indian peoples in Canada, both Status and Non-Status. Some Indian peoples have also adopted the term "First Nation" to replace the word "band" in the name of their community.

Community/reserve - As per the Indian Act or through treaties, an aboriginal community/reserve is a tract of land, the legal title to which is held by the Crown, set apart for the use and benefit of an Indian band. Some bands have more than one reserve.

Tax exempt - The Excise Tax Act is based on the concept of taxable supplies (i.e. goods and services) and exempt supplies. Taxable supplies are subject to 6% General Sales Tax, 14% Harmonized Sales Taxes (i.e. combined federal and provincial tax) or are zero-rated (taxable at 0%).

Tax relieved - GST/HST relieved is relevant to the supplier of the goods and/or services, as it affects their obligations and responsibilities under the Excise Tax Act.

Rollies - Cigarettes (200) available in clear resealable plastic bags.