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Chair

Ms. Bonnie Brown

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•(1630)

[English]

The Chair (Ms. Bonnie Brown (Oakville, Lib.)): Good afternoon, ladies and gentlemen. It's my pleasure to welcome you to the 56th meeting of the Standing Committee on Health, pursuant to Standing Order 108(2), a study on tobacco issues related to compliance with the Tobacco Act, cigarette smuggling, and combating tobacco use.

We have several prominent witnesses today, but I believe that because we're starting late—I'm sorry, gentlemen; it was unavoidable—we should begin right away with Mr. Denis Choinière, director, office of regulations and compliance.

Mr. Choinière.

Mr. Denis Choinière (Director, Office of Regulations and Compliance, Tobacco Control Program, Healthy Environments and Consumer Safety Branch, Department of Health): Good afternoon. My name is Denis Choinière. I'm the director of regulations and compliance in the tobacco control program at Health Canada. I'd like to thank you for the opportunity to talk about the enforcement of the Tobacco Act.

My remarks will be brief. My colleague from the Department of Finance usually likes to talk more, so I'll leave more time to do that.

I'd like to begin by very briefly outlining the federal tobacco control strategy. Then I'll address Health Canada's role in relation to the issues raised by the committee with respect to the manufacturing and sale of tobacco products. For their part, my colleagues here will describe the department's role and the federal response to contraband tobacco products.

The federal tobacco control strategy constitutes an umbrella initiative that brings together all federal departments involving tobacco control—that is, the Canada Revenue Agency, the Canada Border Services Agency, the RCMP, Public Safety and Emergency Preparedness Canada, the Department of Justice, and Health Canada.

The strategy was announced in 2001. It establishes a framework for a comprehensive, fully integrated, multifaceted approach to tobacco control. The strategy rests on four mutually reinforcing components: protection, prevention, cessation, and harm reduction.

[Translation]

Health Canada has a lead role in the strategy, given the large negative health impact created by tobacco use. Besides conducting research and developing various policies and programs, Health Canada plays a significant regulatory role, rooted in the Tobacco

Act. Specifically, the focus is on ensuring compliance with the requirements of the Act with respect to tobacco promotion, ignition propensity, health warnings and sales restrictions.

The Tobacco Act and its regulations apply to all manufacturers, importers and retailers of tobacco products in Canada. Inspections are typically conducted where tobacco products are manufactured or sold. When non-compliant products are encountered, appropriate measures are taken. For example, if cigarette packs are found at retail that do not comply with the labelling requirements, the tobacco inspector may seize the product or contact a partner agency, depending on the situation.

Health Canada's inspectors do not get involved in the control of contraband tobacco, as far as violations to the Excise Act are concerned. However, our inspectors are directly concerned when violations to the Tobacco Act or its regulations happen, such as when health warnings are missing. That said, Health Canada is committed to working with its partners to reduce and eliminate the sale of contraband tobacco products.

I will now turn the floor over to my colleague from the Department of Finance. I will be pleased to answer any questions you may have later on.

[English]

The Chair: Thank you very much.

We'll now hear from Mr. David Baar, tax policy officer for alcohol, tobacco, and excise legislation.

Mr. Baar.

Mr. David Baar (Tax Policy Officer, Alcohol, Tobacco and Excise Legislation, Department of Finance): Thank you.

I would first like to provide an overview of the various federal and provincial taxes on tobacco products. I would then like to briefly explain how the current federal tobacco taxation rates were established and the factors involved in determining the appropriate level of federal tobacco taxation.

Tobacco products are taxed by both federal and provincial governments. At the federal level, the Excise Act, 2001 imposes an excise duty on tobacco products manufactured in Canada at the time manufacturers package them and on imported products at the time of importation. Structuring federal tobacco taxes to apply at this early stage in the production and distribution process provides the most secure tobacco tax base.

In contrast to federal excise duties, provincial tobacco taxes are consumption taxes that are imposed on the purchase of tobacco products by consumers. Although consumers are required to pay tobacco tax at the time of purchase, the provinces secure their tax base and improve compliance by requiring wholesale dealers to remit an amount equal to the tax when they supply the tobacco product to retailers.

As first nation issues are often the focus of media reports on tobacco contraband, it is worth understanding how tobacco taxes apply to first nations. The Indian Act exempts from taxation the personal property of a status Indian situated on a reserve. Status Indians can claim that exemption with respect to the GST/HST, provincial sales taxes, and provincial tobacco taxes if the products are sold on or delivered to a reserve. However, no exemption under the Indian Act can be claimed for purchases made on a reserve by a person other than a status Indian. All tobacco manufactured in Canada, including that manufactured on a reserve by a status Indian, is subject to the federal excise duty.

Price is one of the key factors influencing tobacco consumption and affects both the decision to smoke and the frequency of use by continuing smokers. A survey paper by Grossman et al in the *Journal of Economic Perspectives* notes that long-run price elasticities range from -0.45 to -0.75. This means that a 10% increase in the price of tobacco products reduces consumption in the long run by between 4.5% and 7.5%.

The impact of higher prices has been shown to increase over time since higher prices reduce the ability to experiment with tobacco; thus the number of people who become addicted decreases. While higher prices reduce tobacco consumption in the short run, it is the reduction in the affordability of experimentation that leads to the large long-run impact of higher prices. Taxing tobacco at a high and sustainable level is therefore an important element of a strategy to reduce smoking and improve health outcomes. Both the federal and provincial governments tax tobacco products. It is these combined taxes that affect the price of tobacco products and as a consequence influence an individual's decision to smoke.

However, there are two critical additional factors at play. First, large price increases provide the impetus for some smokers to quit and for others to seek out lower cost sources of tobacco. Substantial tax increases since 2001 have been contributing to a remarkable decline in smoking. In 2001, the federal tobacco control strategy set out the goal of reducing smoking prevalence to 20% of the Canadian population within 10 years. Statistics Canada surveys indicate that goal was met in the first half of 2004. However, many of the remaining smokers are seeking both legal and contraband sources for lower-cost tobacco. This manifests itself, on the legal side, in a growing market share for discount cigarettes and, on the contraband side, in increased criminal activity.

Second, if organized criminal groups are able to bring lower-priced contraband tobacco products to consumers, smoking will increase. The ability of tobacco taxation to reduce consumption is thus partly limited by our ability to control contraband, as consumption decisions are based on the effective price, not the legal price of tobacco.

As for choosing an appropriate level for federal tobacco taxes, there is no precise definable level at which tobacco can be taxed to maximize the impact on the decision to smoke while minimizing the levels of illegal activity. Rather, if the objective is to maximize the effect of tobacco taxes on the decision to smoke, then based on past experience, the tax rate should be increased incrementally. Each increase must in turn be evaluated in the context of the risks of making contraband tobacco products more readily accessible through increased criminal activities, thereby frustrating the anti-smoking objective of the tax increase.

Contraband pressures are a function of the strength of the tax structure and the difference between the retail price of cigarettes and their production cost. It is only through observing the response of organized criminal groups to the potential profit margins embedded in this price difference and then making appropriate adjustments in the tax and enforcement structures that effective tax increases can be made. Thus, we feel that no optimal *ex ante* tax level can be identified.

The government's April 2001 announcement is a good case study of this approach. The tax structure was strengthened through revisions to the export tax, the traveller's exemption, and the treatment of ships stores and duty-free shops. These changes built upon the export tax that was introduced in 1994 and was designed to eliminate the root cause of the 1990s contraband business model. The elimination of this contraband business model allowed tobacco taxes to be increased, in support of the government's health objectives.

• (1635)

In April 2001, the government also funded intelligence-gathering activities by the RCMP, Customs, and CRA, to improve their ability to monitor and assess the effectiveness of tobacco tax changes in reducing contraband. These resources enabled the government to assess the effectiveness of the new tax structure and the size and timing of future federal tobacco tax increases. By June 2002, the government had restored federal tobacco taxes to their pre-1994 level of \$15.85 per carton of cigarettes, without a significant increase in contraband.

In 2002 and 2003, the provinces implemented substantial increases in tobacco taxes, and they have continued to increase their tobacco taxes through March 2005. Four provinces have now more than doubled their tobacco taxes since 1994, and an additional five provinces have increased their taxes by at least 45% from that base. Provincial taxes on a carton of cigarettes currently range from \$20.60 in Quebec to almost \$40 in Manitoba and Saskatchewan.

By cooperating and sharing intelligence, Finance, RCMP, CBSA, and CRA have been able to identify and then respond to emerging contraband business models. Two primary developments are worth emphasizing: the improved law enforcement environment in the Cornwall-Akwesasne area; and the announced funding for CRA's tobacco compliance strategy in budget 2005. My colleagues from the RCMP and the CRA will be discussing these developments in more detail.

I want to emphasize that the budget 2005 announcement is an important first step in addressing emerging sources of contraband. Further, the Department of Finance is continuously working to enhance the tobacco tax system with respect to issues that are identified during our regular meetings with our enforcement partners.

I would like to thank you for your time. I will try to answer any questions that you might have later.

• (1640)

The Chair: Thank you, Mr. Baar.

We'll now go on to Mr. McLester, the director of the excise duties and taxes division, excise and GST/HST rulings directorate, policy and planning branch, Canada Revenue Agency.

Mr. McLester.

Mr. Phil McLester (Director, Excise Duties and Taxes Division, Excise and GST/HST Rulings Directorate, Policy and Planning Branch, Canada Revenue Agency): Thank you, Madam Chair and committee members. I have tabled my remarks on behalf of the CRA, but I would like to summarize them as follows.

On behalf of the Canada Revenue Agency, I would like to thank you for the opportunity to present information regarding our activities in the realm of regulating and collecting taxes on tobacco products in Canada. It's my division that is responsible for the administration of and compliance with the Excise Act, 2001 and its regulations.

The CRA is responsible for ensuring the appropriate and consistent administration of the Excise Tax Act and the Excise Act, 2001, among others. The Excise Tax Act sets out the rules that apply to the GST and HST, as well as goods subject to excise tax, whereas the Excise Act, 2001 sets out the rules that apply to the control of tobacco products, including the application of excise duty.

The GST is imposed at all stages, including production, distribution, retail, and consumer levels. Except for the consumer, relief in the form of input tax credits is provided throughout these stages. However, an individual who is an Indian, as set out in the Indian Act, is eligible for tax relief of the GST where the goods are purchased on reserve or delivered to a reserve.

The CRA issues tobacco manufacturer licences based on the stringent criteria and requirements of the act and the regulations respecting excise licences and registrations. Every licence applicant is subject to a careful review of their application prior to determining if the conditions of the regulations are met.

The CRA undertakes compliance activities to ensure that the licensees act in accordance with the requirements set out in the

legislation as well. Compliance activities include both audit and regulatory activities. Audit activities are undertaken to confirm excise duty revenue, and regulatory reviews are directed to ensuring compliance with the control of tobacco products as required by legislation.

Excise officers also assist enforcement agencies, specifically the RCMP and the CBSA, in their work in combating contraband and smuggling. We provide technical advice, affidavits, and expert testimony to support obtaining and executing search warrants and in prosecuting cases that are before the courts. We also participate in various conferences and workshops.

Recently, through internal reallocations and the February 2005 budget provision, CRA has undertaken additional compliance and enforcement enhancements as they relate to the tobacco production and distribution process. For 2005-06, these include additional resources for compliance activities related to tobacco licensees. As well, other project activities currently being undertaken include enhancements to the stamping and marking of tobacco products, an outreach program for raw leaf tobacco, and development of new tracking and monitoring mechanisms to better control the supply of raw leaf tobacco from grower to manufacturer.

In closing, I would like to emphasize that the regulation and control of tobacco products is a shared responsibility, and that the CRA is working with its partner agencies and the provinces and territories to carry out its responsibilities.

Thank you, Madam Chair. At a later time, I would be pleased to answer questions.

• (1645)

The Chair: Thank you very much, Mr. McLester.

Our next witness is Mr. Roger Lavergne, director of the borders intelligence division in the Canada Border Services Agency .

Mr. Lavergne.

Mr. Roger Lavergne (Director, Borders Intelligence Division, Intelligence Directorate, Canada Border Services Agency): Thank you, Madam Chair and members of the committee.

Good afternoon.

I'm pleased to appear before the committee to address some particular concerns and issues regarding contraband tobacco products. I welcome the occasion to assist the committee in understanding the CBSA's role in regards to combating contraband tobacco products, and to answer any questions you may have.

I'll begin with a quick overview of the legislative and regulatory environment under which we operate, then expand on our efforts to intercept and stop the movement of these goods.

The mandate of the Canada Border Services Agency is to ensure the free flow of trade and travel, while protecting the safety and security of Canadians. The CBSA is also responsible for processing all persons and commercial shipments that cross our ports of entry to ensure that Canada's border laws and regulations are adhered to. This includes the fact that no illegal persons or goods would enter or leave the country, that the related trade statistics are accurate, and that all applicable duties and taxes are collected and paid.

The CBSA takes its border protection role in combating the introduction of contraband tobacco products very seriously. CBSA administers its responsibility with respect to tobacco in accordance with the provisions set out in the Customs Act, the Customs Tariff, the Criminal Code, the Excise Act, 2001, and court jurisprudence. Through our investigations branch, the CBSA is also responsible for the investigation and criminal prosecution of border security offences, such as the smuggling, or unlawful import or export of controlled, regulated, or prohibited goods. We also investigate commercial fraud, smuggling, and other import- and export-related offences to ensure that the business community complies with Canada's trade and border legislation.

The CBSA received funding under the federal tobacco control strategy, an initiative introduced by the federal government in 2001 as part of its ongoing efforts to improve the health of Canadians by discouraging tobacco consumption. The CBSA role supports the protection component of this strategy by assisting in the development of good policies, regulatory regimes, and guidelines.

The operating environment of the Canadian contraband market continues to thrive, precipitated to a large extent by the smuggling of illicit tobacco over our national border. Counterfeit American and Canadian brands produced in China have infiltrated the contraband market in most of the large urban centres across the country. Chinese brands, brought in to supply the growing Asian population, are the newest product we are encountering on the street and seizing at the border. We are also intercepting culturally specific tobacco products from India and the Middle East at our land, air, and marine ports.

The CBSA carries out its role in conjunction with a variety of partners within and outside Canada. I'm happy to inform you that the CBSA recently participated in the 4th annual Canada-United States tobacco diversion workshop. Representatives from various American and Canadian federal agencies, along with representatives of provincial ministries, the World Customs Organization, and the Australian Customs Service met together in Montreal.

By working in partnership with the Canadian hosting agencies—the RCMP, CRA, and ourselves—and our American counterparts in the Bureau of Alcohol, Tobacco, Firearms and Explosives, the tobacco diversion workshop has become an important forum for the exchange of best practices, the expansion of contacts, and the gathering of intelligence related to the national and international illicit tobacco market.

CBSA also provides officers and analysts who participate in a number of joint force operations, partnering with federal, provincial, and municipal law enforcement agencies across the country to combat collectively the criminal organizations responsible for the illegal activity surrounding contraband tobacco.

• (1650)

From a success standpoint, the CBSA continues to intercept illegal tobacco at the Canadian border. The total value of tobacco seizures has already increased by 322% this year from the same period in 2004, with seizures to date this year at an estimated value of \$6.1 million. Recent seizures in the marine mode have resulted in a total of 71,594 cartons of various Chinese and American brands of cigarettes, with an estimated value of more than \$3 million.

Cigarettes also continue to be seized in the postal and the air travelling modes.

While the above successes are noteworthy, the CBSA acknowledges that the contraband tobacco market is a growing one. I can assure you that the CBSA will continue to support its partners in all enforcement activities related to tobacco interdiction.

Thank you for your time. I'd be happy to respond to any questions later.

The Chair: Thank you, Mr. Lavergne.

Our next witness is Mr. Joe Oliver, the director of the customs and excise branch at the RCMP.

Mr. Oliver.

Superintendent Joe Oliver (Director, Customs and Excise Branch, Royal Canadian Mounted Police): Thank you, Madam Chair.

It is my pleasure to meet with you today to discuss the actions being taken by the Royal Canadian Mounted Police to combat the illicit tobacco trade in support of Canada's tobacco control strategy.

With respect to the RCMP's customs and excise program, our mandate is to enforce laws within Canada and along the border governing the international movement of dutiable, taxable, controlled, and prohibited goods; the manufacture, distribution, or possession of contraband tobacco products, including spirits as well; and the illicit traffic of critical high-technology and strategic goods. While our program mandate is very broad, a significant portion of our resources is focused on the illicit tobacco trade.

In pursuing this mandate, we rely primarily on the Excise Act, 2001 and the Customs Act.

In relation to the Excise Act, 2001, which governs the manufacture, distribution, and possession of tobacco products, the RCMP is the primary criminal enforcement authority.

As it relates to the Customs Act, the RCMP and CBSA have a shared enforcement responsibility. In short, the RCMP is responsible for investigations of smuggling and enforcement of the Customs Act among the ports of entry.

Over the past decade, the illicit tobacco trade has evolved. In the early 1990s, the vast majority of contraband tobacco products that were confiscated were domestically manufactured, exported, and then smuggled back into Canada. The illicit trade today is primarily comprised of foreign-manufactured tobacco products that have been smuggled into Canada, illicit domestically manufactured tobacco products, counterfeit versions of domestic and foreign brands, and under-reported production by domestic licensees.

Law enforcement operations are currently faced with a multitude of complex challenges, including expanding international trade, rapidly developing technologies, complex legal frameworks, and increasingly sophisticated organized crime networks; all of which place a tremendous amount of stress on policing resources. Law enforcement has adapted to this continuously evolving environment by leveraging partnerships and implementing intelligence-based decision-making.

The illegal tobacco trade is without a doubt highly lucrative and often involves a broad range of sophisticated organized crime networks. As reducing the threat and impact of organized crime is one of the RCMP's strategic priorities, our enforcement resources are directed at criminal organizations involved in the smuggling, manufacture, and distribution of tobacco products, and not at the street level or retail activity.

Recognizing the multi-jurisdictional nature of tobacco control, the RCMP works with a variety of partners at all levels of government, domestically and internationally, in developing strategies to address the illicit tobacco market. I would like to take a few moments to highlight some of our key partnerships.

As mentioned by my colleagues, the RCMP is a partner under the federal tobacco control strategy and has deployed a number of analysts across Canada to gather intelligence and other data relating to the illicit tobacco market. This data has improved our ability to assess the effectiveness of our actions and is key to informing strategy development.

In 2002 the RCMP, CBSA, CRA, and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives created a working group to identify strategic objectives and develop recommendations to counter the illicit tobacco market in Canada and the United States. In addition to collaborating on an ongoing basis, the Canada-U.S. working group on tobacco diversion organizes an annual workshop that brings together more than 120 law enforcement officials from Canada, the United States, Europe, and as far away as Australia to examine current trends, share best practices, and identify viable solutions. More recently, the U.S. Alcohol and Tobacco Tax and Trade Bureau joined the working group. These workshops have proven vital by aligning our efforts in the fight against the illicit movement of contraband and by fostering strong alliances with international partners.

Another innovative partnership supporting efforts to combat smuggling is the integrated border enforcement team, commonly known as IBET. Strategically deployed along the Canada-U.S. border, IBETs are multi-agency law enforcement teams, comprised of Canadian and U.S. agencies that target cross-border criminality.

On a regional level, in cooperation with the Canada Revenue Agency and Revenu Québec, the RCMP is currently spearheading an awareness campaign aimed at educating retailers on the impact of the illicit tobacco market. This is an ongoing campaign that involves the distribution of educational pamphlets as well as visits to retail outlets in the province.

• (1655)

Finally, the current law enforcement situation in the Cornwall-Akwesasne area is much different from that of the early 1990s. Partnerships involving the RCMP, the Akwesasne Mohawk Police Service, CBSA, local and provincial police forces, and U.S. agencies are an excellent example of intelligence-led and integrated policing practices. As a result of these coordinated actions with these partners, a number of significant tobacco seizures have taken place.

Our commitment to working with our partners and leveraging resources in pursuit of organized crime has also resulted in a number of operational successes over the past few months. On November 8,

2005, the RCMP and Groupe ACCES partners consisting of federal, provincial, and municipal agencies from the law enforcement and revenue sectors disrupted a large criminal network involved in the illicit manufacturing and distribution of tobacco products in Canada. This investigation led to the simultaneous execution of 80 search warrants across Canada; the arrest of 32 individuals; and the seizure of tobacco products, drugs, and currency. Of significance is the seizure of nearly 6,000 kilograms of raw leaf tobacco, 2,000 kilograms of fine-cut tobacco, and more than 7,000 cartons of cigarettes.

On November 4, 2005, a joint forces operation involving the RCMP, CBSA, CN Police, and the Ontario Ministry of Finance resulted in the seizure of approximately 30,000 cartons of American and Chinese brands of cigarettes with an approximate value of \$1.96 million. This investigation was initiated following a proactive examination conducted by CBSA in Vancouver on October 19. The contraband was seized in Ontario following the execution of a search warrant.

Last, a long-term undercover operation illustrates the complexity and international reach of criminal organizations involved in the illicit tobacco trade. In August 2005, the Federal Bureau of Investigation, the U.S. Secret Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the RCMP, and other partners arrested 59 individuals throughout the United States and Canada. To date, the operation has resulted in the seizure of more than \$42 million in counterfeit cigarettes, \$4 million in counterfeit currency, large quantities of illicit drugs, and other counterfeit goods. This criminal organization had the means to smuggle virtually every form of contraband imaginable. During conversations with undercover agents, the suspects entered into a deal to supply \$1 million in weapons, including automatic firearms and rocket launchers.

In closing, Madam Chair, let me reiterate that the RCMP takes the illicit tobacco market very seriously, particularly given the involvement of organized crime. I can assure you that the RCMP will continue to pursue criminal organizations involved in illicit tobacco manufacturing operations and large-scale distribution networks.

I would like to thank you for inviting me to appear before this committee. My colleagues and I are now prepared to answer your questions.

The Chair: Thank you very much, Mr. Oliver, and thank you to all of you.

We'll move now to the question and answer section of our meeting, and I believe we will start with Mr. Fletcher.

Mr. Steven Fletcher (Charleswood—St. James—Assiniboia, CPC): Thank you, Madam Chair.

I found the presentations very interesting, starting off with the Department of Finance explaining the market forces behind the problem of contraband tobacco products, and then going into enforcement. There seem to be many issues related to that.

As we all know now, this current government hasn't been providing the resources necessary for the RCMP to fulfill its human resources needs and so on across Canada. I would love to explore that issue, the issue of cross-border security, and so on, but this is the health committee. All those issues are outside the scope of what this committee is really struck for, but I would like to suggest to the chair that we follow up with the appropriate committees on all those matters.

I know my friend from the Bloc may disagree with my view on this, but I'd like to direct my questions to the member from Health Canada. You mentioned in your speaking notes that Health Canada has an obligation to highlight the challenges and negative health effects that tobacco is causing. I wonder if you are in a position to comment at all on the government's proposed legislation on the decriminalization of marijuana, and if that would have an impact on the demand for tobacco use.

On one hand, we're saying smoking is bad. On the other hand, it seems we're making smoking other products easier. There seems to be an inherent contradiction there, and I wonder if the member from Health Canada could comment on that inherent contradiction.

• (1700)

Mr. Denis Choinière: Fortunately, or unfortunately, my area of expertise is tobacco control, so I can answer any part of your question dealing with tobacco, but not questions dealing with marijuana or other questions. It would probably be better if someone else were invited to answer those questions.

Mr. Steven Fletcher: Okay, I'll direct my question then to the RCMP.

Are there lessons to be learned from the marijuana trade that can be extended to tobacco smuggling? I understand there are a lot of problems from the western part of Canada across the border into the United States, and it seems to be the reverse with tobacco in the east. I wonder if there are any lessons to be learned there. Have you done any analysis of the government's policies towards marijuana use, and would these policies not be another force outside of pure price differences causing demand for tobacco usage, which would actually be in contradiction to the Tobacco Act?

Supt Joe Oliver: With respect to an analysis of the driving forces, I'm not aware of any analysis being done comparing what is happening in the contraband tobacco market and in the marijuana situation. What is evident in both situations is the involvement of organized crime, the fact that much of the market is being driven by organized crime's involvement, as well as the pursuit of profits.

Mr. Steven Fletcher: So I guess it's then fair to say that organized crime exists with the legal substance of tobacco. Even if the decriminalization of marijuana came into play, we can still expect organized crime to be involved in that area, despite the government legislation. In fact, it might increase.

Supt Joe Oliver: With respect to comparing both, the violations or infractions that organized crime are involved with in the illicit tobacco market owe to the fact they are not in conformity with the law, as it relates to the Excise Act or the Customs Act. Either goods are being smuggled into Canada and not being properly declared, or the products are being illicitly manufactured and are not being stamped and marked in accordance with the Excise Act.

Mr. Steven Fletcher: We're having problems with the control of tobacco products that are legal, so we would presumably have problems with marijuana.

I'm running out of time and I can't resist asking you this question, but in your view could the RCMP do with more resources to fulfill your role in enforcing the law of the land?

Supt Joe Oliver: Currently, when it comes to our enforcement, whether we had more resources or not, we would still be challenged with identifying which criminal networks are worth investigating. We currently use a variety of tools to identify the priority groups, and so on. So it's a matter of prioritization with the resources that we currently have.

• (1705)

Mr. Steven Fletcher: Except we hear that there's a major shortfall in the number of officers throughout Canada. If we invested more in enforcement, I wonder if that would not be helpful. It would have to be helpful; you have to agree with that.

Supt Joe Oliver: I think in any scenario more resources would certainly benefit. However, it's important to recognize that we would still be challenged with identifying which criminal organizations to pursue. We do that using intelligence-based decision-making and a variety of tools to help us prioritize the threats and then to pursue the investigation.

Mr. Steven Fletcher: It seems that it would solve a lot of the Department of Finance's problems if we were just able to enforce the law; then we wouldn't have to worry about the price differential from the taxation differences between each province.

Coming back to the marijuana issue, I wonder if Health Canada or any of the people involved in the enforcement of the Tobacco Act are concerned that if we loosen up the restrictions on marijuana, it would not increase the demand for smoking other products—which are legal substances.

Do any of the other members have any comments on that issue?

Mr. Denis Choinière: I can just briefly discuss the fact that as to the tobacco control program, we have ongoing discussions with other areas of the department that deal with addiction. We do have discussions with our colleagues, for example, from the drug strategy and controlled substances program at the policy level. So we do have those discussions internally about policy directions, but today I cannot really express any formal comments to you.

Mr. Steven Fletcher: No problem.

I'm sure that in a short little while, the Conservative government will be very interested in the correlation between marijuana smoking and the encouragement of smoking of other products. I think the RCMP could also look forward to the principle of enforcing the laws of the land and allowing you guys to do the good job you are doing with the limited resources that you do have.

So with that, Madam Chair, I think I'll wrap up my remarks.

Thank you very much for everyone's presentation.

The Chair: Thank you, Mr. Fletcher.

We'll move on now to Mr. Ménard, at whose request this meeting was held.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Thank you, Madam Chair. I'm sure you can appreciate how intellectually stimulating this is for me. Just how stimulating will depend on the answers I receive.

I want to be relaxed with you. I represent an east end Montreal riding. The two individuals who educated me about contraband tobacco and the negative impact of this activity on retailers—they claim it cuts into 30 per cent of their business every year—are here in this room. I want to thank them from taking time out from their schedule to attend these proceedings.

I'm trying to understand one thing. We're told that 71 licences were issued to tobacco producers. In Quebec, 16 licences were issued to Aboriginals, including 13 to Kahnawake. I won't give you the exact breakdown, as I presume you already have it.

Can you give me more details? How is it that of the 16 licences issued on reserves in Quebec, 13 were issued on Kahnawake? What measures do you take to ensure that excise duty is collected? What is the excise duty charged? Who are the licensees? Why are there 13 licensees on Kahnawake? How much excise duty did they pay? I think that's the first question people want to ask.

We can come back later to the issue of smoke shops. What is the RCMP doing to quell the problem? I assume Mr. McLester from the Canada Revenue Agency will answer that question in detail. I would appreciate that.

• (1710)

[*English*]

Mr. Phil McLester: Thank you. I appreciate that question.

The first thing I'd like to mention is that the number, as mentioned, was 71. That covers licensees and their premises. There are more premises than individual licensees, for instance, so the actual number of licensees is 55. You were correct in the assumption that there are 13 on Kahnawake.

The excise duty on tobacco is rather high; I think it's roughly \$15.85 a carton. We tax it per cigarette, so it's cumulative.

At the same time, you were looking at the amounts that were being collected from Kahnawake. While we don't normally distinguish between locations in our figures, anticipating that question and being well aware that there are more than one and less than thirteen manufacturers currently producing, I can give the figure of \$250,000 for the first eight months of this year. That's the amount of duty paid on Kahnawake.

Now as to issuing licences on reserve, this has increased significantly since the introduction of the new Excise Act, 2001, as introduced on July 1, 2003. Prior to that, across Canada, there was less than a handful of manufacturers on reserve. Since that time, we are now at a total figure of 20 reserve manufacturers.

[*Translation*]

Mr. Réal Ménard: Can you give the committee the names of the licensees? Who are they? You don't have to let us know right this very minute, but I'd appreciate finding this out, as well as the amount of duty each licensee collects.

If we're to believe what you're saying, contrary to popular belief, the CRA and the RCMP ensure that each licensee collects the excise duty. Is that excise duty paid on a quarterly, semi-annual or annual basis? How is the excise duty collected from licensees on reserves?

[*English*]

Mr. Phil McLester: The first thing I should mention is that the Excise Act, 2001 contains a strict confidentiality regime. It restricts the provision of information obtained by or on behalf of the minister that directly or indirectly reveals the identity of a person to whom it relates.

For that reason, I wouldn't be in a position to give a list of licensees, certainly not their names. I have concerns even with talking about their numbers, especially where there are sensitivity issues on a particular reserve. But the cumulative figure I gave essentially indicates what we are—

[*Translation*]

Mr. Réal Ménard: If you can't oblige me, the Minister will be forced to do it.

The public's perception of some senior public servants is that they have two left feet. I encourage you to share as much information as you can, otherwise the minister will be compelled to turn it over. We want to know how the duty is collected. Who are the licensees? How is that smoke shops are flourishing in the greater Montreal area? The impression we have is that the RCMP is doing nothing. I'll put my question to the RCMP representative later. You don't have to give us the details right now. However, in my view, this information should be tabled to the committee as soon as possible. If you have nothing further, I'd now like to shift my focus to the RCMP spokesperson.

I represent a Montreal riding. When retailers in my riding come to see me, they have a number of questions. Earlier, the Finance Department spokesperson made it very clear that everyone is required to pay the excise duty, but that the Indian Act exempts certain individuals from having to pay the duty. We fail to understand how non-Indians can enter reserves, stock up on cigarettes, not pay the duty and benefit from a reduced price.

What's really going on? What type of offences are we looking at? What is the RCMP doing to stop the proliferation of these so called smoke shops?

[*English*]

Supt Joe Oliver: Thank you. With respect to the contraband market, a variety of sources exist for tobacco products. Some are smuggled in from the United States. Some are manufactured illicitly. Some are from under-reported production in Canada.

Now in terms of RCMP operations, our objective is to take out the upper echelon that is actually supplying or distributing the larger volume of products. What I mean by that is, given the need to prioritize, we focus on the operation that is involved in a distribution as opposed to the street level, because we're not really addressing the problem by dealing with it at street level. What I mean by that is if you're limited in terms of your ability to take action, it's better for you to take it at the source as opposed to the front end or the street level.

• (1715)

[Translation]

Mr. Réal Ménard: Let me clarify my question. I've seen a map showing the geographic location of smoke shops on Montreal-area reserves. I'm not implying that all aboriginals sell cigarettes.

Must Whites pass through checkpoints in order to enter smoke shops? To your knowledge, are any joint intervention units involved? Do the RCMP, the SQ or the Montreal police force intervene in the sale of cigarettes and take action when duty is not collected?

People are concerned about this state of affairs. We're left with the impression that it contributes to a flourishing contraband trade. Ontario Street merchants and others have told me that tobacco sales are down 30 per cent. They blame it on smoke shops. What concrete steps are being taken to stem this problem? Callers to open-line talks shows are asking why the police are doing nothing, when they see people enter these establishments. That's how the public feels.

[English]

The Chair: We'll wait for the answer, but that's your last question.

Mr. Réal Ménard: Don't be tough with me. Christmas is coming.

The Chair: I'm already treating you like it's your birthday. You've had eight and a half minutes and other people are waiting. But we'll have the answer to this, and then we'll go to Mr. Thibault and then back to Mr. Carrie.

Supt Joe Oliver: Thank you, Madam Chair.

As I mentioned in my opening remarks, the RCMP, along with Revenu Québec and the CRA, are doing public awareness, educating the public that they may be purchasing contraband—and I have a copy of the brochure that we are distributing and working with. In many instances the public may not be aware of that. They realize that they are getting a deal, but they may not be aware that it's not in full compliance with the law.

With respect to managing all of the individual purchasers, that becomes a resource issue because all you're dealing with is individuals who are going out and buying one carton of cigarettes, and it requires reasonable probable grounds on the part of the police officer to stop those vehicles, to search them, and to seize contraband. Given the volume of traffic along that corridor, it is almost impossible to surveil that area.

That's why our objective is to target the suppliers who are supplying those areas and the manufacturers, and that way we're trying to take on these groups at the highest level possible, as opposed to the individual. If we continue to concentrate at the low level, the retail level, we're still not stopping the supply. So the intent

is to go where you're going to have the biggest bang for the buck. We will continue with our awareness campaign, partnering with Revenu Québec, CRA, CBSA, and the police of jurisdiction to identify strategies and to work in partnership to have the greatest impact possible.

The Chair: Mr. Thibault.

[Translation]

Hon. Robert Thibault (West Nova, Lib.): Thank you, Madam Chairman. Thank you all for coming here today.

Mr. Choinière, what role does Health Canada play in so far as contraband tobacco is concerned?

Mr. Denis Choinière: As I mentioned briefly a little earlier, we are interested in health issues. Our inspectors concentrate their efforts in particular on enforcing the Tobacco Act. They work to ensure the highest level of compliance with the legislation.

They advocate compliance with the act and supply information to various industry players, from the standpoint of manufacturing and importing as well as retail sales. In addition, we take appropriate measures to deal with non-compliance.

Hon. Robert Thibault: If complaints are made about cigarettes that are not labelled or improperly labelled or that may be contraband, do you act on them? Will the other agencies take action and follow up on these complaints?

• (1720)

Mr. Denis Choinière: When we suspect a violation of the Tobacco Act, we take action, because this matter directly concerns us.

As we mentioned in our opening remarks, we try to work together as much as possible. Based on the reports we receive, we sometimes consult with our partners to ensure that we work together and that our efforts are not counter-productive, particularly if we're dealing with large quantities of products. When that is the case, we prefer to get in touch with our provincial or federal partners.

[English]

Hon. Robert Thibault: Merci.

Superintendent, in the federal tobacco control strategy, since 2001 there has been an investment of nearly \$400 million. What part of that went to your budget? Was any of that money to increase the budgets or the costs of the RCMP, or did you do it all within your existing budgets?

Supt Joe Oliver: Under the federal tobacco control strategy, the RCMP received an increase in funding, and with that funding we were able to deploy additional analysts across Canada in order to monitor the contraband tobacco market. In addition to that we were also provided with funding to install electronic border surveillance equipment that would assist in identifying smuggling patterns along the Canada-U.S. border.

Hon. Robert Thibault: Under that funding, is it difficult for you to fill the positions that you have, to do those things? Are you finding it within your forces, the availability? Are you able to recruit the people necessary to do that type of work?

Supt Joe Oliver: Those positions are fully occupied at this time.

Hon. Robert Thibault: Thank you.

Now, if you were discussing some particular situations—Cornwall, Kanasatake—when you get to a situation like that, who are your partners typically? Do the Sûreté du Québec, the Ontario Provincial Police, or in Montreal, the Communauté urbaine de Montréal, their police forces, participate with you? Is there a coordinated effort?

Supt Joe Oliver: Yes, particularly given the fact that organized crime is involved in a variety of other commodities in many cases. As you saw in the examples I provided in my opening remarks, there's counterfeit currency involved, there are drugs involved, and there's contraband tobacco. Given the complexity of many of these investigations, they require a comprehensive response, because you're bringing together a multi-jurisdictional team. You have our partners from CBSA and the police of jurisdiction who know the area the best, and together it's a force multiplier and we're able to have the best bang for the buck.

Hon. Robert Thibault: I would understand that it brings a lot of expertise when you take the local police, the provincial police, the Royal Canadian Mounted Police, and the four other agencies represented, and sometimes international agencies, but it could bring also a lot of problems in terms of coordinating all these efforts. How is that handled? Who plays the lead in those questions?

Supt Joe Oliver: It depends on the situation. In many cases in these integrated efforts, there's a governance structure and it's a joint management team. For instance, take the integrated border enforcement teams. There are fifteen regions within Canada where these teams are deployed. Each of those teams is governed by a local joint management team, with equal representation from the core partner agencies.

At the international level, there's an international joint management team that is the governing body, as well as an international coordination team. In the case of the integrated border enforcement team, at RCMP Headquarters we have representatives from U.S. Immigration and Customs Enforcement, CBSA, the U.S. Border Patrol, and the RCMP, and we're waiting for the addition of somebody from the United States Coast Guard.

So it is a coordinated effort, and on the ground and even at the strategic level, to the extent possible, we're trying to ensure our efforts are very coordinated.

Hon. Robert Thibault: I don't know to whom I should put my last question, but there's the question of counterfeit products offshore. You mentioned the fact of trying to get them at the border and working on the intelligence-based policing basis. But we have a lot of countries, some of which participate very well in the international efforts, some that do less, and some that have economic advantages in having counterfeit products manufactured in their country.

Are we advancing in that area, especially in the production of tobacco products offshore? With some, we see that it's very difficult to distinguish whether they are manufactured in a licensed facility or whether they've been manufactured offshore. Are we getting some assistance from the home countries, from the domestic governments in those countries?

● (1725)

Supt Joe Oliver: I'll let my colleague from CBSA speak as well, but there is the Framework Convention on Tobacco Control, to which Canada is a signatory, and there are provisions with respect to smuggling in that document as well.

I'll leave it to my colleague to describe efforts underway.

Mr. Roger Lavergne: The international scenario—and I think most countries that we're in contact with certainly agree—is that the largest majority of the counterfeit cigarette production is coming out of China.

It is a difficult situation government-wise to interface, but there are interactions. I think there has been some progress. The RCMP and we and our colleagues at CRA are working with the industry manufacturing sector, the tobacco manufacturers, because they have an interest in tracking that product and avoiding having that product coming into the market in conflict with their own domestically produced or North American-produced product.

The laboratory and scientific services group at CBSA has also developed a bit of a technological piece that's being provided to different groups around the country at the provincial revenue level and enforcement level, the RCMP and us, because the quality of the paper in the packaging on the counterfeit product from China is very much a poorer quality of paper than it is in the North American-manufactured product made by the licensed manufacturers. There is some methodology there with this technology to identify, through the packaging, whether it's contraband or a legitimate source.

So there are efforts, and I believe there is some progress, but sharing intelligence and practices and knowledge of what organizations within the Chinese government can be of assistance has been valuable to all of us, and I think that's a continuing effort that we'll all undertake.

The Chair: Thank you, Mr. Thibault.

I have just learned this is a 15-minute bell, but Mr. Carrie hasn't had a turn.

So Mr. Carrie, perhaps you could be quick, and if you are, then maybe Mr. Ménard might slip in another question.

Mr. Colin Carrie (Oshawa, CPC): Thank you very much.

I'd love to have you longer.

I was really concerned with your presentations about the volume of the contraband and curious to know a little bit more about the threats and violence. You mentioned weapons, rocket launchers, things like that.

Locally, in Oshawa, we have a harbour under federal jurisdiction. We did spend some money on security, I think \$200,000 on fences, but there are still some breaches. We're still getting security breaches.

I was wondering, do you do security threat assessments, and is it helping? How dangerous is this now, and is it getting worse?

Supt Joe Oliver: Specific to the tobacco market?

Mr. Colin Carrie: Yes.

Supt Joe Oliver: That case I described with respect to the FBI was an exceptional case, and most of the contraband was going into the United States, as well as the weapons.

With respect to domestically, anecdotally, we are seeing an increase in thefts, which appears to be, for the most part, where we see robberies and hijackings as some of the threats that we're faced with today.

Mr. Colin Carrie: Are you getting more violent crime with the—

Supt Joe Oliver: We are seeing it, but it's mostly with respect to theft of legitimate tobacco products. So that's actually, I guess you could say, almost another source of lower-cost tobacco products: those that are put on the black market as a result of theft of legitimate products.

Mr. Colin Carrie: How do you decide where to spend your resources, on what border areas? That's what I was wondering about—security threat assessments. Do you do them and determine where you want to spend them?

Mr. Roger Lavergne: We certainly examine information that we can gather from investigative activities, from seizure and enforcement actions. We use that to better our selection methodologies on marine container traffic and import methodologies that are used for contraband tobacco. We also share that information with the RCMP, our other partners, Department of Finance.

These things all factor into getting an analytical assessment on the nature of the problem, how it is growing, where it is focused, the sourcing, the organizations. From there, we collectively decide on the focuses, because it is very much a joint effort at the enforcement level, just depending whether it's a border issue or a reserve issue—that will vary—which partners are involved at a given time.

• (1730)

Mr. Colin Carrie: Thank you.

The Chair: Mr. Ménard, can you slip one in without taking too long?

[*Translation*]

Mr. Réal Ménard: You're too kind to me. I'll keep it short.

How do you explain the fact that 13 licences were issued on Kahnawake?

I had a discussion earlier with some people over dinner. My first question is as follows: Are there quotas in place? Can a Kahnawake resident buy more than two cartons of cigarettes per month? How are sales controlled?

As far as my second question is concerned, I'd like Mr. Choinière to give us some assurances and confirm that mandatory labelling requirements are also observed on reserves. Furthermore, what steps is he taking to ensure compliance with the regulations that were unanimously endorsed by this committee?

Let's start with Kahnawake. Why were 13 licences granted to reserve residents? Are any quotas in place? Explain that to me, if you can.

[*English*]

Mr. Phil McLester: Thank you very much.

No. Under the Excise Act 2001 there are no quotas, nor are there quotas under the regulations.

[*Translation*]

Mr. Réal Ménard: Why were 13 licences issued? That seems like a very large number, given the size of the population. How do you explain this decision?

[*English*]

Mr. Phil McLester: As I indicated earlier, prior to the introduction of the new Excise Act 2001, there were fewer than a handful of native manufacturers across the country, and now this year it is up to 20 in total, and 13 on Kahnawake.

Some of the reasons we've looked at for that increase are that the bonding conditions changed. Security requirements now allow for security to be posted in cash. This wasn't the case formerly. Under the Indian Act there are difficulties with property, seizure thereof, etc., so bonding was more difficult for native manufacturers. As well, part of the increase may be due to the introduction of discount brands and the inherent profitability of tobacco products in general. I think that's the only thing I could speculate with respect to that response, as to why there are so many.

[*Translation*]

Mr. Réal Ménard: I too would like to rest easy this evening. As a senior bureaucrat, can you say with some degree of certainty that everyone pays the excise duty?

If someone asks us, as MPs, whether all licensees on reserves pay the excise duty and whether a stringent inspection system is in place, what answer should we give? It's time to quell the rumour that the 16 licensees on reserves do not collect the excise duty.

Furthermore, I'd like you to supply to the committee in writing the amount of excise duty collected in respect of each of these licences, without leaving out the most minor of details. I'm counting on you a great deal.

[*English*]

Mr. Phil McLester: I hate to negatively impact your ability to sleep this evening; however, I can say that with the exception of one reserve, the CRA has consistently been conducting compliance activities on reserves. While the CRA has never been refused access to a reserve in Canada or to the premises of a manufacturer, due to sensitivities respecting the Kahnawake reserve, CRA officials have been discussing access with the band council for reasons connected to the security of our auditors and because of security issues involving the manufacturers themselves. We hope to be able to gain access to that reserve within the next very short time, one to two months at the most.

At the same time, even where the CRA has not undertaken compliance visits to the on-reserve manufacturers, we continue to receive returns, as I mentioned—and I mentioned the amounts—and the payments with those returns. We understand that a number of on-reserve licensees have not yet begun production. This has been confirmed. So that is to say that there are manufacturers. I can't give the number, but it is more than one and fewer than thirteen, and some are still not producing.

[Translation]

Mr. Réal Ménard: I have one final question for you, Mr. Choinière.

[English]

The Chair: Could I get one question in?

[Translation]

Mr. Réal Ménard: Yes, of course.

[English]

The Chair: You're so good to me.

Mr. Baar, on page 2 of your notes, it says that Statistics Canada surveys indicate that the goal of reducing smoking prevalence to 20% was reached in the first half of 2004. What kind of surveys? Were they surveys about sales of cigarette products, or personal surveys asking people if they smoke? What kind of surveys?

Mr. David Baar: The surveys are survey research, like phoning people and asking about their habits, which are conducted by Statistics Canada on behalf of Health Canada. I can turn it over to Denis to more specifically describe exactly how those surveys take place. It's survey research, in general.

• (1735)

The Chair: Denis.

Mr. Denis Choinière: We have had an annual survey since 1998-99 called the Canadian Tobacco Use Monitoring Survey. It's done by Statistics Canada on our behalf. In the 2004 results, smoking prevalence among Canadians 15 years of age and older was 20%—15% daily and 5% occasional. So current smokers are at 20%. That's based on 20,000 interviews done by phone.

The Chair: You just wonder if maybe, with the rise in sales on reserves and the rise of unlicensed cigarettes, the person answering the phone is thinking, well yes, I smoke, but I don't want to tell them I do because they might come here and look for these illegal cigarettes. You wonder if there's some quid pro quo there.

Mr. Denis Choinière: It's possible. We assume that this was the case in the previous year and in the year before that. So if you look at the trend since 1999, we went from 26% to 20% in about five years. We don't expect that the behaviour of the people answering the call would have changed much in those years. So if they've lied, we assume that the same percentage of people will keep lying.

The Chair: I see.

Mr. Ménard, if you have another question you'll have to catch the gentleman on your way out, because you and I only have five minutes left to get there.

[Translation]

Mr. Réal Ménard: Mr. Choinière, I'd like to be secure in the knowledge that mandatory labelling rules, that is the rules providing for rotating health warnings, also apply on reserves, that inspectors do their job and that everything runs smoothly. Alain Picard, a Radio-Canada journalist, reported that cigarettes packs were being sold without the mandatory labels.

Mr. Denis Choinière: A number of reserves in Canada manufacture cigarettes. As a general rule, our inspectors pay these manufacturers a visit to verify the compliance of their operations. Specifically, they verify compliance with labelling regulations.

Our inspectors have not paid a visit lately to certain reserves, primarily those located in the St-Lawrence corridor, that is the ones referred to earlier by my RCMP associate.

Mr. Réal Ménard: Why is that?

Mr. Denis Choinière: The situation is quite complex. Historical factors and recent events also come into play. In this instance, we prefer to work with our partners to find long-term solutions and ensure compliance with our respective acts, namely the Excise Tax...

Mr. Réal Ménard: Are you worried that some offences may be committed? Have any been brought to your attention?

Mr. Denis Choinière: Offences have been committed everywhere in Canada, even here in Ottawa. We take the appropriate action to deal with violations of the act.

Mr. Réal Ménard: However, you have eased up on your surveillance operations in this corridor.

Mr. Denis Choinière: The situation is more delicate in the St-Lawrence corridor and we are working with our partners.

Mr. Réal Ménard: Thank you.

[English]

The Chair: Thank you, Mr. Ménard.

Thank you, gentlemen, very much for your presentations and your answers.

Thank you to all the people who were interested in this subject. Thank you for coming out.

It's now my pleasure to declare this meeting adjourned.

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