

Submission to the Standing Committee on Finance

Pre-Budget 2015 Consultation

Executive Summary

The National Coalition Against Contraband Tobacco (NCACT) is a Canadian advocacy group formed with the participation of businesses, organizations and individuals concerned about the growing danger of contraband tobacco. NCACT members share the goals of working together to educate people and urge government to take quick action to stop this growing threat.

This submission makes five recommendations:

Recommendation 1: More measures/resources for anti-contraband tobacco enforcement. C-10 helps by providing laws against smuggling, but it needs to be matched by “boots on the ground” enforcement.

Recommendation 2: Accelerate the measures introduced in budget 2014. The last budget included commitments to purchase new equipment for border surveillance for contraband smuggling. These programs should be expedited.

Recommendation 3: License non-tobacco manufacturing materials (e.g. papers, filters, etc) to help curb the illegal supply.

Recommendation 4: Keep the Cornwall border crossing in Cornwall.

Recommendation 5: As previously committed to, closely monitor contraband tobacco incidence and support a national campaign to raise awareness about its harms.

About the National Coalition Against Contraband Tobacco

The National Coalition Against Contraband Tobacco (NCACT) is a Canadian advocacy group formed in 2008 with the participation of businesses, organizations and individuals concerned about the growing danger of contraband tobacco. The National Coalition Against Contraband Tobacco's seventeen members share the goals of working together to educate people and urge government to take quick action to stop this growing threat.

The NCACT works to raise awareness amongst government and the public about contraband tobacco, as well as to encourage meaningful action on this important problem. More information about the coalition can be found on our website, www.stopcontrabandtobacco.ca.

The members of the NCACT are: Association des détaillants en alimentation du Québec (ADA), Association des marchands dépanneurs et épiciers du Québec (AMDEQ), Canadian Chamber of Commerce, Canadian Convenience Stores Association (CCSA), Canadian Manufacturers and Exporters, Canadian Taxpayers Federation, Canadian Tobacco Manufacturers Council, Conseil du patronat du Québec (CPQ), Customs and Immigration Union, Échec au crime Québec, Fédération des chambres de commerce du Québec (FCCQ), Frontier Duty Free Association (FDFA), National Convenience Stores Distributors Association (NACDA), Ontario Chamber of Commerce, Retail Council of Canada, Toronto Crime Stoppers and United Korean Commerce and Industry Association (UKCIA).

Contraband Tobacco in Canada:

Contraband tobacco is any tobacco that does not comply with federal and provincial laws, including those governing importation, stamping, marking, manufacturing, and taxes and duties. This includes cigarettes and other tobacco products that are sold without having paid both provincial and federal excise taxes. It also includes products that do not meet Canada's strict tobacco regulations, including those for packaging and product display. Contraband tobacco is often sold through criminal distribution networks in transparent plastic bags of 200 cigarettes, with a "baggie" costing as little as \$6.

Contraband tobacco's low price and easy availability make it a prime source for youth smoking. In fact, the Centre for Addiction and Mental Health has indicated that easy access to contraband tobacco is one of the reasons for Ontario's stubbornly high teen smoking rates. Illegal cigarettes also undercut Canada's tobacco control efforts more generally, undermining regulations put in place by governments across the country. This has a real effect: a study published in the Canadian Medical Association Journal found that those that smoked illegal cigarettes were heavier smokers and had a harder time quitting.¹

¹ Mecredy, C.; Diemert, L.; Callaghan, R.; and Cohen, J "Association between use of contraband tobacco and smoking cessation outcomes: a population-based cohort study" CMAJ April 16, 2013 vol. 185 no. 7

Contraband tobacco is also a big, lucrative business for organized crime, with the RCMP having identified about 175 criminal gangs involved in the trade. The production cost of a baggie of illegal cigarettes is typically only 2-3 dollars, and the RCMP estimate that illegal producers can produce as many as 10,000 cigarettes a minute². Needless to say the revenues from contraband tobacco are huge. The criminals that operate the trade use it as a cash cow for their other activities, including guns, drugs and human smuggling.

Illegal cigarettes bring more than just a social cost, funding crime and undermining tobacco control efforts. They represent a direct revenue loss to government through uncollected tax revenues. The investigative news program W5 reported that contraband tobacco could cost governments in Canada as much as \$2.1 billion a year in lost taxes. Similarly, the Canadian Taxpayers Federation found that contraband tobacco in Ontario alone could represent a combined federal and provincial revenue loss of as much as \$1.1 billion annually.³

How Contraband Tobacco Affects the Federal Budget

It should be an important government objective to reduce the prevalence and availability of illegal cigarettes, as its social costs, as outlined above, remain very high. However, the strength of the contraband tobacco market does also bring serious financial impacts to the government of Canada.

The Standing Committee on Finance has outlined a number of issues of interest for this budget cycle, including how government can balance the budget, support families and ensure prosperous and secure communities, and maximizing jobs available to Canadians. Central to achieving these both is ensuring that government maximizes the collection of anticipated tax revenues.

The trade in contraband cigarettes is working precisely against this objective. Canada loses as much as 2.1 billion dollars a year in lost tax revenue - 1.1 billion from the federal government - because of the contraband tobacco market. This is not just a question of government allowing money to go uncollected. As outlined above, every dollar the government loses to the illegal market represents money in the pockets of some of society's least desirable elements. Stopping this out-of-control flow is a worthwhile objective in and of itself, recouping lost tax revenues is a bonus.

Illegal tobacco's prominence also hurts small businesses that play by the rules, including convenience stores and other small retailers. Contraband cigarette's low price and easy availability deter sales from these businesses, often costing a substantial reduction in revenue. This limits their ability to hire additional employees and, in some cases, can even cause them to close. The Standing Committee on Finance is interested in the creation of stable quality jobs,

² "Illegal tobacco trade 'a plague' in Central Canada", National Post. June 4, 2014

³ "How Much is Contraband Tobacco Costing Taxpayers in Ontario?" Canadian Taxpayers Federation, 2012

which is a worthwhile objective, but it must begin with efforts to protect those jobs created by existing small businesses. Ensuring that existing small businesses do not face unreasonable competition from a parallel black market is central to this. We must make sure that we protect those businesses that play by the rules and punish the unscrupulous ones that do not.

Solutions

Much remains to be done to reduce the prevalence of illegal tobacco in Canada. The National Coalition Against Contraband Tobacco suggests four courses of action to combat illegal cigarettes in Canada, which focus on reducing the supply and demand for illegal cigarettes.

Recommendation 1: More resources for anti-contraband tobacco enforcement.

Key to stopping the contraband tobacco trade is enforcement. Bill C-10, the Tackling Contraband Tobacco Act, is currently at committee stage in the Senate after having been passed unanimously by the House of Commons. It will make smuggling contraband tobacco a criminal offence, making it easier for police to arrest the criminals that carry out the trade. However, as demonstrated in the past, for these tools to be effective there must be sufficient law enforcement personnel available to wield them. Funding is needed to bolster anti-contraband policing.

The RCMP has estimated that current enforcement captures as little as 5% of the overall contraband tobacco trade. To make a meaningful dent in the illegal trade, this will need to increase. More law enforcement dedicated to the task is central to this.

The federal government has previously created a special 50 officer RCMP task force to focus on contraband from existing staffing levels. This is a good first start, more resources are needed. Ideally, such programs will reflect the cross jurisdictional nature of the contraband tobacco problem, helping law enforcement officials at all levels, including federal, provincial, municipal and on reserve.

The province of Quebec provides a useful case study in this. In 2009, the province introduced new anti-contraband measures and provided additional funding for anti-contraband investigations. These measures have had a meaningful effect on illegal cigarettes in the province.

Recommendation 2: Accelerate the measures introduced in Economic Action Plan 2014.

In Economic Action Plan 2014, the government of Canada committed \$92 million over 5 years for the introduction of high technology equipment to monitor the border between Quebec, Ontario and the United States.

It is important to accelerate the implementation of these measures. Canada's borders are porous today and the contraband problem is already at crisis levels, with millions of cigarettes being smuggled annually by organized crime groups. Long lead times will give these criminals

the opportunity to make millions in profit and risks allowing them to become even more entrenched.

Recommendation 3: License non-tobacco manufacturing (e.g. papers, filters, etc) materials to help curb the illegal supply.

Law enforcement cannot succeed alone in fighting contraband tobacco. It is just as important to reduce the supply of illegal cigarettes by targeting supply and distribution chains. Currently there are more than 50 illegal manufacturing sites operating in Canada.

To make it more difficult for these illegal factories to operate, government should make it harder to get the materials they need to make contraband. That means increasing licensing requirements for non-tobacco cigarette manufacturing materials to further discourage illegal manufacturing.

Recommendation 4: Keep the Cornwall Border Crossing in Cornwall

A substantial portion of illegal cigarette manufacturing takes place near Cornwall, Ontario in territories that straddle the Quebec, Ontario, and American borders. There are more than a dozen illegal cigarette factories operating in the territory, making the area a major source of illegal cigarettes in Canada.

At present, the border crossing is located in Cornwall, Ontario, on the Ontario side of Cornwall Island. This crossing's current location was established "temporarily" in 2009, but produced a near-immediate and demonstrable improvement in stopping contraband tobacco smuggling at this crossing.

Under the Beyond the Border Action Plan and mentioned in previous budgets, the government has proposed to move this crossing to Massena, NY. This move would be the worst possible outcome for contraband tobacco control in the area, removing any border control or inspection stations between the illegal production factories and the rest of Canada.

Consolidation of border crossings, as the Beyond the Border Action Plan highlights, makes sense at other crossings, especially those that carry a much larger portion of Canada-US cross border trade. Cornwall, however, is an exception to this, with a unique set of local circumstances that merit a different response.

Recommendation 5: As previously committed to, closely monitor contraband tobacco incidence and support a national campaign to raise awareness about its harms.

Most of our suggestions focus on curbing the supply of illegal cigarettes; but that supply exists only because of demand. It's important that government work to reduce public demand for contraband tobacco. As such, a public awareness campaign is needed to educate users of contraband tobacco about its dangers and costs. People that smoke illegal cigarettes must be made aware of its connections to organized crime, its effect on youth smoking, and other risks

inherent to illegal products. Such campaigns have been approved previously; now is the time for one to launch.

Similarly, it is important that the government have a clear idea about the size and scope of the problem. It is important that the government closely monitor the relative size of the industry to track the success of actions or to gauge if additional measures are needed.