



## Tobacco Smuggling

Approximately one-third of all cigarette exports in the world disappear into the lucrative black market for tobacco products.<sup>1</sup> This smuggling seriously harms public health by undermining tobacco tax policies and by making tax-free cigarettes available to young people and price-sensitive smokers who might otherwise quit. Smuggling also reduces government revenue that is an increasingly important funding source for tobacco control and other public health programs.

### How Smuggling Works

Organized smuggling typically begins when a bulk order for cigarettes is placed from a manufacturer. The world's leading brands – Marlboro, Camel, Mild Seven, 555 – are most popular with smugglers because they can be sold almost anywhere. After leaving the plant or bonded warehouse with documents showing they are bound for a legitimate market, they then go through a series of paper transactions that are difficult to follow, changing hands several times. In the end, the paper trail leads investigators to nonexistent or shell companies, with the cigarettes having "disappeared" into the black market.

The pattern is similar around the world, though details may vary. Sometimes the scheme involves elaborately forged transit documents and tax stamps; in other cases, corrupt customs agents or

other officials are involved. Often, smuggled cigarettes are delivered by secret landings of boats or planes in remote areas. The criminal networks involved tend to be creative and, once established, difficult to eradicate.

### Why Smuggling Occurs

The tobacco industry argues that high tobacco taxes are the primary cause of tobacco smuggling and that reducing taxes is the only cure. The reality is that price is only one of many factors that influence smuggling rates. Other more important factors include: the tobacco industry's own role in facilitating smuggling; the lack of appropriate controls on tobacco products in international trade; and the existence of entrenched smuggling networks, unlicensed distribution, lax anti-smuggling laws, weak enforcement and official corruption.

**Tobacco Industry Complicity:** As recent court cases and internal industry documents make clear, cigarette companies have been heavily involved in smuggling operations. Senior tobacco industry executives have been convicted of smuggling-related offenses in Hong Kong and Canada, and a wholly-owned subsidiary of R.J. Reynolds Tobacco Company pleaded guilty to charges related to its involvement in smuggling cigarettes from the United States into Canada. Recently, the Canadian federal government

launched a billion-dollar lawsuit against R.J. Reynolds alleging a conspiracy to flood the Canadian market with smuggled cigarettes.<sup>2</sup> Meanwhile, Colombia's provincial governments have filed suit against Philip Morris alleging that the tobacco company defrauded the governments of billions of dollars in revenues through a complex smuggling and money-laundering scheme, and the government of Ecuador has filed a similar suit against both Philip Morris and R.J. Reynolds.<sup>3</sup>

**Lax Enforcement and Insufficient Penalties:** Smugglers tend to thrive in countries that tolerate smuggling, where enforcement is lax and corruption is widespread. In addition, many nations fail to treat tobacco smuggling as a serious crime, imposing penalties that are a fraction of those for smuggling other products such as pharmaceuticals or firearms. This makes tobacco more attractive to smugglers, who weigh the huge potential for profit against the small chance of getting caught, convicted, jailed and/or fined.

**Weaknesses in the Transit System:** The lack of more secure systems for transporting cigarettes in international trade fuels the black market by giving smugglers access to a large supply of cigarettes free of all taxes and duties.



#### **Informal Distribution Networks:**

Failure to license all players involved in cigarette distribution, and especially the presence in some nations of unlicensed street vendors, hinders law enforcement and facilitates smuggling.

#### **Cross-Border Price Differentials:**

Price differentials are a significant factor in the case of informal bootlegging. It is much less a factor in large-scale organized smuggling of "in transit" cigarettes. Contrary to popular belief, smuggling is much less common in those Nordic and Commonwealth countries with high cigarette taxes.<sup>4</sup>

**Duty-Free Sales:** The existence of a large volume of duty-free tobacco products in international commerce creates opportunities for smuggling.

**Lack of Resources:** Most nations do not devote the necessary resources to tobacco tax enforcement until after a smuggling problem has developed. It is much more difficult to eradicate smuggling networks once they are established than to take measures to prevent the networks from taking root in the first place.

**Lack of Effective International Cooperation:** While international treaties and other mechanisms have been developed to reduce trafficking in pharmaceutical drugs, illegal drugs, firearms and other products, no similar systems have been implemented to reduce tobacco smuggling.

## How Cigarette Smuggling Harms Public Health

### **Restraining Tobacco Taxes**

**Worldwide:** Raising tobacco taxes is one of the most effective measures available to prevent children from smoking and encourage adults to quit.<sup>5</sup> Smuggling – and the fear of it – has become the greatest impediment to raising tobacco taxes worldwide. The tobacco industry has successfully exploited this fear, convincing policymakers around the world that virtually any tobacco tax increase will spark uncontrollable smuggling, resulting in lost government revenue and rampant lawlessness. Yet out of hundreds of tobacco tax increases successfully implemented in the world, there are very few cases in which a smuggling problem developed that was large enough to cause a government to reduce taxes. Only in Canada (1994) and Sweden (1998) have governments raised tobacco taxes and then lowered them due to smuggling concerns. In Canada it has now been shown conclusively that the tobacco industry itself was actively involved in facilitating much of the smuggling. The tobacco industry leveraged its success in Canada to help defeat major price increases proposed in the United States in 1994 and 1998, and has used the "Canadian example" globally as a lesson, as well as a threat, to governments that consider significant tobacco tax increases.

### **Providing discount cigarettes:**

Smuggling provides cigarettes at a discount to young people and price-sensitive smokers who might otherwise quit smoking.

### **Opening Markets to Western Brands and Advertising:**

Some nations, including China, legally restrict the availability of Western brands. While the original intent of these laws may have been to protect domestic tobacco companies, there is strong evidence that the laws also have benefited public health by reducing Western-style marketing of tobacco products to women and young people. Such laws also tend to reduce the quality, competitiveness and appeal of tobacco products themselves, which also reduces prevalence. As the industry publication *World Tobacco* puts it, smuggling has "helped to promote some of the world's leading brands in markets which had remained closed to foreign imports and where demand for Western cigarettes has continued to grow."<sup>6</sup>

### **Reducing Tobacco Control Funding:**

Cigarette smuggling costs governments tens of billions of dollars a year in lost tax and customs revenue.<sup>7</sup> In a growing number of countries, these funds have become a primary source of funding for effective tobacco control programs. Therefore, to the extent that tobacco tax increases are rejected due to concerns about smuggling, even the specter of smuggling robs tobacco control of one of the most promising sources of badly needed funding.



### Conclusion

Current negotiations on the Framework Convention on Tobacco Control (FCTC) represent an unique opportunity to take concerted action on smuggling. Existing agreements to reduce illegal trade in other products subject to high rates of smuggling -- such as firearms and pharmaceuticals -- provide strong precedent for such an agreement.<sup>8</sup> Multilateral agreement would prevent smuggling both through provisions contained in a specific protocol of the FCTC and by stimulating the political will and the commitment of resources that are essential to eliminate the unacceptably high rate of smuggling that now prevails.

### Resources on the World Wide Web

Links to internal tobacco industry documents and other evidence of BAT's involvement in tobacco smuggling  
<http://www.ash.org.uk/smuggling/>

Internal tobacco industry documents, court documents, investigative reports and other evidence of involvement by the tobacco industry in smuggling into Canada and elsewhere  
<http://www.nsra-adnf.ca/english/smuggling.html>

Information on the WHO Framework Convention on Tobacco Control  
<http://tobacco.who.int/en/fctc/index.html>

<sup>1</sup>World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, 1999; <http://www1.worldbank.org/tobacco/reports.htm>

<sup>2</sup>See: <http://www.ash.org.uk/smuggling/>; C. Buddle, "Tobacco Chief Guilty in \$33 Million Bribes Case," *South China Morning Post*, June 12, 1998; William Marsden, "Major Firms Deeply Involved in Cross-border Smuggling, Former Exec Says," *Montreal Gazette*, 18 December 1999, <http://www.montrealgazette.com/news/pages/991218/3316186.html>; Dow Jones Newswires, "RJR Affiliate to Pay \$15 Million for Acting as Smuggling Front," 22 December 1998.

<sup>3</sup>For details, see [http://www.public-i.org/story\\_01\\_052300.htm](http://www.public-i.org/story_01_052300.htm) and Meg Richards, "Ecuador Files Tobacco Suit," Associated Press, 6 June 2000.

<sup>4</sup>Luk Joossens, "Smuggling and Cross-border Shopping of Tobacco Products in the European Union: a Report for the Health Education Authority, London," December, 1999.

<sup>5</sup>World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, 1999; <http://www1.worldbank.org/tobacco/reports.htm>

<sup>6</sup>*World Tobacco File* 1996.

<sup>7</sup>Raymond Bonner and Christopher Drew, "Cigarette Makers Are Seen as Aiding Rise in Smuggling," *New York Times*, 25 August 1997; <http://www.healthwatcher.net/Smuggling/nyt970825smugbig.html>

<sup>8</sup>The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, adopted on November 13, 1997, is one such example. The full text can be found at: [http://www.cicad.oas.org/en/legal\\_development/legal-documents-conventionarms.htm](http://www.cicad.oas.org/en/legal_development/legal-documents-conventionarms.htm)