



COALITION QUÉBÉCOISE POUR LE CONTRÔLE DU TABAC

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NOT CIGARETTE SMUGGLING AGAIN! LET'S GET THE FACTS STRAIGHT

LE JOURNAL DE MONTRÉAL / VENDREDI 5 DÉCEMBRE 2003
On craint une hausse de la criminalité
La hausse des taxes sur les cartouches de cigarettes fait bien des mécontents dans l'industrie du tabac. Bien sûr, tous prévoient une baisse des ventes, mais c'est surtout une hausse possible de la criminalité qui inquiète.

LE JOURNAL DE QUÉBEC, 5 décembre 2003
La hausse de la taxe sur le tabac pourrait favoriser la contrebande
QUÉBEC (PC et le JdeM) — La cartouche de 200 cigarettes coûtera 2,50 \$ de plus à compter de minuit, a confirmé hier le ministre des Finances, M. Yves Séguin.

Ottawa accusé de fermer les yeux sur la vente illégale
OTTAWA (PC) — Le gouvernement fédéral encourageait indirectement la contrebande en fermant les yeux sur la vente de cigarettes illégales qui ne respectent pas les lois canadiennes, accusent les syndicats des travailleurs du tabac et le député de Bloc québécois, Noël Ménard.

La Voix de l'Est QUOTIDIEN
Actualités, samedi 6 décembre 2003
"Le gouvernement ambitieux"
Plusieurs fumeurs croient que la

Le Quotidien
Nouvelles générales, mercredi 10 décembre 2003
Contrebande du tabac
à l'abri de l'impôt

La Voix de l'Est QUOTIDIEN
Actualités, samedi 6 décembre 2003, p.
La contrebande présente à Granby

Once again, the tobacco industry and its allies are raising the spectre of smuggling in order to oppose federal and provincial government tax increases on cigarettes.

The health community does not deny that smuggled cigarettes are available. However, contrary to what the tobacco industry is stating, the severity of the present problem is very different from the crisis we were facing in the early 1990's. At that time, the tobacco industry played a key role in supplying the market for contraband cigarettes in order to force governments to lower taxes. Indeed, the federal government took both civil and criminal action against some tobacco companies for their complicity in the smuggling market.

Although it was Canadian tobacco companies that created this problem in the early 1990's, it should come as no surprise if there are still people who are trying to profit from a portion of the contraband cigarette market.

The renewed frenzied outcries coming from tobacco companies, as well as from other organizations that benefit from the sale of tobacco, regarding a revival of the contraband crisis are simply part of an ongoing campaign against increased tobacco taxes. (They oppose higher taxes because they effectively reduce consumption.) At present, their campaign is focusing on illegal sales and counterfeit cigarettes to once again persuade governments to back down. But they are greatly exaggerating the scale of the problem because, as we will see further on, other indicators just don't support their allegations.

[**Translation provided by Cancer Care Ontario]

1) A NEW SCANDAL?

Every tax hike or every potential tax hike leads to frantic outcries from tobacco companies and their allies with regards to a resurgence of cigarette smuggling, as they did last December following a \$2.50 increase in provincial taxes. In fact, the industry's warnings concerning smuggling, accompanied by their sermons against tax increases, exist throughout the world and are far from being unique to Canada.

Tobacco smuggling is a global phenomenon, caused neither by petty smugglers nor smokers seeking to avoid paying high taxes. A quarter of all cigarette exports worldwide is intended for the black market and this illicit trade is sustained by the tobacco industry¹. This percentage is much higher than the illegal trade of most other consumer goods sold on global markets².

As long as the tobacco industry is not identified as the authors of a conspiracy to smuggle (which could ultimately incur substantial costs for the industry in terms of criminal proceedings, public relations, and loss of credibility with governments), tobacco smuggling obviously promote the tobacco interests, whether they be for national or multinational companies: Cigarettes smuggling reduces cigarette prices – thus increasing demand, allows the introduction of illegal brands into restricted markets, and serves as a pretext to fight effective anti-tobacco fiscal measures such as tax increases.

It is always the same old story with the industry and its allies: worldwide, they claim that smuggling occurs because of market trends (different prices between borders, highly elevated consumer prices), and everywhere, they advocate the lowering of taxes as a solution. Wherever taxes are reduced in an effort to curb smuggling however, problems related to public health increase: tobacco consumption rises and government revenues decrease. And where taxes on tobacco remain stable, the industry itself increases its prices in order to mark up profits!

In truth, the price of tobacco is far from being the main cause of cigarette smuggling. In fact, cigarette smuggling it is more widespread in countries with lower prices³. Many countries have fought the problem with better controls, without affecting taxes (although the ultimate solution remains controls on an international level⁴). The true problem is supply driven, caused mainly by fraud through the illegal evasion of taxes.⁵

BAT worried German smokers driven to black market - Reuters

January 13, 2004

Berlin – (Reuter) British American Tobacco said on Tuesday that higher German tobacco taxes may be driving smokers to the black market after company market research showed cigarette sales in Germany had fallen by 2.4 percent since 2002. ...

The Federal government has raised taxes three times in the past two years and plans to raise the tax on cigarettes three more times in the next two years. On March 1, 2004, the price of a standard pack of cigarettes will rise from three to four euros.

"Our concern is that the new taxes will not stop people smoking, but that they will turn to the black market and cheaper forms of tobacco," the company spokesman said. "All experts say the taxes increases will not bring in the revenue that the government expects they will," the authors of the company's press release said.

A German Health Ministry spokeswoman said she could not confirm the figures produced by BAT and declined to comment on them.

Cigarette makers to appeal against tax hike ()

MEXICO CITY, Dec 23, 2003
(Crónica/Corporate Mexico by Internet Securities, Inc. via COMTEX) –

British American Tobacco (BAT), manufacturer of cigarettes Boots, Kent, Raleigh and Montana in Mexico, will take legal action against the approval of the 20% additional tax on final prices of cigarettes approved by the Senate. BAT said the tax would destroy the industry, which employs more than 500,000 people in Mexico.

¹ Luk Joossens, sociologist at the Brussels Research and Information Centre for Consumer Organizations and World Health Organization expert, in an Information Release for reporters, First International Francophone Conference on Tobacco Control, September 17, 2002.

² ½Epidemic Control: The State and Economic Aspects in the Fight Against Smoking½, World Bank, Washington, 2000.

³ Joossens, L., Raw, M., "How can cigarette smuggling be reduced?", British Medical Journal, Volume 321, October 2000.

⁴ Joossens, L., Raw, M., "How can cigarette smuggling be reduced?", British Medical Journal, Volume 321, October 2000.

⁵ Joossens, L., Raw, M., "How can cigarette smuggling be reduced?", British Medical Journal, Volume 321, October 2000.

2) TEN BILLION ILLEGAL CIGARETTES?

“According to union figures, which are based on Royal Canadian Mounted Police (RCMP) studies, smokers light up approximately 10 billion illegal cigarettes a year in Canada.”

(Press conference, tobacco industry workers and Réal Ménard, MP, reported by *Le Devoir*, December 5, 2003.)

“At least 25% of the 40 billion cigarettes consumed in Canada each year are illegal.”

(Press conference, tobacco industry workers, reported by Radio-Canada, December 4, 2003)

Smuggling in the 1990's

The unions are claiming that smuggling today is as high as it was during the peak of the smuggling crisis in 1993 (estimated at **25% of the cigarette market** in 1993⁶). At that time, the media regularly reported that a great number of smokers were buying smuggled cigarettes throughout Quebec, which is clearly not the case today.

Their Sources

To support their allegations, tobacco industry unions claim that they are relying on RCMP studies.

However, the most recent Criminal Intelligence Service Canada report (2003) states that:

« Since 2001, federal and provincial tobacco taxes have gradually increased. Despite this increase, there has been no apparent surge in illicit tobacco activities comparable to 1993, the historical smuggling high point. »

Drop in Smoking

Statistics Canada reports that sales over the 12-month period to October 2003 were **\$35.9 billion**. Sales reported for the 12 months prior to the April 2001 tax increase (March 2000 to February 2001 – to eliminate any possibility of pretax “stocking up”) were **\$43.2 billion**. If \$35.9 billion represented only 75% of actual consumption in 2003, a total consumption of \$47.9 billion would represent an **increase of 10% in consumption** versus the period 2000-2001. This is refuted by smoking indicators.

For example, changes in the tobacco market in Canada can be measured by using the number of cigarettes sold or by the prevalence of smoking in the population. According to Statistics Canada's latest data, there has been a gradual fall in sales (**decrease of 19.7%**) over the past seven years. At the same time, Health Canada surveys show that the prevalence of smoking in Canada has been following the same trend, **dropping from 30.5% in 1995⁷ to 25% in 1999⁸ to 21.0% in 2002⁹ (a decrease of 31.1%)**. It should be noted that smoking surveys do not take into account the legal status of the tobacco consumed: the people surveyed are asked whether they smoke or not. The reality is that there has been a marked reduction in smoking in Canada, hence the decrease in legal sales of tobacco products. If taxes have created an illegal market, it is insignificant.

Government Revenues

It is also important to point out that government revenues increased, as expected, following the latest tax increases.¹⁰ If there was large increase in contraband cigarettes it would be noticeable through far lower government revenues.

⁶ Imasco Ltd., 1993 Annual Report; Lindquist Avey Macdonald Baskerville. 1994 “Cigarette smuggling in the United States”, August 15, 1994, cited in the book by Rob Cunningham “The War on Tobacco”, International Development Research Centre, 1997.

⁷ National Population Health Survey, 1994/95

⁸ Canadian Tobacco Use Monitoring Survey. 1999 Result, Health Canada

⁹ Canadian Tobacco Use Monitoring Survey. 2002 Result, Health Canada

¹⁰ (Quoting Quebec Department of Finance) “La Contrebande n'augmente pas” (*No increase in smuggling*) (following June 2002 increase in taxes), *La Presse*, December 30, 2002

3) BACK TO THE 1990 CRISIS?

“For the industry, it is a question of preventing a recurrence of the situation which existed in the 1990’s.” (Press conference, tobacco industry unions, reported by Radio-Canada, December 4, 2003)

“The situation appears similar to that in 1993 before taxes were lowered.” (Statement by Daniel Rondou, spokesperson for the Tobacco Workers International Union, as reported in the Métro newspaper, December 5, 2003)

Different Situation

As previously mentioned, the situation today is very different from the crisis that raged in 1993. The federal government now recognizes the tobacco industry’s complicity in that crisis. Since then, the government has introduced a series of measures that will henceforth prevent tobacco companies from exporting their products with the aim of once again supplying a huge market for smuggled cigarettes. For example, since April 2001, a **non-refundable export tax of more than \$30.00** is applied to each carton of 200 cigarettes when the export volume exceeds 1.5% of a given manufacturer’s production. The federal government’s civil and criminal proceedings against certain companies and their senior executives also represent a very effective deterrent.

Counterfeit Brands

Because of the investigations, legal action, surveillance and export taxes, major cigarette companies are no longer able to participate, as they had in the past, in major smuggling activities. This means that, if there is a market of 10 billion illegal cigarettes out there, the brands would be either counterfeits of popular brands or small or unknown brands (which would be easily noticeable). (It is important to note that Canadian smokers are generally very loyal to their particular brand. When the smuggling crisis exploded, it was because the cigarettes sold on the black market were Canadian brands.)

In the Industry’s Interest to Combat Widespread Smuggling

The large-scale smuggling of counterfeit brands is therefore not in the economic interest of the major tobacco companies. They are better off cooperating with government authorities in stopping present-day smugglers and preventing them from acquiring a significant share of their markets. Counterfeit brands can easily be detected, as major manufacturers have sophisticated ways of discovering if one or more retailers suddenly purchase significantly smaller quantities of their cigarettes. Apart from these high-tech systems that monitor all their transactions¹¹, tobacco companies also have a veritable army of sales representatives that criss-crossing the country. They are therefore able to track sales in each region and can report any abnormal drop in sales to the authorities, triggering investigations to uncover smuggling in that particular area. (There is no indication that this is happening.)

Anti-tax Campaign

In short, the industry and its allies are only using the spectre of smuggling (yet again) to frighten the public and government, and thus prevent an increase in tobacco taxes – which would definitely be in the companies’ interest!

Who Benefits?

Since a Chinese counterfeiter working internationally would find the profit potential of Canadian brands to be minute (as opposed to Marlboro which is sold worldwide), we might ask the question “Who would really benefit from a small¹² counterfeit market in Canada?”

¹¹ Rothman, Benson & Hedges, 2002 Annual Report

¹² 1% of the Canadian market (see point 3)

4) ENORMOUS QUANTITIES OF CONTRABAND CIGARETTES?

“ [Yves-Thomas Dorval] guesses that the new threat comes from Chinese-origin counterfeit brands” (Yves-Thomas Dorval, spokesperson for Imperial Tobacco, reported in the Journal de Montréal, December 5, 2003)

“Seizures of counterfeit cigarettes of at least two Canadian manufacturers’ brands have amounted to \$21 million since the summer.” (Yves-Thomas Dorval, Imperial Tobacco, reported in La Presse, December 6, 2003)

“These are cigarettes produced in Canada for export or, alternatively, packs from other countries such as China, Colombia or the Philippines.” (Press conference, tobacco industry unions and Réal Ménard, MP, reported in Le Devoir, December 5, 2003).

“More than 920 cases of cigarettes (46,150 cartons) have been snared [by the RCMP team border team on the Akwesasne Mohawk territory], worth \$1 million or \$22 per carton in evaded federal tax. That’s up from 617 cases – almost 31,000 cartons – caught last year.” (The Gazette, December 8, 2003)

“There were 17 cigarette sales points on aboriginal peoples’ reserves and now there are at least 50 sales points.” (Claude Dupuis, union spokesperson for Imperial Tobacco, reported in the newspaper Métro, December 5, 2003)

“Cartons sell for \$20 to \$40 on the reserves.” (Serge Lajeunesse, spokesperson for the Japan Tobacco International political action committee, reported by the Journal de Montréal, December 5, 2003).

There is no doubt that illegal cigarettes are available in the Canadian market. But the size of the problem should be kept in perspective.

For example, **\$21 million of counterfeit brand cigarettes** only represent **a fraction of 1% of the Canadian market**¹³. As far as seizures on the borders of Akwesasne this year are concerned, **920 cases** represents less than **0.02% of the Canadian market**,¹⁴ whereas the smuggling crisis in the 1990’s affected at least **25% of the market**. To have a significant effect on the Canadian market, contraband cigarettes from aboriginal peoples’ reserves would require a **constant flow of thousands of vehicles each day** entering and leaving the reserves, which would be easy to detect.

5) ENCOURAGES THEFT?

“The higher the cost of a carton of cigarettes, the higher the risk of theft from convenience stores” (Stéphane Gonthier, Operations VP, Alimentation Couche-Tard, reported in the Journal de Montréal, 5 December 2003)

“The number of large thefts of cigarettes rose to 30 during the same period [since the summer].” (Yves-Thomas Dorval, Imperial Tobacco, reported in La Presse, December 6, 2003)

The increase in the value of tobacco products does indeed make them more likely to be stolen. On the other hand, it does not automatically follow that governments should reconsider their strategy of reducing

¹³ Percentage estimated at 0.179% based on an estimated total market of \$11,747 billion: approximate calculation using total tax revenues (\$8 billion in 2003) and the percentage of taxes (68.1%) on cigarette prices (according to Imperial Tobacco, press release, December 5, 2003)

¹⁴ Percentage estimated at 0.0127%, calculated based on tax value of 46,150 cartons (\$1,0153 million) versus total tax revenues (\$8 billion in 2003)

smoking by increasing prices ... any more than they should decree lower prices for precious jewellery in an attempt to prevent theft.

Precautions

Manufacturers and retailers have a responsibility to take the necessary safety precautions – including detection mechanisms – so that stolen goods cannot be resold. Access to tobacco products in convenience stores is too easy. Tobacco companies pay store owners substantial amounts to set up displays that provide the greatest possible visibility for their products. It is tobacco manufacturers' responsibility to make sure that their products are no longer accessible so easily. Instead of paying for displays, they could help store owners to make locked shelf space available for tobacco products, which would make it significantly more difficult for thieves to access them.

6) LAX GOVERNMENTS?

“The Unions and the Bloc deplore Ottawa’s lax attitude and call for better control of the manufacture and sales of contraband cigarettes in aboriginal reserves ...These cigarettes are made illegally and do not comply with tobacco product labelling regulations.” (Press conference, tobacco industry unions, reported on Radio-Canada, December 4, 2003)

“The Quebec government ... does nothing to prevent smuggling” (Serge Lajeunesse, spokesperson for Japan Tobacco International political action committee, reported in Métro, December 5, 2003)

Measures to Fight Smuggling

The federal government cannot be accused of being lax, as it has introduced several important measures to fight smuggling, including an export tax in April 2001. The federal government also filed a civil suit last August against the JTI Macdonald Tobacco Company and its affiliates (R.J. Reynolds Tobacco Holdings, Inc., R.J. Reynolds Tobacco Company, R.J. Reynolds Tobacco International Inc., R.J. Reynolds Tobacco Co., Northern Brands International Inc., Japan Tobacco Inc., JT International SA, JTI-Macdonald TM Corp., JT Canada LLC II Inc., JT Canada LLC Inc., JT International Holding B.V., JT International B.V. and JT International (BVI) Canada Inc.) in order to recover \$1.5 billion in taxes lost because of smuggling.

In addition, the Royal Canadian Mounted Police (RCMP) laid criminal charges last February against senior executives of the above companies (Edward Lang, Dale Sisel, Jaap Uittenbogaard, Pierre Brunelle, Paul Neumann, Roland Kostantos, Stanley Smith and Peter MacGregor) for their role in the smuggling.

Lastly, additional budgets have also been made available to the RCMP over the past few years to heighten the surveillance and prevention of cross-border smuggling, particularly after the events of September 11, 2001.

Laws must be respected.

That being said, health groups agree that the government must ensure tobacco products sold in Canada comply with legislation, including cigarettes sold by aboriginal peoples. If the latter want to sell tobacco products to the Canadian public, they must abide by the laws governing such products. For example, all cigarette packs must carry the new health warnings on the effects of smoking. All taxes must also be collected. Governments must take the necessary measures to halt the illegal sale of cigarettes.

Marking Tobacco Products

However, both federal and provincial governments could do more. They could set up their own tracking system which would enable them to follow each stage in the distribution of tobacco products on which taxes have been paid. Sophisticated tracking technology is now available which would make it possible for government authorities to gather the necessary information on how the tobacco market is developing in every part of the country. Such a system would be particularly useful in identifying counterfeit products that imitate Canadian trademarks, which they cannot properly do today.

7) THREATENS JOBS?

“The production, manufacture and transportation of tobacco products provides jobs for 25,000 workers in Canada, 3,000 of whom are in Quebec. Warehousing, retailing and printing represent a further 21,000 jobs.” (Press conference, tobacco industry unions, reported by Radio-Canada, December 4, 2003)

Exaggeration

The tobacco industry frequently exaggerates the number of jobs threatened by lower cigarette sales in an attempt to make decision-makers back down on tobacco control policies. Retailers and printing companies do not depend solely on tobacco for their business. For example, the loss of jobs predicted after prohibiting tobacco sales in drugstores never materialized. Claiming that all these jobs would disappear because of smuggling is therefore a gross exaggeration.

Cost/Benefits

In any case, unions have to admit that it is impossible to reconcile the interests of public health with those of the tobacco industry and its employees. They don't seem to understand that what is good for tobacco is bad for the public health. For every job in the tobacco business, one Canadian dies from tobacco industry products every year. Have they thought of making that cost/benefit analysis?

Job Rate

Government programs and measures to reduce smoking will continue to have a gradual effect on tobacco company sales, with the resulting inevitable reduction in jobs within the industry. However, this decrease in the number of workers can easily be accomplished through attrition given the gradual impact of the decrease in smoking.¹⁵ In addition, the money previously spent on highly-taxed tobacco products will be spent on other consumer products, so that at least as many jobs will be created as will be lost in the tobacco industry.¹⁶

Ironic ...

It is ironic that unions representing workers in the tobacco industry raise the argument of job losses caused by tobacco smuggling when Imperial Tobacco has decided to close its Montreal plant (despite record profits) and two companies (Rothmans, Benson & Hedges and Imperial Tobacco¹⁷) have announced that they will no longer be supplied by Quebec tobacco growers, thus causing job losses in Quebec.

¹⁵ Allen, R.C. 1993. The false dilemma. The impact of Tobacco Control Policies on employment in Canada. University of British Columbia, February 1993. p.40

¹⁶ Allen, R.C. 1993. The false dilemma. The impact of Tobacco Control Policies on employment in Canada. University of British Columbia, February 1993. p.41

¹⁷ Le Devoir, "Imperial Tobacco to stop buying Quebec tobacco", November 27, 2003