

**CANADIAN COALITION FOR ACTION ON TOBACCO
COALITION CANADIENNE POUR L'ACTION SUR LE TABAC**

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**A Brief Submitted to the House of Commons
Standing Committee on Public Safety and
National Security**

Endorsed by:

Canadian Coalition for Action on Tobacco
Canadian Cancer Society
Coalition québécoise pour le contrôle du tabac
Canadian Council for Tobacco Control
Canadian Dental Hygienists Association
Canadian Dental Association
Heart and Stroke Foundation of Canada
The Canadian Lung Association
Non-Smokers Rights Association
Ontario Campaign for Action on Tobacco
Physicians for Smoke Free Canada

May 5, 2008

What is the Canadian Coalition for Action on Tobacco?

The Canadian Coalition for Action on Tobacco (CCAT) is a coalition of national and provincial health organizations working together for the purpose of reducing tobacco use and consequently tobacco-related diseases and deaths in Canada.

In April 2007, CCAT launched a new campaign to control tobacco contraband, the Campaign for Action on Tobacco Contraband and Health (CATCH).¹ A list of the national, provincial and local organizations endorsing the CATCH campaign is found in Appendix 1.

Why is CCAT concerned about tobacco contraband?

CCAT is gravely concerned about the high and still rising levels of tobacco contraband in many regions of the country, especially in Ontario and Quebec. Contraband cigarettes are often available for \$15 or less per 200 cigarettes, compared to the full legal price of \$50-\$70 in Ontario and Quebec, depending on the brand.^{2, 3}

High prices have been proven to be one of the single most effective measures to reduce tobacco use, especially among youth who are more price-sensitive.⁴ The current contraband problem has the potential to undermine much of the work done by the health community and the federal government over the past ten years to implement effective tobacco control measures, such as higher taxes, which protect Canadians from the devastating health effects of tobacco products. Cheap, illegal cigarettes are a major threat to tobacco control progress.

The consequences for public health are potentially disastrous: higher smoking rates than would otherwise be the case, higher rates of consumption among continuing smokers, more youth becoming addicted, and more disease and death.

The adverse impact of cheap, illegal cigarettes is also significant for aboriginal communities, where smoking prevalence is two to three times higher than in the rest of Canada and life expectancy is considerably lower than that of non-aboriginals.⁵ This problem is compounded by the fact that Canada is currently without an effective aboriginal tobacco control strategy. In the fall of 2006, the First Nations and Inuit Tobacco Strategy was eliminated, with the promise that it would be restored once it was redesigned.⁶

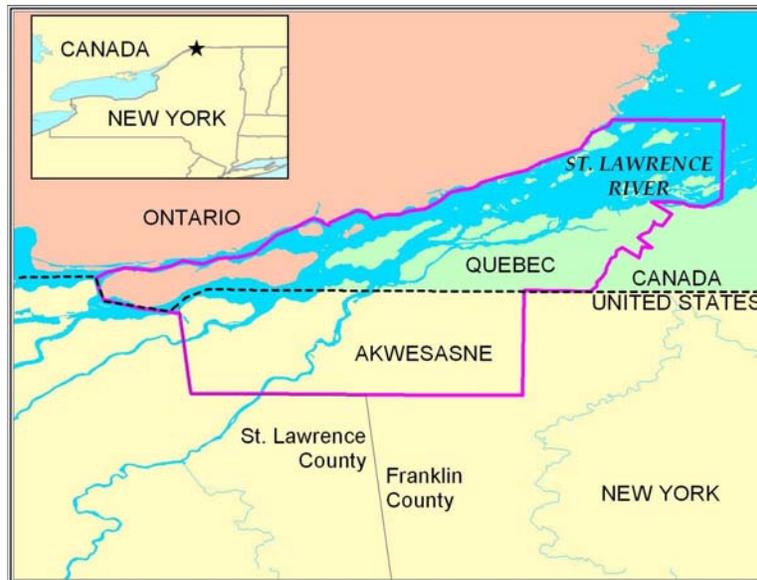
Illegal tobacco sales are also costing federal and provincial governments hundreds of millions in revenue that could be used for health initiatives, or other government priorities. This revenue loss through contraband and through forgone tobacco tax increases exceeds \$1 billion annually.

Why should this Committee be concerned?

In addition to the public health consequences, tobacco contraband is a major public safety and national security issue. According to police authorities such as

the RCMP, a very large proportion of the tobacco contraband available now is manufactured on the U.S. side of the Akwesasne-St. Regis Mohawk Territory, which straddles the Canada-U.S. border near Cornwall, exposing serious border vulnerability. The RCMP reports that 90% of contraband seizures in Canada are tobacco products originating from factories on the U.S. side of Akwesasne – products usually transported across the St. Lawrence River.⁷ There are approximately 13 factories on the U.S. side of Akwesasne, only one of which has the required U.S. federal tobacco manufacturer licence.⁸

Kahnawake (near Montreal, Que.), Tyendinaga (near Belleville, Ont.) are also manufacturing sources for contraband tobacco.^{9, 10} In addition, product produced by both unlicensed manufacturers on Six Nations and the federally and provincially licensed Grand River Enterprises finds its way into the contraband stream.¹¹



It is also reported that tobacco contraband is trafficked by well-organized criminal enterprises that use the profits to finance other criminal activities and to smuggle people and illicit products, such as drugs and weapons. This trafficking is conducted via criminal networks across the Canada-U.S. border and through the exploitation of the Akwesasne territory.¹²

Akwesasne is perhaps the most vulnerable part of the entire Canada-U.S. border. The current situation in tobacco contraband constitutes a major border security and national security threat for the U.S. and Canada. It is in Canada's and the U.S.'s best interest to eliminate this threat. If the reverse was occurring, and vast quantities of contraband cigarettes from Canada were flooding the U.S. – costing federal and state governments more than \$10 billion (by comparison) annually – the U.S. government would no doubt insist that Canadian authorities shut down the source in Canada.

What is the size of the current contraband market?

Unfortunately, there is no way of knowing for certain the size of the current contraband market. None of the factories involved are reporting their production output. However, federal and provincial governments have reported significant losses in tobacco tax revenues, which, unfortunately, cannot be explained solely by the impact that effective tobacco control policies have on reducing tobacco consumption.¹³ Police authorities are reporting an increasing frequency of contraband seizures from 2001 to 2006, resulting in an increase from 29,000 to 502,000 cartons of cigarettes seized.¹⁴

The Canadian tobacco industry must be held responsible for its contribution to the current situation. During the initial crisis in the 1990s, it was the availability of industry exports that attracted organized crime groups operating in or around certain communities, especially Akwesasne, to the quick and easy financial gains of cigarette smuggling.

Two senior executives working for JTI-Macdonald, as well a corporation affiliated with JTI-Macdonald, have been convicted for their involvement in the smuggling crisis of the 1990s.^{15, 16, 17} Criminal charges filed by the RCMP against JTI-Macdonald and other senior executives are currently before the Ontario Court of Justice.¹⁸ The federal government has filed a \$1.5 billion civil lawsuit against JTI-Macdonald and related companies and has given notice of its intent to seek yet more damages.¹⁹ Several provinces have also filed a notice of claim, with the total of notices of claim by the federal government and provinces exceeding \$10 billion.²⁰ Furthermore, the RCMP has executed search warrants to search the premises of two other major Canadian companies, Imperial Tobacco and Rothmans, Benson & Hedges.^{21, 22}

Are tobacco tax increases the main cause of smuggling?

Tobacco contraband and smuggling is a problem of supply, not of demand or of higher taxes. This is demonstrated by the fact that the two provinces with the lowest taxes—Ontario and Quebec—have the largest contraband problem. In provinces with far higher taxes, such as British Columbia and Alberta, the presence of contraband remains relatively low. (A chart showing comparative provincial/territorial tobacco taxes is found in Appendix 2.)

The problem at hand is the lack of control over the illicit supply of tobacco, a problem that is entirely preventable.

What was the impact of the 1994 tobacco tax rollback?

The 1994 tobacco tax rollback by the federal government and five provinces was a public health disaster that had a significant adverse impact on smoking trends. A confidential Health Canada report predicted that the tobacco tax rollbacks would result in some 40,000 additional preventable deaths from the increase in adolescent smoking alone in the first five years following the tax rollbacks.²³

The 1994 tax rollback sacrificed health priorities and billions of dollars in much-needed government revenue from tobacco taxes.²⁴ The only player who benefited from the ill-conceived solution to the smuggling crisis was the tobacco industry.

What should be done now?

CCAT commends the federal and provincial governments for recently bringing forward the following beneficial measures:

- Introducing a new national tobacco tax stamping system;
- Limiting the possession and importation of cigarette manufacturing equipment to persons holding a tobacco manufacturer's licence (Federal, Ontario and Manitoba);
- Making explicit the authority of the Minister of National Revenue to revoke a tobacco manufacturer's licence where access to the premises of a licensee is impeded;
- Prohibiting licensed manufacturers from providing to an unlicensed individual or manufacturer services to produce, mix or package tobacco products which are intended to be sold on the market (Quebec).

We believe that these measures by themselves will have a limited impact on controlling the current contraband situation. It is time for the Government of Canada to address this public health, public revenue and public security crisis with measures that are commensurate with the scope of the problem.

We urge the government to support several other solutions that would make it far more difficult to engage in illicit tobacco manufacturing, solutions that we have been advocating for more than a year:

- Persuade the U.S. federal government to shut down illegal manufacturing operations on the U.S. side of Akwesasne;
- Prohibit the supply to unlicensed manufacturers of raw materials used in making tobacco products (e.g. packaging, cigarette filters, cigarette paper, and raw leaf tobacco). Impose stiff penalties for breach of this measure;
- Revoke licenses of manufacturers acting unlawfully;

- Establish a minimum bond of at least \$5 million in order to obtain a federal tobacco manufacturing licence, instead of the current extremely low fee of \$5000.
- Impose forfeiture of the bond (in whole or in part, as appropriate) as penalty for non-compliance with legislation.

Other desirable measures at the federal level include a full tracking and tracing system, something that is contemplated in the proposals for a protocol on illicit trade in tobacco, currently under negotiation by the Parties to the Framework Convention on Tobacco Control, which include Canada. On a long-term basis, it would be desirable to enable First Nations to adopt their own tobacco tax equal to the provincial tobacco tax, as has been done for the Cowichan First Nation on Vancouver Island, and as was authorized for First Nations in Quebec in Bill C-33, adopted in 2005.

At the provincial level, certain specific measures should also be implemented. Examples include implementing a refund/rebate system and distinct package markings for tobacco products intended for tax-exempt sale on reserves. The rebate system would mean that an amount equal to the provincial tax is included in the price for product shipped to reserves, and retailers on-reserve apply for a rebate after sale to status natives. The package markings would ensure that the product intended for tax-exempt sale is easily identifiable.

For further information:

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APPENDIX 1

Campaign for Action on Tobacco Contraband and Health

NATIONAL COALITION

Canadian Coalition for Action on Tobacco

NATIONAL AGENCIES

Canadian Cancer Society
Canadian Council for Tobacco Control
Canadian Dental Association
Canadian Dental Hygienists Association
Heart and Stroke Foundation of Canada
Non-Smokers' Rights Association
Physicians for a Smoke-Free Canada
The Lung Association

PROVINCIAL COALITIONS

Alliance for the Control of Tobacco, Newfoundland
Campaign for a Smoke-Free Alberta
Clean Air Coalition of BC
Coalition for a Smoke-Free Nova Scotia
Coalition québécoise pour le contrôle du tabac
Council for a Smoke-Free PEI
Manitoba Tobacco Reduction Alliance
Ontario Campaign for Action on Tobacco
Saskatchewan Coalition for Tobacco Reduction

PROVINCIAL AND REGIONAL AGENCIES

8ième Groupe Scout Roberval inc., Québec
Acti-Menu, Inc., Québec
Action on Smoking and Health, Alberta
Alliance pour la lutte au tabagisme Région de Québec et Chaudières-Appalaches
Association of Local Public Health Agencies, Ontario
Association des spécialistes en chirurgie buccale et maxillo-faciale du Québec
Association du cancer de l'est du Québec
Association pour la santé publique du Québec
Association régionale du sport étudiant des Cantons de l'est, Québec
Association régionale du sport étudiant de la Côte-Nord, Québec
Association régionale du sport étudiant de la Mauricie, Québec
Association régionale du sport étudiant de l'Outaouais, Québec
Association régionale du sport étudiant de Québec et de Chaudières-Appalaches
Cégep de Rimouski, Québec
Centre d'information et de recherche en consommation de Charlevoix-Ouest, Québec
Centre de santé et des services sociaux de Charlevoix, Québec
Centre de santé et des services sociaux de Rivière-du-Loup, Québec
Centre hospitalier régional de Trois-Rivières, Québec
Centre jeunesse du Bas St-Laurent, Québec
Centre jeunesse de l'Outaouais, Québec
Centre Vivre mieux sans fumer, Québec
CLSC-CHSLD de Gatineau, Québec
Coalition Gatineau sans fumée
Conseil québécois sur le tabac et la santé
Department of Anesthesiology & Pain Medicine, University of Alberta Hospital

Direction de la santé publique de Chaudière-Appalaches, Québec
Direction de la santé publique de la Côte-Nord, Québec
Direction de la santé publique de Laval, Québec
Direction de la santé publique du Bas St-Laurent, Québec
Direction de la santé publique du Saguenay-Lac-St-Jean, Québec
École primaire l'Amitié, Québec
Fédération des kinésiologues du Québec
Fondation québécoise du cancer
Haliburton, Kawartha, Pine Ridge District Health Unit, Ontario
Halton Region Health Department, Ontario
Informed mothers for the protection of our air and children from tobacco, Québec
Kingston, Frontenac and Lennox & Addington Public Health, Ontario
Leeds Grenville & Lanark District Health Unit, Ontario
Maison des jeunes de Saint-Jovite, Québec
Middlesex-London Health Unit, Ontario
Municipalité de Cayamant, Québec
Municipalité de Courcelles, Québec
Municipalité des Hauteurs, Québec
Municipalité du Lac Sainte-Marie, Québec
Municipalité de La Pocatière, Québec
Municipalité de Mandeville, Québec
Municipalité de Rivière-du-Loup, Québec
Municipalité de Roquemaure, Québec
Municipalité de Saint-Arsène, Québec
Municipalité de Saint-Eusèbe, Québec
Municipalité de Sainte-Florence, Québec
Municipalité de Saint-Louis-Du-Ha!-Ha!, Québec
Municipalité de Saint-Malachie, Québec
Municipalité de Saint-Philémon, Québec
Municipalité de Saint-Siméon, Québec
Municipalité de Saint-Simon-de-Rimouski, Québec
Municipalité de Visitation-de-Yamaska, Québec
Nova Scotia Dental Association
Ordre des dentistes du Québec
Ordre des hygiénistes dentaires du Québec
Peel Public Health, Ontario
Porcupine Health Unit, Ontario
Prince George Clean Air Coalition, British Columbia
Saskatchewan Medical Association
Saskatchewan Public Health Association
Simcoe Muskoka District Health Unit, Ontario
Société canadienne du cancer, Division de la Colombie-Britannique et du Yukon
Société canadienne du cancer, Division d'Alberta/T.N.O.
Société canadienne du cancer, Division de la Saskatchewan
Société canadienne du cancer, Division du Manitoba
Société canadienne du cancer, Division de l'Ontario
Société canadienne du cancer, Division du Québec
Société canadienne du cancer, Division du Nouveau-Brunswick
Société canadienne du cancer, Division de la Nouvelle-Écosse
Société canadienne du cancer, Division de l'Île-du-Prince-Édouard
Société canadienne du cancer, Division de Terre-neuve et du Labrador
Tobacco Free Network, Newfoundland
Toronto Public Health, Ontario
Wellington, Dufferin, Guelph Public Health, Ontario

Appendix 2

Provincial/Territorial Tobacco Tax Rates Per Carton of 200 Cigarettes, May 1, 2008

