

# CONTRABAND TOBACCO

Contraband is an extreme threat to tobacco taxation, the most effective public health strategy used to date to reduce the illness and death caused by tobacco industry products.

Contraband is also a threat to millions in tax revenue urgently needed for health care.



The Non-Smokers' Rights Association is a national health organization with offices in Ottawa, Toronto and Montreal. The NSRA is supported by the research of its foundation, the Smoking and Health Action Foundation. In 2000, the NSRA was the recipient of the international Luther L. Terry Award in the "Outstanding Organization" category.

# IT'S TIME FOR **ACTION** ON CONTRABAND TOBACCO

## Why are tobacco taxes so important for public health?

Evidence provided by numerous economic studies, by the World Bank and others, has shown that tobacco taxation can be used not only as fiscal policy but as effective public health policy as well. Higher taxes encourage smokers to quit, prevent individuals from starting, reduce the number of ex-smokers who return to cigarettes and reduce consumption among existing smokers.<sup>1</sup>

A relevant study of the price elasticity of demand in the Canadian market shows that each 10% increase in price leads to a 4.5% decrease in tobacco consumption for the general population.<sup>2</sup>

***Tobacco taxes are an even more powerful tool to protect youth from tobacco use, since a similar price increase leads to a 12% drop in consumption.<sup>3</sup>***

In Canada, increasing the price of cigarettes through tobacco taxation gained popularity as a public health strategy in the 1980s and the beginning of the 1990s. It contributed significantly to more than a 30% drop in per capita consumption between 1980 and 1993.<sup>4</sup>

But the tobacco tax health strategy has been continuously undermined by contraband tobacco. This is tobacco from any source that is distributed and sold illegally, in any fashion. The RCMP defines contraband tobacco as any tobacco product "that does not comply with the provisions of all applicable federal and provincial statutes" including the importation, marking and payment of all duties and taxes.

Tobacco smuggling, a major component of contraband, is the illegal cross-border trade of tobacco products. The manufacturing and sale of counterfeit tobacco, involving the illegal reproduction of legitimate trademarks, is another form of contraband.

## Why were tobacco taxes rolled back in 1994?

The tobacco industry described taxation on numerous occasions as the single most important threat to its market because of the detrimental effect of higher prices on their sales.<sup>5, 6</sup> As the price of cigarettes increased, smuggled Canadian cigarette brands began to appear in 1990 and rose gradually to reach close to 30% of the domestic market in 1993.<sup>7</sup>

Cigarettes were exported to U.S. duty-free warehouses and then diverted and reintroduced into Canada illegally, i.e. untaxed, mainly through the Akwesasne/St. Regis First Nation reserve which straddles the Canada-U.S. border in eastern Ontario and western Quebec.<sup>8</sup>

Political pressure to resolve the crisis led to a drastic cut in tobacco taxes by the federal government and five provinces (Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island) in 1994.<sup>9</sup> Although taxes remained higher in the rest of the country, tobacco smuggling dropped sharply because the Canadian tobacco industry decided to stop shipping its cigarettes to U.S. duty-free warehouses. It had succeeded in its campaign to have tobacco taxes lowered dramatically for more than two-thirds of the Canadian population.<sup>10</sup>

## Was the tobacco industry responsible?

Unfortunately, the extent of the Canadian industry involvement's in the smuggling crisis only became clear a few years later through testimony of industry whistleblowers and through the release of internal industry documents made public through litigation in the United States. Canadian authorities initially responded by introducing measures, such as a significant export tax in 2001, to prevent any further smuggling and, later, by conducting investigations of the tobacco industry's behaviour.<sup>11, 12, 13</sup>

In July 2008, as part of an agreement with the federal and provincial governments, both Imperial Tobacco and Rothmans, Benson & Hedges pled guilty to "aiding persons to sell and be in possession of tobacco manufactured in Canada that was not packed and was not stamped in conformity with the Excise Act".



▲ The RCMP conducts a raid at Imperial Tobacco Canada Limited offices.

A total of \$1.15 billion in fines and civil damages were levied against the companies.<sup>14</sup>

As for JTI-Macdonald, the Ontario Superior Court of Justice ruled that there was sufficient evidence for the company and seven of its former executives to face criminal charges in court.<sup>15</sup> Two of its former executives have already been convicted.<sup>16, 17</sup> The federal and eight provincial governments are still engaged in civil proceedings against the company to recover \$10 billion in lost revenues.<sup>18</sup> However, it is possible that an out-of-court settlement will be struck with JTI-Macdonald as well.<sup>19</sup>

### What has happened to tobacco taxes since the 1994 rollbacks?

Following the 1994 tax rollbacks, a “gentlemen’s agreement” was reached between the federal government and the provinces to slowly raise tobacco taxes in tandem and closely monitor any market fluctuation. However, the agreement was eventually abandoned once tobacco taxes returned to levels in place in 1994. Since 2001, provincial governments have responded to calls from health agencies for more substantial tax increases. Although provincial taxes in

Quebec and Ontario are now the lowest and second lowest respectively in Canada, the total price for a carton of 200 cigarettes now exceeds \$80 in several provinces.<sup>20</sup>

### Why is the contraband problem out of control again?

Unfortunately, tobacco contraband is once again flourishing in Canada.<sup>21, 22, 23, 24</sup> The impact is being felt in Quebec and Ontario especially.<sup>25</sup> However, the contraband problem is now spreading to other jurisdictions such as New Brunswick, Nova Scotia, Manitoba, Saskatchewan and, according, to a State Department of Health report, New York.<sup>26, 27, 28, 29</sup>



▲ “Baggies” of 200 cigarettes are sold for as little as \$6.00.

Illegal cigarettes are currently available on the black market in plastic bags, commonly known as “baggies”, or in regular carton packaging at prices ranging from \$6 to \$20 for 200 cigarettes.

Obviously, at such prices, there are no federal or provincial taxes collected on these products. They are sold to aboriginals and non-aboriginals alike, in smoke shacks located on First Nations reserves, or through clandestine networks operating off reserves.

## What is the impact of contraband on public health?

According to the most recent data from the Canadian Tobacco Use Monitoring Survey, the Canadian Community Health Survey and the Youth Smoking Survey, smoking prevalence in Canada is no longer declining. This suggests that the widespread availability of cheap contraband tobacco products is undermining current fiscal and public health efforts to lower tobacco use.<sup>30, 31, 32</sup>

***Sadly, it is aboriginals who suffer the most from the sale of low cost cigarettes. Recent surveys show smoking prevalence rates in their communities of up to three times the national prevalence.***<sup>33, 34</sup>

The overall burden of tobacco use in Canada is already staggering. Tobacco industry products are responsible for the death of 37,000 Canadians each year, deaths caused by over 20 diseases including pulmonary and cardiovascular diseases and cancers.<sup>35</sup> Since cheap contraband cigarettes are impeding progress in reducing smoking, this criminal activity is exacerbating the tobacco epidemic in Canada.

## What are the sources of contraband cigarettes?

Enforcement agencies are reporting that illegal cigarettes are coming from four major sources:

- illicit manufacturing operations located on First Nations territories in Canada and the U.S.;
- illegal importation of counterfeit cigarettes (copies of Canadian cigarette brands) made in countries such as China;
- Canadian brand-name cigarettes shipped to reserves and diverted back to the domestic market to be sold without all applicable taxes paid;
- cigarettes stolen from convenience stores and truck shipments.<sup>23, 24</sup>

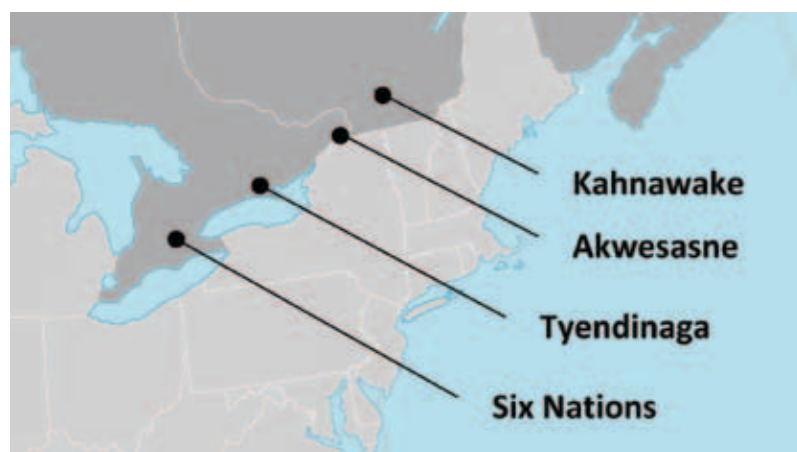
According to the RCMP's Contraband Tobacco Enforcement Strategy, the most predominant of these four sources is the manufacturing operations located on the First Nations territories of Akwesasne/St. Regis,

which straddles the Canada/U.S. border, Kahnawake in Quebec and Six Nations and Tyendinaga in Ontario.<sup>24</sup>

Although it was initially believed that most of the contraband cigarettes were produced on the U.S. side of the Akwesasne reserve, the Center for Public Integrity has recently reported that illicit production has gradually shifted to the First Nations reserves located in Ontario and Quebec.<sup>36</sup> It seems as well that the illicit tobacco trade in Akwesasne is providing funding for smuggling of other illicit goods across the Canada/U.S. border.<sup>37</sup>

## Where are these First Nations territories located?

The illustration below shows the location of the four First Nations territories reported as the main source of contraband tobacco in Canada.



Sources of contraband tobacco

Both the Kahnawake and Akwesasne/St. Regis reserves are located southwest of Montreal. The first one is across the St. Lawrence River, from Montreal while the second is 75 kilometres away straddling the Quebec, Ontario and New York State borders. The Tyendinaga reserve lies just north of Lake Ontario, 200 kilometres east of Toronto. The Six Nations reserve is located in southwestern Ontario near Brantford.

According to public statements made by the RCMP, 11 unlicensed cigarette factories are currently operating at Kahnawake, between 11 and 13 at Akwesasne/St. Regis and seven at Six Nations.<sup>38</sup> As for Tyendinaga, one company, Tyendinaga Mohawk Tobacco, seems to be the main source of contraband there. This facility operates more like a distributor than a manufacturer.<sup>39</sup>



## What is the size of the current contraband market?

Unfortunately, there is no way of knowing for sure the size of the current contraband market since these factories are not reporting their production output. However, there are other sources which suggest that the size has grown considerably over the past few years.

Smoking prevalence in Canada fell by approximately a quarter from 25% to 19% between 1999 and 2005. It has remained stable at 19% since (average daily cigarette consumption has not changed either).<sup>30</sup> Legal cigarette sales also followed the same trend between 1999 and 2005, dropping by a little more than a quarter (27%) from 45 to 33 billion cigarettes. However, legal sales declined a further 17% between 2005 and 2007.<sup>40</sup> Federal tobacco tax revenues have followed the same trend, decreasing 16% during the past three fiscal years (2005-06 to 2007-08).<sup>41</sup>

According to Philip Morris International, which recently acquired Rothmans, Benson & Hedges in Canada, the contraband market in Canada has reached a level of 22%.<sup>42</sup> The Center for Public Integrity recently stated that

***"Both industry and government studies indicate that, across Canada, two to three cigarettes of every 10 sold are contraband."***<sup>36</sup>

Contraband has become enough of a problem to prompt the Canadian tobacco industry to make repeated public calls for the federal government and provinces to address the issue.<sup>43, 44</sup> However, it is important to note that the industry is largely to blame for the current situation. During the smuggling crisis in the 1990s, it was the availability of industry exports that attracted organized crime groups operating in or around Mohawk territories to the quick and easy financial gains of cigarette smuggling.<sup>8</sup>

## What legal issues are involved?

The U.S. Court of Customs and Patent Appeals (1937) and the Supreme Court of Canada (2001) have both ruled that aboriginals are not exempt from paying duties when crossing the border in either direction with goods for commercial trade purposes.<sup>45, 46</sup>

No treaty or statute grants such an exemption in the United States. In Canada, the traditional trade practice across the border claimed by the Mohawks was never established and therefore is not recognized as an aboriginal right. The Supreme Court of Canada ruling was upheld in 2008 by the Inter-American Commission on Human Rights.<sup>47</sup>

According to federal and provincial tax laws:

- Status Indians, i.e. aboriginals that are part of the Indian Register and have a "Certificate of Indian Status" identity card, are not exempted from paying the federal excise tax when purchasing tobacco products on or off reserves (the federal excise tax is collected when tobacco products leave the manufacturing facility);
- Status Indians are exempted from paying the federal Goods and Services Tax (GST) when purchasing goods on a reserve. They are not exempted when goods are imported into Canada. The GST must also be collected when goods are sold on reserves to Non-Status Indians;



▲ Boxes of contraband seized by Ontario Provincial Police

- Status Indians are exempted from paying provincial tobacco and sales taxes on products sold on reserves. The exemption does not apply for Non-Status Indians.<sup>48</sup> (In some provinces, a refund system has been put in place for aboriginal retailers. An amount equal to the provincial tax is included in the price for product shipped to reserves. Retailers on reserve apply afterwards for a refund after tobacco products are sold to Status Indians.)

## Are tobacco taxes the cause of contraband?

It is important to dispel a widely held popular belief. Higher tobacco taxes do not automatically generate smuggling. Tobacco smuggling is most prevalent in Ontario and Quebec and, yet, taxes are much higher in other provinces such as BC, Alberta or Newfoundland.

The blame lies much more on the failure of governments to prevent the illicit supply of tobacco.

**Effective measures to curb the problem are available but require political will and allocation of resources.**

Time is also of the essence. Delays will only make it harder for governments to deal effectively with the problem.

## What policy response must be avoided, at all costs?

The worst case scenario would be to lower tobacco taxes once again. Such a decision would result in an alarming increase in smoking rates, disease and death.

Reducing taxes would still leave Mohawk manufacturers with an economic incentive to produce and sell tax-free cigarettes in Canada. Manufacturing cigarettes is cheap: it costs only \$5.70 for legal manufacturers to produce a carton of 200 cigarettes, packaging included.<sup>49</sup> In Quebec, where tobacco taxes are the lowest, premium brand cigarettes sell for approximately \$70 a carton, of which federal and provincial taxes account for \$41. Contraband is currently sold for as low as \$6 for a baggie of 200 cigarettes. A tax rollback will not eliminate smuggling.

As mentioned earlier, the main reason why the tax rollbacks in 1994 reduced smuggling was because the Canadian tobacco industry stopped exporting large volumes of its own cigarettes to the United States.

## What policy options could protect the tobacco taxation health strategy?

### 1. Control of raw materials

**Issues:** Canadian federal and provincial inspectors do not have access to some facilities on reserves

to ensure that the manufacturers have all their mandatory licences and comply with fiscal and health laws. For example, it has been reported that some Mohawk leaders are blocking inspectors from entering the Kahnawake reserve.<sup>50</sup>

### Solution: Prohibit the supply of raw materials to unlawful tobacco manufacturers

If inspectors cannot enter reserves, Canadian and American authorities need to act outside Mohawk territory by introducing (or strictly enforcing) legislation making it illegal for suppliers to sell or ship raw materials, such as cigarette tobacco, filters and paper, to any manufacturer that does not have the necessary licences or does not comply with fiscal and health laws.

As an example, the Quebec government amended its *Tobacco Tax Act* in 2004 to make it illegal to sell or ship raw tobacco to unlicensed manufacturers.<sup>51</sup> In the fall of 2006 alone, Quebec authorities intercepted more than 250,000 kgs of tobacco leaf, a large portion bound for the Kahnawake reserve near Montreal.<sup>52</sup> Penalties need to be sufficiently steep to discourage any supplier from still trying to do business, in spite of any prohibition, with unlawful manufacturers. Suppliers should also be required to submit regular reports to the authorities for all of their shipments.

### 2. Termination of contraband from the U.S. side of Akwesasne

**Issue:** As mentioned earlier, the RCMP has reported that a major portion of the illegal cigarettes flooding the Canadian market comes from the dozen or so illicit manufacturing facilities located on the U.S. side of the Akwesasne/St. Regis Mohawk territory. Obviously, Canadian enforcement agencies do not have the authority to take any action on the U.S. side of the border. The unusual location of the reserve, which straddles the border, also makes it very difficult to monitor any movement of illicit merchandise. For the moment, the main enforcement strategy seems to consist of trying to intercept as many shipments as possible of contraband tobacco leaving the reserve.

The illicit tobacco trade originating from the reserve is also believed to provide funding for smuggling other illicit goods, such as drugs and weapons, across the border.



▲  
A trunkload of contraband cigarettes

**Solution: Persuade U.S. governments to shut down illegal factories on the U.S. side of Akwesasne**

Considering the staggering fiscal and public health impact of the illicit tobacco trade in Canada, the Canadian government needs to make contraband an issue with U.S. authorities. Unfortunately, this problem is not a current priority of either U.S. federal or state governments.

In fact, the New York Franklin County district attorney recently declared that “Contraband cigarette production and smuggling at the Canada/U.S. border that costs Canada an estimated \$2 billion a year in lost revenues is not a priority for U.S. law enforcement.”<sup>53</sup> No doubt the U.S. government would demand immediate action from the Canadian government if the situation was reversed and illicit cigarettes manufactured in Canada was flooding the U.S. market.

Obviously, the best option involves persuading U.S. authorities to shut down all unlicensed manufacturing operations on the reserve. Such a move, however, would require political will on the part of U.S. politicians.

***However, help from U.S. governments is unlikely to materialize without senior Canadian politicians leaning hard on their American counterparts.***

As proposed in the previous section, controlling shipments of raw materials destined to illegal factories is one feasible option. For example, Canadian authorities claim that North and South Carolina farmers are providing tobacco to illicit manufacturers.<sup>54</sup> Unfortunately, the U.S. federal government deregulated the tobacco farming industry in 2004, which has given it more latitude to sell its crops. The introduction of a framework to better regulate the activities of the tobacco farming industry would be a more appropriate course of action.<sup>55</sup>

**3. Tobacco manufacturing licences and licensing bonds**

**Issue:** The federal government has granted many manufacturing licences to on-reserve cigarette production facilities.<sup>56</sup> According to federal licensing requirements, it is possible for a small time operator to obtain such a licence by posting a bond of just \$5,000. This is a totally inadequate guarantee that the manufacturer will comply with the law. Another problem is the fact that many of these facilities do not have the required provincial licence to operate.

Many of these manufacturers also fail to collect and remit tobacco taxes to the authorities. Furthermore, their cigarettes may not meet the mandatory federal fire-safety standard. Moreover, contraband cigarettes are often shipped in plastic bags or in packages without Canadian health warnings.

**Solution: Impose stricter conditions on licences and bonds**

Decades of time and resources have been invested in the effort to force tobacco into a regulatory framework that protects public health, from explicit warnings to fire-safe manufacturing standards. Any manufacturer who operates outside that regulatory framework should face stiff penalties such as losing its licences or forfeiting its federal bond in whole or in part. In order to present a significant financial risk to manufacturers, the federal bond should be raised to a minimum of \$5 million.

For example, the federal government should not hesitate to revoke any licence if a tobacco manufacturer operates without the required provincial licence and vice versa. Similarly, a manufacturer should forfeit its bond if it does not comply with fiscal obligations or continues to market products which do not meet manufacturing or packaging standards.





▲  
 Contraband cigarettes with no Canadian warning on left. A legal pack is on the right.

To be consistent with the first recommendation related to the supply of raw materials, the next logical step would consist of notifying suppliers that they can no longer do business with any manufacturer which has lost either its federal or provincial licence.

#### 4. Tax-exempt tobacco products

**Issue:** Because Status Indians are exempt from provincial tobacco taxes, provincial sales tax and federal GST for on-reserve purchases, there is the potential for serious abuse. Many non-aboriginals illegally purchase tax-exempt products on reserves. Many products supposedly intended for on-reserve sale are diverted illegally into off-reserve distribution channels.

For example, brands such as DKs and Putters, manufactured by Grand River Enterprises located on the Six Nations reserve in Ontario, have been found repeatedly in illegal channels.

**Solution: Impose quota and refund systems for tax-exempt tobacco products supplied to First Nation reserves**

All provinces should implement a quota (based on reserve population) for the quantity of tax exempt

tobacco supplied to each reserve. Wholesalers would be responsible for ensuring that no product is supplied in excess of the quota. Retailers could acquire any brand they want for sale on the reserve, but the total amount acquired by all retailers could not exceed the reserve quota. British Columbia, Saskatchewan, Manitoba, Ontario, New Brunswick and Nova Scotia currently have quota systems. Obviously, this initiative depends upon a government's commitment to enforce the quota.

All provinces should also implement a refund system whereby the manufacturer/distributor includes in the price of the shipment a deposit equal to the provincial tobacco tax when supplying on-reserve quota. After an on-reserve retailer makes sales to eligible Status Indians, the retailer could apply to the province for a monthly refund. A refund system is currently in place in Alberta, Saskatchewan, Manitoba, Quebec, and New Brunswick. But to be effective, it must also be enforced.

***It is important to have both quota and refund systems. A quota helps prevent abuse of the amount of refunds claimed. A refund system makes it much more difficult for a manufacturer to evade the quota system by supplying tax-exempt products to a reserve.***

There should be a different coloured provincial marking for products intended for tax-exempt on-reserve sale. Such markings are in use in British Columbia, Alberta, Ontario and New Brunswick.

Better control of tax-exempt tobacco entering a reserve would help prevent contraband from leaving the reserve.

#### 5. Tracking and tracing

**Issue:** Canadian and American authorities still do not have the capability of closely monitoring their respective domestic cigarette markets. This is completely unacceptable considering the harm caused by contraband.

### **Solution: Introduce an effective tracking and tracing system**

The monitoring problem can be addressed through a key recommendation under the *Framework Convention on Tobacco Control (FCTC)*, the World Health Organization treaty which deals with the global tobacco epidemic and which Canada has endorsed. It calls for the implementation of an effective tracking and tracing system controlled by the regulators.<sup>57</sup>

Technology is currently available to apply a covert or hidden code directly onto a pack of cigarettes.



▲ Device similar to those used by couriers can be used to read covert or hidden markings on packs

This code could contain information identifying each step in the product's distribution chain from the manufacturer right down to the retailer. Parcel delivery services, such as Federal Express and UPS, use similar systems and pride themselves on their ability to locate a package at all times during its delivery.

Special scanners could be used by inspectors to read the codes on packages. The extracted information could be relayed to a central computer system to detect illegal distribution. Such a system would be valuable for the following reasons:

- It would be possible to quickly identify counterfeit products. Only legitimate manufacturers would be able to print the covert code on their products.

- Some tobacco products are diverted to the smuggling market during delivery. When such cigarettes are seized, the authorities currently have no way to determine where in the distribution chain the diversion occurred. With a tracking and tracing system, the last known scanned entry would obviously be a good starting point for launching an investigation.
- Other cigarette shipments are stolen in transit. The codes of such shipments would be immediately registered in the central computer system, making it riskier for any retailer or individual trying to resell the cigarettes since they could be traced.
- The databank created by the central computer system would be of great value in monitoring market shifts across the country. If abnormal drops in legal sales are registered in some regions, it could be easier to pinpoint where smuggling networks are operating.

Tax marking systems are effective for controlling tobacco smuggling. For example, the State of California introduced a novel tax stamp system in 2004, including tracking and tracing features, and collected U.S. \$75 million in additional revenue over a two-year span.<sup>58</sup>

The timing is right for the introduction of such a system in Canada, given Imperial Tobacco Canada's decision a few years ago to move all its cigarette production to Mexico.<sup>59</sup> As the federal export tax mentioned earlier (see section 'Was the tobacco industry responsible?') no longer applies to Imperial's products, the company has the ability, once again, to ship cigarettes that could later end up in Canada through smuggling channels. This possibility must be closed off.

***The implementation of a new excise duty-stamping regime for the Canadian tobacco market was recently announced for early 2010 by the Minister of National Revenue. Unfortunately, the proposed system still does not include tracking and tracing capabilities.<sup>60</sup>***

## 6. First Nations tobacco tax

**Issue:** People on reserves working for and profiting from the manufacturing and shipping of contraband tobacco will obviously oppose any attempts to control the problem. However, it is only a matter of time before the Canadian and American governments stop tolerating the situation and finally take serious action to protect their own tobacco tax policy.



▲  
Media criticism may be one reason governments finally decide to act

### **Solution: Accelerate the ability of First Nations to impose their own tobacco taxes**

Tax agreements with First Nations could be explored as a means of protecting the public health benefits of tobacco taxation.

For example, in 2003, Canada enacted the *First Nations Goods and Services Tax Act* (FNGSTA).<sup>61</sup> The FNGSTA enables a First Nation to enact a law that imposes a tax like the GST on First Nations reserves or settlement lands. The FNGSTA also makes it legally possible for Canada to not impose the GST where

the FNGST applies. More than a dozen First Nations have chosen to implement the FNGST since 2004. Work is also currently under way with several other First Nations to bring them into the FNGST framework.

However, the GST represents only a small portion of taxes collected on legal tobacco products. Another available option for First Nations consists of them adopting their own tobacco tax equal to the provincial tobacco tax, as was done for the Cowichan First Nation on Vancouver Island in 1997. All First Nations in Canada can now do the same since the federal *Budget Implementation Act* was passed in 2006. A First Nation would have to reach an agreement with a province so that it could keep the revenue.

Higher prices would definitely lower tobacco consumption amongst First Nations communities. New revenues could be used in part to replace the elimination in 2006 of the \$10.8 million in funding for the First Nations and Inuit Tobacco Control Strategy by the federal government.<sup>62</sup> The revenues could also help fund much needed economic and social programs for poverty-stricken communities.



## Conclusion

Tobacco taxation is the most effective public health policy used to date to lower tobacco consumption. Unfortunately, the policy has been continuously under siege because of cheap contraband tobacco. Currently, illicit manufacturing operations located on four First Nations territories are the main source of the contraband market in Canada.

However, contraband tobacco is not a necessary result of high tobacco taxes. After all, the problem is not as widespread in some Canadian provinces with higher tax rates. Contraband is largely caused by illicit manufacturers operating with complete impunity. Governments need to urgently address the lack of enforcement issue. Solutions are available:

1. prohibit the supply of raw materials to unlicensed manufacturers;
2. persuade U.S. governments to shut down illicit factories on the U.S. side of Akwesasne;
3. impose stricter conditions on licences and bonds;
4. impose quota and refund systems for tax-exempt tobacco products supplied to First Nations territories;
5. introduce an effective tracking and tracing system;
6. accelerate the ability of First Nations to impose their own tobacco taxes if those tax levels do not undermine the tobacco tax structures in Canadian jurisdictions.

It is critical to point out that the implementation of such measures will have no chance of succeeding unless there is a serious commitment on behalf of governments to substantially increase enforcement resources.

***Tobacco remains first and foremost a public health issue. Thousands of lives are at stake.***

The availability of cheap cigarettes means that more youth will become addicted to cigarettes and fewer smokers will try to quit. Over time, thousands will die from the availability of illegal, inexpensive tobacco products. Tobacco contraband cries out for immediate action.



▲ Smoke shacks on the Kahnawake reserve selling contraband tobacco



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***“The most effective way to deter children from taking up smoking is to increase taxes on tobacco.”***

World Bank, *Curbing the Tobacco Epidemic: Governments and the Economics of Tobacco Control*

***“The fact is that the Canadian manufacturers have benefited directly from this illegal trade. They have known perfectly well that their tobacco exports to the United States have been re-entering Canada illegally.”***

The Right Honourable Jean Chrétien,  
Prime Minister

***“There is no question that increasing taxes will cause a decrease in smoking. This point is perhaps best illustrated by the present situation in Canada.”***

Philip Morris, USA

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