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Tobacco Smuggling [3]

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Graph 4

	Price of a pack of 20 Cigarettes 1993 dollars U.S.	Price of a pack of 20 Cigarettes 1993 dollars Canada (expressed in U.S. dollars)
1954	$1.22	$2.45
1955	$1.25	$2.42
1956	$1.26	$2.39
1957	$1.28	$2.38
1958	$1.27	$2.30
1959	$1.29	$2.42
1960	$1.27	$2.43
1961	$1.30	$2.30
1962	$1.28	$2.16
1963	$1.31	$2.11
1964	$1.31	$2.09
1965	$1.37	$2.11
1966	$1.35	$2.12
1967	$1.39	$2.12
1968	$1.36	$2.30
1969	$1.46	$2.30
1970	$1.44	$2.33
1971	$1.42	$2.40
1972	$1.39	$2.37
1973	$1.35	$2.27
1974	$1.30	$2.19
1975	$1.28	$2.12
1976	$1.24	$2.21
1977	$1.29	$2.05
1978	$1.25	$1.93
1979	$1.19	$1.82
1980	$1.10	$1.81
1981	$1.10	$1.77
1982	$1.22	$1.80
1983	$1.37	$2.01
1984	$1.35	$2.04
1985	$1.40	$2.18
1986	$1.44	$2.42
1987	$1.51	$2.63
1988	$1.58	$2.94
1989	$1.67	$3.43

(more)

Graph 4 (continued)

	Price of a pack of 20 Cigarettes 1993 dollars U.S.	Price of a pack of 20 Cigarettes 1993 dollars Canada (expressed in U.S. dollars)
1990	$1.69	$3.79
1991	$1.83	$4.82
1992	$1.89	$4.67
1993	$1.69	$4.37

Sources:

1. **THE TAX BURDEN ON TOBACCO**, The Tobacco Institute, United States, Volume 28, 1993.
2. United States Consumer Prices Index (All Items).
3. Various government Budgets (Canada).
4. Canada Consumer Price Index (All Items).
5. Yearly Average U.S. Exchange rates, Bank of Canada.

Graphs 5

	CANADA	U.S.
1982	10.52	9.49
1983	10.00	9.13
1984	9.72	9.04
1985	9.32	8.90
1986	8.83	8.62
1987	8.43	8.43
1988	8.13	7.87
1989	7.59	8.05
1990	7.14	7.45
1991	6.76	7.10

Sources:

Data supplied by The Canadian Tobacco Manufacturers' Council, April 8, 1993.

Note: Canadian consumption includes contraband tobacco. Contraband tobacco data was taken from the Lindquist Avey Macdonald Baskerville Inc. report which significantly overestimates the smuggling market.

This report was prepared by:

David T. Sweanor
Senior Legal Counsel

and

Luc R. Martial
Policy Analyst

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CIGARETTE PLOT SUSPECT: EXECS KNEW OF DEALS
COMPANY OFFICIALS TALKED ABOUT WHICH ILLEGAL CIGARETTES WERE SELLING WELL IN CANADA, SAYS A MASSENA DISTRIBUTOR.

The Post-Standard
Tuesday, January 20, 1998
EDITION: Metro SECTION: News PAGE: A1 LENGTH:

BYLINE: By JOHN O'BRIEN The Post-Standard

At least two high-ranking executives at a Canadian tobacco company were aware that the cigarettes they were exporting to the United States would end up on the black market in Canada, according to a Massena man charged with leading a massive smuggling conspiracy.

Lawrence V. Miller said in an interview Monday that he met often with Stan Smith and Les Thompson of RJR-Macdonald Inc. at a fishing lodge in British Columbia to broker cigarette deals.

Miller, 52, and 20 others are accused of defrauding the U.S. and Canadian governments by assisting the smuggling of $687 million worth of tobacco and liquor through the Akwesasne Indian Reservation in Northern New York from 1992 to 1996. Miller is a cigarette dealer.

Smith, executive vice president of RJR-Macdonald in Toronto, met Miller at Sonora Island Lodge near Vancouver several times in recent years, Miller said.

Neither Smith nor Thompson could be reached for comment. Thompson is now a marketing executive with the company's U.S. affiliate, R.J. Reynolds Tobacco Co. in Winston-Salem, N.C.

Miller said Smith and Thompson even told him and his associates which of their brands were selling best in Canada after being smuggled from the United States.

"They'd give us the details on what's hot in Quebec, and what's hot in Ontario and what's hot in British Columbia," Miller said.

Miller said he never smuggled cigarettes into Canada or did anything illegal in his cigarette distribution business. But he said if he has to face criminal charges, so should the tobacco company executives who went through him.

If someone else smuggles the cigarettes after buying them from Miller, that's not his business, Miller said. The tobacco companies can make the same argument, he said.

Miller's disclosure wasn't the first evidence of a connection between RJR-Macdonald and the alleged smuggling operation. In August, documents from U.S. Customs agents revealed that Thompson sat in on meetings with the accused smugglers at the fishing lodge.

Canadian police documents show that in 1996, RJR-Macdonald agreed to pick up the $10,000 per person entry fee for Miller and his friends to be in a fishing derby at Sonora Island Lodge.

Janet Hatfield, a spokeswoman for RJR-Macdonald, said the company would not comment because Miller's case is part of an ongoing police investigation.

Smith told the Canadian Broadcasting Co. in an interview to be broadcast in Canada tonight that he did not help Miller or any other smugglers.

Miller's allegations seem to support what tobacco industry critics have surmised: Canadian cigarette makers had to know their products were headed for the black market. Before Canada imposed a huge tax on cigarettes in 1989, it was exporting about 700 million cigarettes a year to the United States. By 1993, 20 billion Canadian cigarettes were being exported, said David Sweanor of Nonsmokers' Rights Association of Ottawa.

"What we shipped in went into upstate New York, where nobody smokes those cigarettes," Sweanor said.

Sweanor agreed with Miller on one point: If police charged Miller, they should charge the tobacco executives who helped him.

Federal prosecutors have refused to say whether they are investigating possible crimes involving the tobacco companies.

LAUGHING'S SUPPORTERS CALL ARREST KIDNAPPING
STATE POLICE SAY A RUSE WAS USED IN APPREHENDING THE FUGITIVE ON THE AKWESASNE RESERVATION.

fax

to JERRY MANDE

organization WHITE HOUSE

fax number (202) 456-6027

from Eric LeGresley, Legal Counsel

date 29 April 98

pages 3

This is Canadian gov't data. Fine cut - loose tobacco.

Note stagnant exports in 1980s, slight growth as Canadian/US prices diverge in mid/latter 80s, but not significant until 1991/92. Then, rapid explosion which falls right back once taxes were cut in February '94. Sorry, I don't have the 95 and on data on this graph but could track it down tomorrow. Eric

NON-SMOKERS' RIGHTS ASSOCIATION
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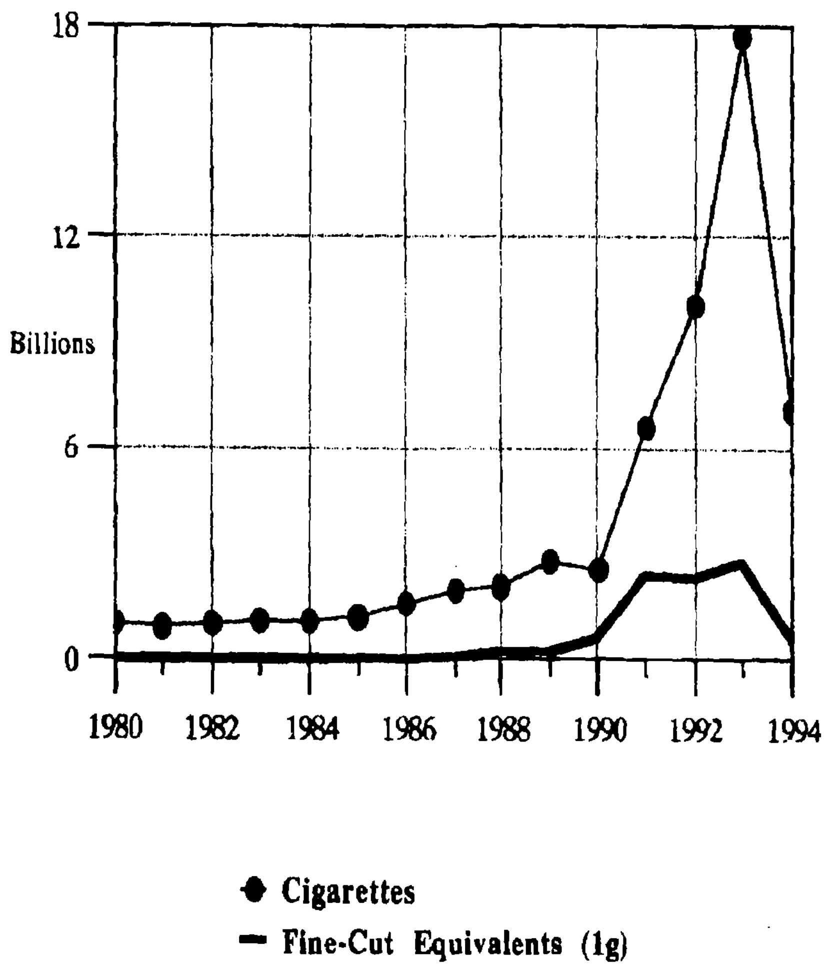
(1)

TOTAL EXPORTS OF CIGARETTES AND FINE-CUT EQUIVALENTS (1g) CANADA 1980 - 1994



Source: Statistics Canada, Catalogue 32-022 Monthly.

(graph 1)

TOTAL EXPORTS * expressed in billions	Cigarettes	Fine-Cut Equiv. (1g)	Total Units
1980	1.01	0.01	1.02
1981	0.94	0.01	0.95
1982	0.96	0.01	0.97
1983	1.06	0.01	1.07
1984	1.12	0.01	1.13
1985	1.23	0.01	1.24
1986	1.54	0.02	1.56
1987	2.01	0.12	2.13
1988	2.05	0.15	2.20
1989	2.74	0.22	2.96
1990	2.63	0.58	3.21
1991	6.55	2.40	8.95
1992	10.06	2.27	12.33
1993	17.74	2.82	20.56
1994	7.06	0.55	7.61

Source: Statistics Canada, Catalogue 32-022 Monthly.

Syracuse Herald-Journal
The Post-Standard
Herald American

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The Post-Standard
Wednesday, November 26, 1997
EDITION: Metro SECTION: Local News PAGE: B1 LENGTH:

BYLINE: By JOHN O'BRIEN The Post-Standard

Police used the old misdirection play last week to nab fugitive Tony Laughing.

A law enforcement officer pretending to be lost pulled up in front of a warehouse Laughing rents on the Akwesasne Indian Reservation about 8:40 a.m. Friday, according to a witness. Laughing and two companions were in front of the building.

The officer took out a map and asked Laughing for directions, the witness said. When Laughing started helping the undercover officer, five more officers pulled up, drew their guns and arrested Laughing, according to the witness, an aide of Laughing's who would not give his name.

"It was a kidnapping," said the aide, who answered the phone at the warehouse Monday.

Other residents of the Mohawk reservation in Northern New York gave similar accounts of the arrest.

U.S. Attorney Thomas Maroney said only one officer drew his weapon to keep Laughing's companions out of the way. Maroney would not comment further on the details of the arrest.

State police officials have said they, U.S. Border Patrol agents and U.S. marshals used a ruse to take Laughing into custody. They would not reveal the ruse.

They and federal prosecutors said Laughing had been under surveillance for a long time before they found the safest opportunity to arrest him. At least three times in the past eight years, Laughing met police with force.

Laughing, 50, to avoid arrest, had vowed to not leave the reservation. He contended that the reservation's sovereignty prevented U.S. and state officials from taking him into custody within the boundaries of the 28,000-acre nation.

The St. Regis Tribal Council was surprised and angered by Laughing's arrest on the reservation, according to a news release issued the next day. The release called the arrest "a breach of our sovereignty" because police didn't contact Mohawk leaders beforehand.

"They could have worked with us to try to persuade Mr. Laughing into turning himself in," the release said.

Gus McDonald, an aide to the Tribal Council, said Maroney had repeatedly assured tribal leaders that police would not go onto the reservation to arrest Laughing.

A federal grand jury indicted Laughing in June on charges of money-laundering, aiding a $687 million liquor- and cigarette-smuggling operation, and running the Mohawk tribe as a criminal enterprise. Twenty others were charged in the smuggling ring.

Maroney said in June that he would not send officers onto the reservation to make arrests or to seize property, because he feared bloodshed similar to 1990, when two men were killed on the reservation during fighting between anti- and pro-gambling factions.

That statement was made right after the indictment was handed up, and there were 10 or 11 Mohawk residents who had yet to be arrested, Maroney said. Five months later, with Laughing the only Mohawk not under arrest, the situation was different, Maroney said.

Laughing has been highly visible on the reservation, making an obscene gesture to uniformed police patrols that went by, Maroney said.

McDonald said Maroney should have told the Tribal Council that he had changed his mind about banning law enforcement officers from making arrests on the reservation.

Laughing is being held without bail in the Onondaga County Justice Center jail. U.S. Magistrate Gustave DiBianco scheduled a detention hearing for today.

Reference Number: 9711260763

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¶

SUSPECT NABBED ON AKWESASNE
POLICE USE DECEPTION TO ARREST
ACCUSED SMUGGLER TONY LAUGHING.

The Post-Standard
Saturday, November 22, 1997
EDITION: North Country SECTION: News PAGE: A1 LENGTH:

BYLINE: By JOHN O'BRIEN The Post-Standard

Tony Laughing's five months of hiding in plain sight on the Akwesasne Indian Reservation
ended Friday when federal and state authorities entered Mohawk land and arrested him without the violent confrontation they had feared.

State police, U.S. marshals and U.S. Border Patrol agents used a ruse to take Laughing into custody just inside the reservation's border in Northern New York about 8:40 a.m., according to state police Capt. Peter Person.

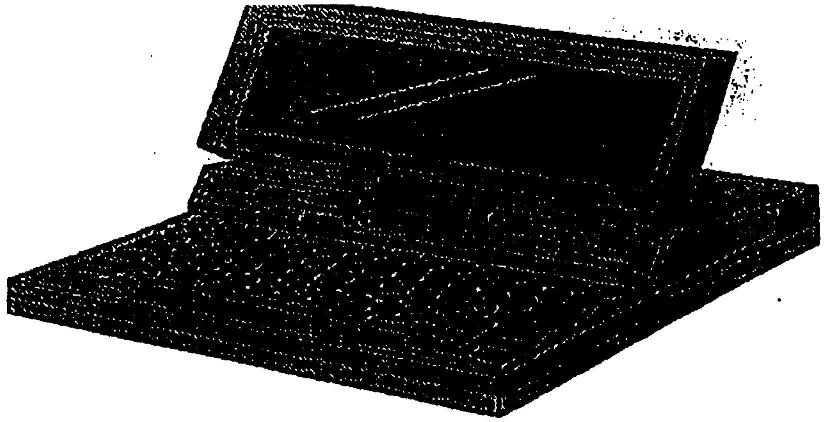
"We utilized a little bit of deception that went a long way toward bringing Mr. Laughing into custody," Person said. He would not reveal the ruse.

Laughing, 50, of Hogansburg, had vowed to not step off the reservation for the rest of his life to avoid federal charges of money-laundering, aiding a $687 million cigarette and liquor smuggling operation, and operating the Mohawk tribe as a criminal organization.

Assistant U.S. Attorney Gregory West asked U.S. Magistrate Gustave DiBianco to hold Laughing in jail without bail. The judge scheduled a detention hearing for Wednesday.

In an interview with The Post-Standard last month, Laughing said any attempt to arrest him on sovereign land might be met with violence. That statement angered many Akwesasne residents and prompted police to change their stance of not going on the reservation.

U.S. Attorney Thomas Maroney said in June that he would not send officers onto the reservation to make arrests or to seize property, because he feared bloodshed similar to



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Subject: Increased Cigarette Smuggling: Warning or Threat?
Date: Tuesday, April 28, 1998 at 10:37:55 am EDT
Attached: None

Ross Hammond wrote this excellent piece. It would be great if Attorney General Reno would simply write a letter to the tobacco companies reminding them that smuggling is illegal and that any complicity in such action would be vigorously prosecuted.

Increased Cigarette Smuggling: Warning or Threat?

27 April 1998

Dear Colleagues:

In the last week a number of tobacco industry spokesmen have raised the
specter of increased cigarette smuggling should the price of cigarettes rise
dramatically as a result of a tax increase. This is indeed a serious issue that needs to be confronted when considering national tobacco legislation. However what these spokesmen fail to mention is the role that their industry
played in promoting smuggling. This raises the question: are they warning or threatening us? Consider the following:

-- Every year, around 300 billion cigarettes are illegally smuggled, representing around a third of all cigarettes destined for export. This figure has been rising at the same time that the cigarette companies have been trying to capture new markets in Eastern Europe and Asia. As US Senator
Frank Lautenberg puts it, "What
other legal industry allows up to one-third of its product to be diverted to
illegal sales?"

-- Following the Canadian Parliament's passage of a large tax increase on cigarettes in 1989 (which the subsidiaries of BAT, RJ Reynolds and Philip Morris lobbied heavily against), Canadian cigarette exports to the United States tripled, with most of these exports going to Buffalo and other points
on the U.S.-Canada border. Most of these cigarettes ended up smuggled back

into Ca a. In 1994 Prime Minister Jean Chre was forced to reduce the tax because the governi t was losing so much revenue to the smugglers. "The fact is that the Canadian tobacco manufacturers have benefitted directly from this illegal trade," and had known "perfectly well" what was happening, Chretien said.

-- In 1997 a senior executive with RJ Reynold's Canadian subsidiary who was in charge of marketing cigarettes to the Akwesane Indian Reservation (which sits on the US-Canada Border) was charged with conspiring with a smuggling ring to bring millions of dollars worth of the company's cigarettes into Canada. According to federal court records, he met often with leaders of the ring and that his company paid for trips by these smugglers to a fancy Canadian fishing resort.

- Executives with BAT in Hong Kong have been charged with accepting bribes from a Hong Kong-based smuggling ring. BAT officials allegedly arranged the sale of millions of dollars worth of cigarettes. The Wall Street Journal reported in December 1996 that BAT executives held "weekly meetings at which smuggling activities were discussed, down to specific boats, inlets, and villages involved" and that "such information was kept from the most senior BAT officials who visited Asia from London to allow them deniability."

- In his April 20th remarks to the US Senate Democratic Caucus, former Surgeon General C. Everett Koop accused BAT and Philip Morris of setting up "potential black market mechanisms in Mexico by buying out Mexican tobacco companies." He was referring to last July's purchase of Mexico's two cigarette companies by Philip Morris and BAT for a combined $2.1 billion.

As part of a package of international tobacco control provisions, Senator Frank Lautenberg's office has developed a proposal to address cigarette smuggling by giving the Bureau of Alcohol, Tobacco and Firearms (BATF) broad authority to:

-- require that all cigarette exporters, manufacturers, and distributers have a license and keep detailed records;

-- make cigarette exporters post a bond that will only be returned when it is proven that the cigarettes have reached their final destination; and

-- require that unique markings be placed on cigarette packages so that smuggled cigarettes can be traced back to their source.

T proposals deserve publicity and support. Contact your Senators and

Representatives and ask them to sign on to the intern i l tobacco
control
initiatives co-sponsored by Sens. Durbin, Lautenberg, Wellstone, and Wyden and Reps. Doggett and Pallone and currently contained in the McCain bill reported out of the Commerce Committee.

Ross Hammond
88 Norwich Street
San Francisco, CA 94110
tel/fax: 415-695-7492
e-mail: margross@igc.org

Sources: Sens. Richard Durbin and Ron Wyden, "Big Tobacco Must Stop Targeting Kids Worldwide," Roll Call, 23 March 1998; Raymond Bonner and Christopher Drew, "Cigarette Makers Are Seen as Aiding Rise in Smuggling," New York Times, 25 August 1997; "Convicted smuggler points to Canadian tobacco executive," Canadian Press, 20 January 1998; Wall Street Journal, 18
December 1996 quoted in David Holzman, "Tobacco Abroad: Infiltrating Foreign
Markets," Environmental Health Perspectives, Vol. 105, No. 2, February 1997;
C. Everett Koop, "Remarks Concerning the McC

8TH STORY of Level 1 printed in FULL format.

The Times Union (Albany, NY)

September 28, 1997, Sunday, THREE STAR EDITION

SECTION: MAIN, Pg. A1

LENGTH: 1277 words

HEADLINE: Tracking trail of bootleg smokes

BYLINE: EDWARD FITZPATRICK; Staff writer

DATELINE: HAMILTON, Ontario -- Canadian and U.S. authorities are finding ties between giant tobacco companies and smuggling rings such as the one charged with funneling $ 687 million in bootleg butts and booze through the St. Regis Mohawk Indian Reservation.

HIGHLIGHT:
Tobacco companies deny they promote cigarette smuggling, blaming high taxes, but investigations are hinting at links between manufacturers and a black market in a booming illegal trade

BODY:
The revelations come amid a boom in the worldwide contraband cigarette trade, which has grown from an estimated 162 billion smuggled cigarettes in 1990 to 280 billion in 1995.

Tobacco industry officials deny they encourage black market activity and say that high taxes encourage criminals to sell contraband products.

Smuggling can indirectly benefit these firms. Smugglers often purchase the cigarettes legally but then evade taxes by selling them on the black market. So tobacco companies end up getting the same revenue whether the cigarettes are sold legally or on the black market.

But do tobacco companies promote the bootlegging?

In New Orleans, federal officials said they convicted a pair of Brown & Williamson Tobacco Corp. sales managers for aiding in the smuggling of contraband cigarettes. About 24,000 cases of cigarettes were moved to a New Orleans warehouse from the company's Louisville, Ky., headquarters and from I perial, a sister company in Canada. The cigarettes were supposed to be shipped offshore but were diverted for sale in the United States and Canada, evading $ 1 million in taxes, prosecutors said.

One of the convicted company officials told investigators that Brown & Williamson sold to smugglers as part of a marketing strategy, prosecutors said. The company denied the allegation.

In New York, investigators found links between another tobacco company and those charged with smuggling cigarettes and liquor through the St. Regis res rvation. Authorities allege that between 1992 and 1996, the smugglers ferried contraband to the Canadian black market, crossing the St. Lawrence River where it cuts through the reservation on the U.S.-Canadian border.

The Times Union, September 28, 1997

An affidavit filed in U.S. District Court in Syracuse, N.Y., portrays a scene from September 1995:

Rain beats down on a lodge in British Columbia, keeping a group of men from going out in boats to fish. Instead, they huddle around the heat of a large fireplace as talk turns to business. Gathered around the fire are some of the top leaders of the operation.

Also sitting in the warm glow of the fire is Les Thompson, a marketing representative from the R.J. Reynolds Tobacco Co.

At one point, Thompson tells members of the group that he will ''deal directly with the Indians'' if they didn't keep proper records.

Later, Thompson goes out in a fishing boat with one of the men identified by police as a member of the smuggling ring. The man ends up feeling sick in the choppy waters, and Thompson jokes that the man ''should be used to the water from hauling cigarettes.''

The government knew about the conversations in British Columbia because they had an informant in the lodge and in the fishing boat: a truck driver from Ireland who had infiltrated the smuggling ring and went along on the trip.

Investigators subsequently learned something else: R.J. Reynolds paid for sc of those charged with smuggling to attend a high-stakes fishing tournament in British Columbia the following year, according to documents filed here and in Syracuse.

Authorities say the smuggling operation involved separate criminal organizations headed by Larry V. Miller and Lewis Tavano, who both own homes in Mas ena and Las Vegas. In June 1996, Miller and Tavano were planning to go to British Columbia for a fishing tournament, according to an affidavit filed in an Ontario court.

But Miller -- as well as Tavano and others from the St. Regis area -- didn't have to worry about paying the $ 10,000 entry fee for the fishing tournament.

In the Syracuse affidavit, Tavano is quoted as saying that R.J. Reynolds was paying the $ 10,000 fee for 12 to 14 members of his group and that the tournament's top prize would be $ 500,000.

Les Thompson did not return calls to his office at R.J. Reynolds headquarters in Winston-Salem, N.C. The company's Canadian affiliate, RJR-Macdonald, issued a statement saying it always complies with U.S. and Canadian laws. R.J. Reynolds Tobacco Co. issued a statement saying it doesn't comment on grand jury investigations.

In July, the grand jury that indicted 21 people in the $ 687 million smuggling ring subpoenaed documents from R.J. Reynolds Tobacco Co. and affiliated companies, according to a quarterly financial report filed by their parent company.

U.S. Attorney Thomas J. Maroney, who is prosecuting the St. Regis smuggling ca e, said he could not comment on whether the investigation was targeting R.J. Reynolds. But he cautioned against jumping to conclusions. He hinted that the subpoenas were just an effort to gather more information about the smuggling operations and the tobacco company may not be targeted.

But Canadian investigators are looking into how much tobacco companies knew about -- or may have been involved in -- that country's burgeoning trade in contraband cigarettes, according to Sgt. Gilles Duguay of the Royal Canadian Mounted Police.

In 1991, Canada exported 4.5 billion cigarettes to the United States, but with tobacco taxes rising, that number rose to 15.6 billion in 1993, according to Statistics Canada.

''There were no special marketing strategies,'' said Duguay, a member of an anti-smuggling task force. ''So what do you attribute it to?''

Authorities suspect the increase is attributable to smugglers.

The motive was clear: Today in Canada, a pack of 20 cigarettes costs about $ 3, but in 1993 taxes had pushed the price to $ 5. Authorities say those charged with smuggling through the St. Regis reservation bought large amounts of cigarettes from Canada, stored them in warehouses in upstate New York and then s uggled them through the reservation to the Canadian black market, sidestepping Canadian taxes and duties. The bootleg cigarettes sold for anywhere from $ 2.50 to $ 4 per pack. Duguay said there were usually two layers of middlemen between tobacco companies and smugglers.

But anti-smoking advocates say the tobacco firms should be held accountable because they must have known that much of their sales was ending up on the black market.

Critics say industry executives had no financial incentive to ask lots of questions. ''When they sell to a warehouse in upstate New York, they get their full price,'' said David T. Sweanor, senior legal counsel of the Non-Smokers Rights Association based in Canada.

He alleges that Canadian companies knew there was no legitimate American market for the millions of cigarettes exported to the United States when Canadian tobacco taxes soared. They must have known that popular Canadian brands such as du Maurier, Rothmans, Players and Export A were not going to U.S. cities, but back into Canada via the smugglers, he said.

He alleged that the tobacco companies fed the smuggling trade and then ov rstated the problem to pressure the Canadian government to lower its tobacco taxes. Anti-smoking groups favor high taxes as a way of curtailing smoking, but the Canadian government ended up cutting those taxes in February 1994.

Tobacco industry officials deny allegations that they know about or encourage s uggling, saying the black market activity is a law enforcement problem and the bla lies with illegal smugglers, not manufacturers of legal products.

Thomas Lauria, a spokesman for the Washington-based Tobacco Institute, said s uggling flourishes when high taxation in one jurisdiction creates a price imbalance that makes illicit trade lucrative. ''High taxes beg organized crime to fill a vacuum,'' he said.

But Lauria said he is not surprised that critics are blaming the manufacturers. ''Everything but the death of Mother Teresa is being blamed on the tobacco industry,'' he said.

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The Boston Globe

June 10, 1996, Monday, City Edition

SECTION: NATIONAL/FOREIGN; Pg. 1

LENGTH: 2637 words

HEADLINE: Cigarette firms condemn smuggling, gain from it;
TOBACCO'S WORLD Second of three parts

YLINE: By Anthony Flint, Globe Staff

DATELINE: HONG KONG

BODY:

Tommy Chui was going to tell all. But almost anybody on the waterfront could have told him he'd only end up dead.

A businessman cooperating with an investigation of cigarette smuggling here, Chui had promised to identify a major smuggling ring in a court trial last year. But two weeks before he was to testify, police pulled his badly beaten body from the Singapore harbor. In case anyone missed the point, his murderers taped his mouth shut and wrapped a chain and padlock around his neck.

Ten thousand miles away, alone in a Plymouth County Jail cell in Massachusetts, Jerry Lui is silent as well. A former executive for British A rican Tobacco Co., or BAT, based in Hong Kong, Lui is charged with taking kickbacks from the same smugglers Chui had implicated. Arrested while visiting ton in December, he has hired a top lawyer to fight his extradition. Investigators doubt they will ever have the chance to interrogate Lui in court.

But if Chui has been silenced and Lui isn't talking, questions about the booming business of cigarette smuggling are increasingly being directed at the source of the product: the tobacco companies themselves.

As the American and British tobacco industry pushes aggressively into new foreign markets, smuggling has emerged as a prickly issue. Roughly 300 billion, or nearly one-third of all exported cigarettes, wind up as contraband every y r, according to a recent World Health Organization study. Far from hurting business, research from inside and outside the industry shows, smuggled cigarettes help the companies establish a competitive presence, especially in closed markets or countries with high tariffs.

Growing awareness of how smuggling benefits the tobacco industry, coupled with recent court cases that link tobacco executives to the practice - including the Lui case and a separate case in the US charging present and former Brown & Williamson employees with smuggling cigarettes into Canada - has put the industry on the defensive.

The standard strategies that tobacco companies employ to penetrate foreign markets - advertising and promotion, buying up foreign manufacturing facilities, promising big money for foreign governments - may be objectionable to some, but they are legal. Smuggling, on the other hand, is a criminal activity, run by often-ruthless organized crime groups from Vietnam to Italy.

"BAT is very, very anxious about this case," said Judith Mackay, head of the Asian Consultancy on Tobacco Control, based in Hong Kong, and an expert prosecution witness in the Lui case. "People are being killed. The world is going to see the outrageous behavior that's going on."

Simply a fact of life

BAT officials stress that they sell cigarettes to legitimate traders and have no connection to smuggling. Generally, tobacco industry representatives say they do everything they can to fight smuggling, but can't prevent it or stop the involvement of some of their employees.

"Smuggling is a fact of life in this part of the world. It's endemic," said Robert Fletcher, chairman of the Tobacco Institute of Hong Kong, which represents the industry in Asia. "It happens wherever you have high tariffs and high demand - whether it's a Mercedes or a pet dog."

China, whose state-owned tobacco monopoly is the largest in the world, has charged tariffs as high as 430 percent on imported cigarettes, and until recently sharply restricted their distribution. US and British tobacco companies are pushing hard for a piece of the market in China, a country with re than 300 million smokers. Today, foreign brands constitute 2 percent of the market.

Given the high taxes, restrictions on imports and popularity of Western products, the prevalence of smuggling is not surprising, industry representatives say. But it's both unfair and unwarranted to suggest that tobacco companies endorse smuggling as a strategy, they say.

"We unequivocally do not condone it. It's illegal," said Joe Helewicz, a spokesman for Brown & Williamson, whose parent company is BAT. Corporate complicity in smuggling is a "wild charge" being pushed by "anti-tobacco extremists," he said, a conspiracy theory without factual basis.

Evidence is mounting, however, that raises serious questions about smuggling and the tobacco industry: first, the staggering volume of the industry's product that ends up as contraband; second, the ways that smuggled cigarettes benefit the industry's forays into foreign markets; and third, the recent court cases linking tobacco executives to smuggling.

The smuggling-sales link

Smuggling is at an all-time high worldwide, and research shows that smuggling peaks in tandem with the industry's expansion into foreign markets.

The US Surgeon General's office, studying the tobacco industry's penetration of Latin America, concluded in a 1992 report that "the entry of transnational corporations into the . . . market had a strong temporal relationship with contraband trafficking in cigarettes."

Tobacco companies say smuggling naturally abounds where there is more product. But the basic structure of how cigarettes are sold abroad seems to contribute to the problem.

The Boston Globe, June 10, 1996

Most cigarettes exported from US companies don't go directly to their final (tinations, but to places that re-export them. Belgium was the world's No. 1 importer last year, taking in 71 billion cigarettes, according to the United States Department of Agriculture. Japan imported 62 billion, and such nations as Singapore, Cyprus, Lebanon and Hong Kong each took in 7 to 10 billion.

From there, substantial numbers simply disappear. A new study by Neil Collishaw, a researcher for the World Health Organization, found that every year approximately 300 billion cigarettes exported by tobacco companies cannot be traced to their final destinations - about a third of the total produced for international sale. "It's a safe conclusion that a substantial portion of those have been smuggled," he said.

From Belgium, for example, cigarettes commonly are sold to a series of distributors in different European nations, before ending up in the hands of smugglers who sneak the contraband out of the continent through the former Yugoslavia and into Spanish ports, according to Lok Joossens, a Belgium-based consultant for the European Commission. Joossens did an exhaustive study of smuggling patterns in Europe published in the British Medical Journal last year.

The sheer number of cigarettes sold by Western tobacco companies that end up in smugglers' hands is damning enough for some critics.

"If IBM said that they exported 10 million computers, but only knew where 7 million went, people would laugh. People would say that's outrageous," said David Sweanor, head of the Non-Smokers Rights Association in Ottawa, Ontario. "Why aren't they being asked to keep better track of what they sell?"

But tobacco companies say they can't, and shouldn't have to, keep track of ev ry pack they sell.

"The tobacco industry cannot be a policing organization," said Jan Smith, spokeswoman for RJR. "It's just not reasonable to ask tobacco manufacturers to track their product all the way through all these individual hands. That's not expected of any other industry."

The industry also makes a larger point: that smuggling is bad for their bu iness, and they'd like to stamp it out.

"Anytime cigarettes are smuggled, you can't sell the cigarettes directly. Our preference would be to have access to a market and sell directly, to have revenues accrue to Brown & Williamson," said Helewicz.

Opening doors

Research shows, however, that smuggling can help the tobacco business.

Philip L. Shepperd, a marketing professor at Florida International University who studied the tobacco industry's penetration of the Latin America market in the 60s and 70s, said smuggled American brands were sold at competitive prices, since the price did not include the high tariffs all the region's nations imposed.

"That was important. Even with all their panache, American brands were not sufficiently strong to beat the local competition. People were very loyal to the local product," he said. "An extra hook was needed, and that was the pricing."

In time, US tobacco companies beat back the local competition, moved in and took over domestic manufacturers. "The only local companies to fight it out were the Colombians. Everyone else capitulated. And once that happened, the smuggling virtually disappeared - except in Colombia."

In Europe, where European Union officials have started an investigation of the problem, tobacco companies benefit from smuggling in several ways, said Joossens.

First, the companies realize a legal 20-cent per pack profit selling cigarettes to a warehouse in Belgium. Then the smuggled products end up on the streets in emerging markets in Eastern Europe. The cigarettes are particularly appealing because most of them have the US government health warning on them, indicating they are the "real thing," Joossens said. "It's the best promotion you can imagine." American brands manufactured locally and then distributed have different markings.

Finally, Joossens said, the governments of those countries are reluctant to raise taxes on imports, and often end up lowering them because they fear more s uggling.

The industry itself acknowledges that smuggling can establish a market presence. A 1995 report by British financial analysts for BAT says the back-door introduction of cigarettes into China - referred to as "informal channels" - has long helped establish a presence there.

The report, by NatWest Securities, states that in China, "legal imports have effectively been restricted. . . . However, since BAT's cigarettes reach the Chinese market through informal channels, mostly from Hong Kong, this has had little effect on actual volumes.

"BAT's State Express 555 brand is probably the most sought after in China," the report continues. "It is known in China to have been Mao's favorite cigarette, even though foreign cigarettes were not officially available at all at that time."

What has raised eyebrows about the tobacco industry and smuggling more than anything else, however, is the recent implication of tobacco executives in the practice.

Jerry Lui, the man fighting extradition to Hong Kong, was export manager for BAT - responsible for the distribution of products to trading companies in the region. The Independent Commission Against Corruption, the agency investigating cigarette smuggling in Hong Kong, charged Lui with accepting $ 1.7 million in bribes from associates of the Giant Island trading company, which has been implicated in the broader probe of smuggling.

Smuggling is a competitive business in Hong Kong, and kickbacks and intimidation tactics by "triad" gangs have become routine, authorities say. "It's like the Wild West here," said one official familiar with the investigation who asked not to be identified.

The Boston Globe, June 10, 1996

"It is a highly profitable trade," perfectly camouflaged by the busiest container port in the world, said Pang Kui-sum, an investigator with the Hong Kong Customs and Excise Department.

Hardly a week goes by without a seizure in Hong Kong; some 300 million smuggled cigarettes were hauled in last year. On the morning Pang was being interviewed last month, he got a call from agents saying contraband cigarettes had been seized in a fishing vessel in the typhoon shelter here.

Sc nt of a breakthrough

With the Giant Island case, Hong Kong authorities sensed a big breakthrough. They had the testimony of Chui - the man murderse of several hearings last nth, Silverglate has argued that extraditing Lui is tantamount to handing him ov r to the Chinese government, which takes over Hong Kong on July 1, 1997. The Chinese "want to stamp out the smuggling of Western cigarettes because they're losing $ 1 billion a year in tariff revenue, and they don't want their own brands competed against," Silverglate said. "I have no doubt he will be executed."

While Silverglate said he personally has no love for the tobacco industry, and adds that he is not being paid with tobacco money, his advocacy is throwing a wrench into efforts to get to the bottom of the cigarette smuggling business, Hong Kong officials say.

The US Attorney's office in Boston wants Lui returned to honor the extradition treaty with Hong Kong, and nothing more. But Lui's testimony is of interest to US investigators involved in a case unfolding in federal court in N Orleans.

There, US Attorney Eddie J. Jordan Jr. has charged a present and former executive of Brown & Williamson, among others, with smuggling cigarettes into Canada. A federal grand jury handed up indictments last month, charging Michael Bernstein, 50, the East Coast regional account manager for Brown & Williamson, and Richard Wingate, 51, the company's former sales account manager for Louisiana.

Jordan alleged that in the scheme, cigarettes bound for sale offshore were diverted to a Vietnamese gang that smuggled them across the New York border into Canada, where they were sold tax-free for a $ 1 million windfall profit.

'A marketing strategy'

Court documents that were part of Jordan's investigation allege that the scheme was condoned by Brown & Williamson as a "marketing strategy" to boost sales in Canada, and that the employees involved were commended in their performance evaluations for pulling it off.

Ultimately, Jordan did not charge anyone higher up in Brown & Williamson. But in an interview before the indictments were handed up, he said: "Obviously, this is to the benefit of the company. If all those cigarettes had been subject to the tax, you wouldn't realize the same profit.

"It's reasonable to infer that something like this may not be an isolated occurrence," Jordan said. "I don't know that the company is orchestrating it, but if there are many instances like this, and the company is looking the other way, well then we've got another set of circumstances."

Jordan said prosecutors in the Boston US Attorney's office had notified him because of the similarities in the Lui case.

In a statement released the afternoon the indictments were made public, the first point Brown & Williamson made was that "there are no allegations directed at the company or any of its executives," only "the alleged actions of two B&W field sales employees."

"Smuggling hurts business and consumers, and is certainly not confined to tobacco," the company said. "Other US industries are plagued by this problem, including distilled spirits, cosmetics and pharmaceuticals. However, this case is being put in the spotlight because cigarettes are involved, while bigger issues of smuggling and product diversions impacting other international industries go practically unnoticed."

In Italy, meanwhile, government authorities this spring launched a case against Philip Morris, alleging the company knew that its products were being distributed to smugglers. The Italian government made a similar claim in 1991, saying Philip Morris did not do enough to keep its products off the black market, and instituted an 80-day ban on the sale of Philip Morris products. The company strongly denies the allegations.

Taken together, the cases in Hong Kong, New Orleans and Italy, as well as the European Union probe of smuggling across that continent, suggest a pattern that tobacco foes find hard to dismiss as coincidence.

"This is not something that happens simply because organized crime gets its hands on cigarettes," said Pamela Furness, head of Action on Smoking and Health, an antismoking group in London. "This is a managed process."

Tomorrow: The debate in Washington To read the series online and for links to related web sites, go to Globe Online at http://www.boston. Use the keyword: king.

GRAPHIC: PHOTO MAP, AFP PHOTO / A French customs official inspects contraband seized May 24 in Perthus on the Spanish border. Europe serves as a clearinghouse for smuggled cigarettes, many of which end up in markets throughout the Far East.

LANGUAGE: ENGLISH

LOAD-DATE: June 10, 1996

11TH STORY of Level 1 printed in FULL format.

International Herald Tribune (Neuilly-sur-Seine, France)

August 26, 1997, Tuesday

SECTION: News; Pg. 1

LENGTH: 1327 words

HEADLINE: Tobacco Firms Know: Where There's Smoke, There's Smuggling; Billions of Dollars Involved in Black Markets

BYLINE: By Raymond Bonner and Christopher Drew; New York Times Service

DATELINE: NEW YORK

BODY:

The largest tobacco companies are selling billions of dollars of cigarettes e ch year to traders and dealers who funnel them into black markets in many countries, say law enforcement officials and participants in the trade.

In the last decade, the volume of cigarette smuggling around the world has nearly tripled, according to a leading tobacco research organization. This reflects a general surge in cigarette sales abroad, especially for U.S. brands. And industry officials acknowledge that a sizable share - the researchers say one-fourth - of the cigarettes sold overseas pass through smuggling rings set up to evade foreign taxes and sell major brands at a discount.

The companies say they do nothing to encourage the smuggling and do not condone it.

But recent criminal investigations in several countries show that people in the tobacco industry have played a significant role at times in stimulating and fueling it.

In one case, two sales managers for Brown & Williamson Tobacco Corp. have pl aded guilty to aiding smugglers. But what law enforcement agents say is far re common is for the companies to sell huge quantities of top brands to traders and dealers who are little more than pipelines to the smugglers.

For instance, newly available court documents show that R.J. Reynolds Tobacco Co., the second-largest U.S. cigarette maker, sponsored trips to a posh Canadian fishing resort for several dealers who have since been charged with conspiring to smuggle cigarettes into Canada. On one fishing trip in 1995, a Reynolds salesman even joked with the dealers about the smuggling.

Some of the dealers admit that they pour huge volumes of cigarettes into the ıggling networks.

One of Europe's biggest cigarette traders, Michael Haenggi, said in an interview that he had been buying Winstons from Reynolds for 15 years and had r old many of them to smugglers in Spain. Mr. Haenggi said his three-person trading company in Switzerland had handled $100 million in sales last year

''Of course I know where the cigarettes are going,'' he said. ''But is that my problem?''

Other inquiries show that two organized-crime groups in Italy take in $500 million a year by smuggling in Marlboros they buy from Swiss dealers selling products made by Philip Morris Cos., America's largest cigarette maker.

Hong Kong prosecutors plan to place a former marketing manager for British-American Tobacco Corp., a subsidiary of BAT Industries PLC and a British affiliate of Brown & Williamson, on trial this year on charges that he took more than $3 million in bribes from dealers involved in smuggling cigarettes into China.

Spokesmen for the three cigarette companies said they did not knowingly sell to dealers who supply smugglers and refused to discuss any of the criminal cases. But they said that while a few salesmen might have been too aggressive, their executives had done nothing wrong and that the companies should not be held accountable for what happens once they sell their products.

The smuggling costs foreign governments an estimated $16 billion a year in lo t revenue. But more important, health experts say it threatens to undermine initiatives in many nations to discourage smoking, particularly among teenagers.

That is because young people tend to smoke more when they can buy cigarett s ch ply, and smuggled brands often sell for about a third less than ones on which taxes and customs duties have been paid.

The sheer scope of the smuggling also could force changes in the $368.5 billion settlement being negotiated with the U.S. tobacco industry. The proposed agreement says that before the government could order the companies to lower the nicotine in cigarettes, it would have to guarantee that smugglers would not bring in more potent substitutes. But given how easily smuggling can take place, President Bill Clinton said last month that this provision was unreasonable and should be changed.

The recent surge in black-market sales has many causes, from the relaxation of customs inspections in Europe to the opening of vast new markets in Russia and Eastern Europe.

Market Tracking International Ltd., a research firm in London that provides data to tobacco industry publications, estimates that 280 billion of the 1 trillion cigarettes exported each year by all producing nations pass through the hands of smugglers, up from 100 billion in 1989.

The rise in smuggling also has coincided with a massive push by U.S. companies to expand overseas, which they see as a way to offset a decline in sales at home. American cigarettes are regarded as top quality and are seen as chic in many countries.

But as popular as American and other Western brands are, the companies also run into various sales barriers, including high taxes, limits on imports and countries where cigarette distribution is corrupt.

The smugglers, though, have increasingly maneuvered around such limits.

To be sure, in cities from Naples to Bogota, the image of street peddlers hawking contraband cigarettes has been an enduring one.

The manufacturers benefit in that they normally receive the same price for cigarettes whether they end up in contraband markets or not. And despite markups by dealers, smugglers and salespeople, contraband cigarettes can still be sold ch aply and profitably because the savings from evading taxes can be so great.

Law enforcement officials say that the dealers usually provide such a distance between the companies and the smugglers that it would be hard to consider charging the companies with doing anything illegal.

Yet, even some dealers say that they and the companies sell the cigarettes so indiscriminately that they both know certain sales are headed for the black rket.

If the companies say they do not, ''it's a lie,'' said Corrado Bianchi, who said he had sold Philip Morris cigarettes as a dealer in Switzerland before retiring two years ago. ''Of course they know.''

Mr. Bianchi said he had sold large quantities of Philip Morris brands ''to 200 people maybe, and they come from all over, Dutch people, Germans, Spanish, Greeks, Italians.'' But, he said, he never asked the buyers what they were going to do with the cigarettes. ''In our work, you can't ask what they do with the cigarettes.''

One result is that Mr. Bianchi ended up selling Philip Morris products to an organized-crime figure now on trial in Italy, prosecutors there say. Mr. Bianchi hi elf is not a defendant, and he has denied that he did anything wrong.

Andre Reiman, a senior vice president for a Philip Morris subsidiary in Europe, questioned whether the company had sold cigarettes directly to Mr. Bianchi. ''As far as we can determine, he has never been a customer,'' he said.

''I am not going to sit here and tell you there is not contraband in cigarettes,'' Mr. Reiman added. ''It's there. The causes are just a little more complicated than people believe.''

Philip Morris executives in New York said smugglers competed with the company's distribution system and jeopardized investments in overseas factories.

Adam Bryan-Brown, a spokesman for Reynolds's international tobacco subsidiary in Geneva, said governments were responsible. ''The root causes of contraband are well known - the high duties and taxes imposed on cigarettes, '' he said.

But Per Brix Knudsen, the director of an anti-fraud unit for the European Union, said: ''It's astonishing that these big producers are not more concerned that such a large quantity of their product is arriving on the illegal market. How is it that such a trade can take place?''

Much of Europe's tobacco trade takes place in Switzerland, where the law basically does not view selling cigarettes to people who smuggle them into another country as a crime. Investigators in the rest of Europe say that Swiss authorities - and tobacco companies themselves - are rarely willing to cooperate.

LANGUAGE: ENGLISH

LOAD-DATE: August 27, 1997

MEMORANDUM

TO: ELENA KAGAN

CC: JERRY MANDE

FROM: TOM FREEDMAN, MARY L. SMITH

RE: TOBACCO SMUGGLING: ATF EFFORTS

DATE: AUGUST 26, 1997

SUMMARY

ATF has provided us with a fuller written summary of their efforts on smuggling (attached).

* The most interesting point is the obvious: when you raise the excise tax on cigarettes, you increase the likelihood that cigarette smuggling will occur. Canada raised taxes to increase revenue and discourage smoking and has faced this problem. The enterprise currently under indictment had assets from the illegal activity estimated at over $500 million.

* ATF has some things going on, approximately "65 investigations involving Canada/US, Mexico/US, interstate and Native American sales" but no apparent national strategy. ATF reports a large increase in investigations in tobacco contraband since 1992.

* Regarding the settlement, the most promising thought would be to add to the settlement some provision to encourage American efforts to liaison with international efforts on smuggling.

BRIEFING PAPER
DIVERSION BRANCH
AUGUST 26, 1997

Criminal tobacco trafficking usually occurs when foreign governments or state governments impose a higher excise tax on tobacco products than found in surrounding jurisdictions. These tax disparities lead to large-scale tobacco (cigarette) diversion from a lawful to an unlawful destination, thus defrauding the state or foreign governments of their due revenue.

There has been an over 500% increase from 1992 to present in the number of contraband cigarette trafficking tobacco investigations that ATF is conducting. The recent rise in trafficking is attributable to a number of factors, most notably a significant increase in both Canadian federal and provincial tobacco taxes in the late 1980s/early 1990s and an increase in certain states' cigarette taxes. Intelligence has determined that there exists a network of traditional and nontraditional organized crime groups operating transnationally. ATF is working approximately 65 investigations involving Canadian/U.S. and Mexican/U.S. cigarette trafficking, low-state-to-high-state trafficking, and Native American illegal sales.

Canada's initial tax increase was an attempt to generate health care revenue and to decrease cigarette consumption. The criminal diversion of tobacco products into Canada evolved from small, individual smuggling activities into sophisticated criminal enterprises. Canadian/U.S. criminal organizations have defrauded the Canadian government of between one and two billion dollars in revenue per year. ATF, IRS, US Customs and other Federal agencies recently indicted 21 individuals allegedly involved in Canadian/U.S. alcohol/tobacco trafficking to Canada. Assets from this illegal activity are estimated at over $500 million. In a similar scenario, higher state taxes in the Southwest has brought about U.S./Mexican diversion involving U.S. cigarettes "for export only." Export cigarettes are exempt from Federal taxes.

In the low-state-to-high-state trafficking, Michigan shows the greatest loss of state revenue with a conservative estimate of $75 million per year. Michigan has the third highest cigarette taxes in the U.S. Michigan traffickers obtain illegal cigarettes from wholesalers and retailers located throughout the South, where tobacco is traditionally taxed at a lower rate.

ATF is also working in conjunction with state revenue and law enforcement authorities investigating illegal Native American cigarette sales to non-Native Americans. Native American cigarette tax structure varies by state although the supplier of cigarettes involved in the trafficking have been from out-of-state wholesalers. Smoke shops making illegal tax-free sales in New York, Oklahoma, Arizona, New Mexico, Washington state and Montana have been identified.

ATF is conducting ongoing liaison with other foreign law and revenue enforcement authorities to ascertain the scope of cigarette trafficking worldwide. ATF is also currently working with criminal investigators and tax officials in East European countries to develop tobacco regulations and also establish criminal enforcement in this area. For more information contact Chief, Diversion Branch, (202)927-8210.

Salient Points

Statistics in article citing extent of contraband trafficking are too high.

Some companies within the Tobacco Industries appear knowledgeable about contraband trafficking. HOWEVER, corporate structure with International and Domestic Offices/Companies, appear in direct competition, i.e, a domestic office will be hurt by trafficking because it competes with their distribution system. ATF has worked with R.J.Reynolds, Philip Morris, etc. to obtain prop cigarettes, etc, and met to discuss counter-trafficking measures.

Created Diversion Branch to focus primarily on A/T criminal activity.

24-hr Cigarette Hotline to report thefts and hijacking of shipments involving 60,000+ cigarettes. (Established with ATF and the Federation of Tax Administrators)

Alcohol and Tobacco Database to track diversion and trafficking activity based on ATF criminal and regulatory investigations

Creating Diversion Assistance Team (DAT) composed of Special Agents, Inspectors, Auditors, and Intelligence personnel to assess and assist in diversion investigations

In 1996, ATF seized $804.373 in alcohol and tobacco, arrested 97 subjects, obtained 24 indictments, and obtained 6 successful prosecutions.

Criminal and civil violations include Internal Revenue Code (IRC), the Contraband Cigarette Trafficking Act (CCTA), Jenkins Act (not under our jurisdiction), and statutes relating to commerce with Indians, wire and mail fraud, money laundering, conspiracy and the Racketeer Influenced and Corrupt Organizations (RICO).