

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

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A Brief for

The Honourable Jim Flaherty, P.C., M.P.

Minister of Finance

Regarding Budget 2009

Endorsers

Action on Smoking and Health
Canadian Cancer Society
Canadian Council for Tobacco Control
Canadian Dental Association
Canadian Lung Association
Heart and Stroke Foundation of Canada
Non-Smokers' Rights Association
Ontario Campaign for Action on Tobacco
Physicians for a Smoke-free Canada
Quebec Coalition for Tobacco Control

December 19, 2008

Executive Summary

After years of impressive progress, recent data suggests that smoking rates in Canada have flat-lined. The Canadian Coalition for Action on Tobacco wants the federal government to increase tobacco taxes in order to reduce cigarette consumption, and recommends that immediate action be taken to stop contraband tobacco. Further, it is essential that there be no further cuts to funding for tobacco control programming at Health Canada, and that funding be restored for a mass media campaign and for an aboriginal tobacco control strategy.

Higher tobacco taxes lead to reductions in smoking. This is well documented, including in an extensive, seven-volume evidentiary compilation submitted by the Canadian Cancer Society to the House of Commons Standing Committee on Finance in 2001. As a policy tool, taxation is used to increase the retail price of tobacco products thereby decreasing their economic availability. Higher price discourages uptake of smoking behaviour among young persons (Zhang et al. 2006) and encourages quitting among smokers.

Despite this, Canada has not seen a tobacco tax increase at the federal level since June 2002. This is largely due to the contraband tobacco crisis that has emerged in recent years. However, this crisis is solvable, if the government invests in solutions. We welcome the RCMP's Contraband Tobacco Enforcement Strategy released in May 2008. However, this strategy has not resulted in an actual reduction in contraband volumes. It is essential that specific new concrete measures be put in place, as outlined in this brief.

Well-funded, sustained mass media and other programmes are effective at decreasing smoking. Existing programming initiatives take on an even greater importance due to the adverse impact on smoking rates because of contraband. Health Canada's tobacco control funding should be maintained and enhanced.

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). 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 available for as little as \$6 per carton of 200 cigarettes, compared to the full legal price of \$50-\$70 in Ontario and Quebec, depending on the brand.

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. 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 importance of the need for action is underlined by the recent report of the Auditor General of Ontario, finding that tobacco contraband is costing the Ontario Government \$500 million per year. The Auditor General attributed the high levels of contraband to inadequate policy measures and inadequate surveillance.

Why should the Government be concerned?

Illegal tobacco sales are also costing federal and provincial governments billions of dollars in revenue that could be used for health initiatives, or other government priorities. In Ontario, the Auditor General just reported that contraband tobacco sales in the province are resulting in the loss of \$500 million in provincial tax revenues. It is estimated that at the federal level, this revenue loss exceeds \$1 billion annually.

In addition to the public health consequences, and massive negative impact on government revenue, 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 as much as 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.

Kahnawake (near Montreal, Que.) and Tyendinaga (near Belleville, Ont.) are also manufacturing sources for contraband tobacco. 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.

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 community.

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 were 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.

Solutions proposed for Budget 2009 – Contraband

Tobacco contraband in Canada is an enormous problem. Urgent action is needed. To address the problem, the Canadian Coalition for Action on Tobacco requests that Budget 2009 include adequate funding to implement the following measures:

- 1. The federal government must persuade the U.S. government to shut down the dozen illegal, unlicensed factories located on the U.S. side of Akwesasne.** By far the largest source of contraband in Canada originates on the U.S. side of Akwesasne. Eliminating this source must be the top priority. The Americans must act. Indeed it is in the interest of the U.S. to act, for reasons of border security and national security. Criminals that exploit the Akwesasne territory by bringing cigarettes to Canada return to the U.S. with drugs, weapons and sometimes people. If the situation were reversed and the U.S. was flooded with illegal cigarettes from Canada, costing U.S. federal and state governments more than \$10 billion annually by comparison, the U.S. Government would insist that Canada take immediate action.
- 2. Prohibit the supply of raw materials (including cigarette packaging, cigarette filters, cigarette paper, in addition to leaf tobacco) to anyone without a tobacco manufacturer's licence.**

By way of illustration, in Ontario the *Gaming Control Act* prohibits the supply of goods or services used for gambling to anyone without a provincial gaming licence.

For the Americans, control of raw material inputs headed to the U.S. side of Akwesasne would also be desirable, for example by targeting leaf tobacco from North and South Carolina being supplied to manufacturers at St. Regis.

- 3. Establish a minimum bond of at least \$5 million to obtain a federal tobacco manufacturer's licence.** At present, the bond ranges from just \$5000 to \$2 million. But it is possible for a new apparently small company to get a licence for only \$5000. This is unacceptable. A meaningful bond would give the government financial leverage to encourage compliance. Breach of laws would mean that the bond would be forfeited in whole or in part.
- 4. Revoke licences of manufacturers acting illegally, including for violation of provincial laws.**

5. **Establish a full tracking and tracing system to monitor product shipments, just as Purolator Courier does, and to identify points of diversion.**
6. **Promote the opportunity to implement a First Nations tobacco tax equal to provincial tobacco tax.** Note there is little awareness that this is already authorized by the federal Budget Implementation Act, 2006. First Nations would require an agreement with the province, and First Nations would keep the revenue. In terms of contraband prevention, there will be benefits in the long term.

Note that the Cowichan First Nation on Vancouver Island has a tobacco tax, and the White Cap Dakota First Nation in Saskatchewan has a new liquor tax. These are examples to consider.

This First Nations tobacco tax should be distinguished from GST. Several dozen First Nations now collect GST on tobacco products, but this may only be \$3 per carton – minuscule compared to provincial/territorial tobacco tax of \$20-\$42 per carton.

7. **Increase penalties,** in order to better deter the contraband tobacco trade.

For contraband prevention measures, there is a role for provinces as some measures can only be implemented at the provincial level.

On November 2, 2008, Canadian Press reported that the federal government is considering duty-free arrival stores in airports. We recommend that the government abandon any further consideration of allowing tobacco products to be sold in such stores. The government should not be providing increased availability of cheaper tobacco products.

In 2008, negotiations began for the Illicit Trade Protocol under the WHO Framework on Tobacco Control. This would be a binding international agreement among countries to curb contraband tobacco. Regrettably, at the second negotiating meeting in October 2008, Canada repeatedly sought to weaken the draft text of the agreement under negotiation. Indeed, for its negative role, Canada received the “Dirty Ashtray” award from the Framework Convention Alliance, an organization representing more than 300 non-governmental organizations. We urge that, for the next negotiating meeting in June 2009, Canada change its negotiating stance in order to play a constructive role, recognizing that this pending international agreement has the potential to be of important long-term benefit to reducing contraband tobacco in Canada.

On July 31, 2008, the federal government entered an out-of-court settlement in contraband litigation involving Imperial Tobacco Canada Ltd. and Rothmans, Benson & Hedges Inc. Public health considerations were not properly reflected in these agreements. It is essential that such deficiencies not be repeated should there be discussions regarding a settlement involving JTI-Macdonald.

Solutions proposed for Budget 2009 – Health Canada Tobacco Control Funding

It is recommended that there be no further cuts to funding for tobacco control programming at Health Canada, and that funding be restored for a mass media campaign and for an aboriginal tobacco control strategy.

Tobacco industry products exact an unacceptable toll on Canadian lives and the Canadian economy. More than 37,000 deaths every year are caused by tobacco use and the annual cost to society exceeds \$17 billion in direct health care costs, productivity losses, and fire damage.¹ The Federal Tobacco Control Strategy (FTCS) is the Government of Canada's response intended to stem this epidemic, for which the federal government committed \$480 million to Health Canada over its first five years, beginning in FY 2001-02.

From the outset the FTCS was subject to a series of funding cuts that saw total funding slashed in half—to \$240 million—over the five years and wiped out both the mass media component and the separate First Nations and Inuit Tobacco Control Strategy. Federal funding to reduce tobacco use amounted to \$1.52 per capita per year from FY 2001-02 to FY 2005-06.² According to the seminal document prepared by the U.S. Centers for Disease Control, *Best Practices for Comprehensive Tobacco Control Programs*, adequate funding for a jurisdiction with Canada's population requires funding of \$7.85-\$16.75 per capita—between 5 and 10 times higher than funding provided to Canada's federal tobacco control strategy.³

A significant portion of the funding under the FTCS (approximately 25% of actual spending in the five-year period FY 2001-02 to FY 2005-06)⁴ is in the form of Grants and Contributions to regional, provincial and national organizations working in all areas of tobacco control—educating Canadians about the health consequences of tobacco use and second-hand smoke exposure, informing Canadians about the activities of the tobacco industry, researching both the problem and innovative solutions and ultimately preventing youth uptake, protecting Canadians from tobacco smoke, and promoting cessation.

The Federal Tobacco Control Strategy provides a vision, national attention, and resources to address the number one cause of preventable disease and death in Canada. Government investment in tobacco control results in reduced tobacco consumption and prevalence, which in turn reduces the incidence, morbidity and premature mortality associated with tobacco-caused chronic diseases.

¹ Canadian Centre on Substance Abuse, *The Costs of Substance Abuse in Canada 2002*, March 2006.

² Health Canada, Evaluation and Strategic Planning, Tobacco Control Programme, *Federal Tobacco Control Strategy (FTCS): Summative Evaluation of the First Five Years 2001-2006, Final Summary Report*, March 2007.

³ U.S. Centers for Disease Control, *Best Practices for Comprehensive Tobacco Control Programs*, August 2007.

⁴ Health Canada, Evaluation and Strategic Planning, Tobacco Control Programme, *Federal Tobacco Control Strategy (FTCS): Summative Evaluation of the First Five Years 2001-2006, Final Summary Report*, March 2007.

Reductions in chronic disease morbidity and mortality yield gains in wages, corporate profits, and taxation revenue, as well as substantial savings in health care costs.⁵

In August 2007, the federal Health Minister announced new goals for the Federal Tobacco Control Strategy, including reducing overall prevalence to 12% by 2011. However, no further progress has been made in recent years in driving down smoking rates, with national prevalence flatlining at 19% since 2005.⁶ Research shows that without significant sustained investment in tobacco control, progress in reducing tobacco use is slowed or reversed. Furthermore, the “presumed costs saved from program cuts ... *reappear* as direct costs of health care and productivity losses from disability and premature death” [emphasis added].⁷

Canadians are almost unanimous (90-96%) in their belief that smoking and second-hand smoke are serious health issues and two-thirds believe that tobacco control should be a high priority of the federal government.⁸ The current economic challenges that Canada is facing are not a reason to cut back on the Federal Tobacco Control Strategy. The Strategy has experienced devastating cuts since its introduction. Further cuts will seriously jeopardize the progress Canada has made in reducing the health toll from tobacco use and exposure to tobacco smoke, making it impossible to reach the Strategy’s critical ten-year goals of reducing overall smoking rates to 12%, as well as youth smoking rates to 9% those aged 15-17.

Conclusion

For reasons of public health, public revenue and public safety, it is essential that the federal government take effective actions to get the contraband situation under control. It is recommended that the federal government implement the measures outlined in this brief without delay.

Further, it is essential that there be no further cuts to funding for tobacco control programming at Health Canada, and that funding be restored for a mass media campaign and for an aboriginal tobacco control strategy.

For further information:

Rob Cunningham, Canadian Cancer Society, 613-565-2522, ext. 305

⁵ Health Canada, Evaluation and Strategic Planning, Tobacco Control Programme, *Federal Tobacco Control Strategy (FTCS): Summative Evaluation of the First Five Years 2001-2006, Final Summary Report*, March 2007.

⁶ Health Canada, “Smoking Prevalence, Canada, 1999-2007,” *Canadian Tobacco Use Monitoring Survey (CTUMS) 2007*, August 2008.

⁷ Ontario Tobacco Research Unit, *OTRU Update: Effects Of Funding Cuts To Tobacco Control Programs*,” December 9, 2008.

⁸ Health Canada, Evaluation and Strategic Planning, Tobacco Control Programme, *Federal Tobacco Control Strategy (FTCS): Summative Evaluation of the First Five Years 2001-2006, Final Summary Report*, March 2007.

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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