

Tackling Tobacco Smuggling Together

An integrated strategy for HM Revenue & Customs
and the UK Border Agency

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Foreword

Since the Government's Tackling Tobacco Smuggling strategy was introduced in 2000, tobacco smuggling has been steadily reduced.

In that period, we have cut the size of the illicit cigarette market share by a third, meeting or exceeding every key target that has been set since the strategy was introduced. We have seized over 14 billion cigarettes and more than 1000 tonnes of hand rolling tobacco in the UK and abroad. We have broken up over 370 criminal gangs, successfully prosecuted over 2,000 people and issued over £35 million worth of Confiscation Orders.

However, despite these impressive results, we recognise that there is still much more to do. The Government is determined to continue to crack down on smuggling, which undermines the achievements that have been made over the past decade in reducing the devastating impact of tobacco use in our communities. Smuggling also damages law-abiding businesses and funds other forms of organised crime. It is essential, therefore, that our strategy remains dynamic, as smugglers constantly change their tactics to try to maintain profits.

Looking ahead, a new partnership between HM Revenue & Customs and the UK Border Agency will be central to the Government's strategy.

The UK Border Agency was launched in April 2008. It will integrate the frontier work of HM Revenue & Customs with the Border and Immigration Agency and UK Visa Services. Its creation brings new opportunities to enhance the tobacco strategy, using the combined strength of HM Revenue & Customs and the UK Border Agency at home and abroad, to improve the detection of illicit tobacco at the UK border and beyond.

This joint strategy document describes how, working together, the UK Border Agency and HM Revenue & Customs will make life progressively tougher for smugglers.



A handwritten signature in black ink that reads "Angela Eagle".

Angela Eagle MP
Exchequer Secretary to the Treasury



A handwritten signature in black ink that reads "Phil Woolas".

Phil Woolas MP
Minister of State
Home Office, HM Treasury

Executive summary

Our joint strategic approach

The Tackling Tobacco Smuggling strategy has been the foundation of the Government's success in reducing the illicit tobacco market. A new partnership between HM Revenue & Customs and the UK Border Agency, drawing on the strengths of both organisations, will now take the strategy forward, ensuring that there is no let-up in the fight against tobacco smuggling.

Our strategic approach will focus on the following key objectives:

- **A broader collective understanding of the risks** - through our combined risk and intelligence capability, we will enhance our understanding of the threats from tobacco smuggling, in order to develop the most appropriate responses.
- **The most effective deployment of our resources** – through improved intelligence, risk profiling, tasking and coordination, we will make the most effective use of our people and equipment to detect and disrupt the supply of illicit tobacco products.
- **Increasing the deterrent value of our activity** – working collaboratively with other enforcement agencies at home and abroad, we will increase public awareness of the consequences of the illicit tobacco trade, and the adverse impact this has on our citizens, communities and the UK economy. By doing this, we will make it more difficult for smugglers to dispose of illicit tobacco products.
- **Improving detection at the border** – we will continue to build on our increased capability at the border following the creation of the UK Border Agency. We will also examine ways to enhance the effectiveness of our combined resources overseas to identify and tackle threats further up the illicit supply chain.
- **Increasing the impact of our inland enforcement activity** – the creation of a nationwide network of inland excise enforcement teams will see a new focus on tackling the supply of illicit and counterfeit tobacco in our communities, both in the formal retail sector and through wholly illicit channels. These teams will work closely with local and regional tobacco control partners.
- **Making the most effective use of our combined powers and sanctions** – we will aim to make it increasingly harder to smuggle tobacco products into the UK, so that those who are caught will face a wider range of penalties and sanctions. We will also continue to modernise customs powers at the frontier, ensuring that the UKBA has the powers it needs to work in the most effective way.
- **Strengthening our international partnerships** – recognising that tobacco smuggling is a global problem, we will continue to work towards global solutions in international fora, including the Framework Convention on Tobacco Control. We will strengthen operational co-operation with EU and international partners. We will also seek to deepen political co-operation with source and transit countries to combat illicit tobacco.
- **Strengthening our regional and local partnerships** – Police, local government, health and business stakeholders all have a role to play in tackling the demand for and supply of illicit tobacco. We will work to strengthen our co-operation with local and regional partners.

Our roles and responsibilities

Tackling tobacco smuggling is a top priority for both HM Revenue & Customs and the UK Border Agency. Delivery of this strategy will be driven by a Tobacco Strategy Delivery Group, which reports to a steering group chaired by HMRC's Director General for Enforcement and Compliance. UKBA representatives sit on both groups. The respective roles and responsibilities of both agencies are detailed in the UKBA/HMRC Partnership Agreement. In relation to tackling tobacco smuggling, these can be summarised as follows:

HMRC will:

- retain overall responsibility for the collection and enforcement of tobacco duties;
- investigate and disrupt criminal offences;
- detect and disrupt the supply of illicit tobacco inland;
- retain responsibility for excise and customs powers and legislation.

UKBA will¹:

- detect and seize smuggled tobacco at the UK border;
- arrest those suspected of tobacco smuggling offences and refer them to HMRC for investigation.

HMRC and UKBA will share responsibility for:

- developing risk and intelligence;
- reducing revenue losses from tobacco smuggling.

Our key actions

1. We will review and enhance our working relationships with tobacco manufacturers (see paras 1.10-1.11) by 31 March 2009.
2. We will continue to publish key information, including seizure and prosecution statistics and estimates of the illicit market share, so that our performance can be scrutinised (see para 2.8).
3. Building on the success of our flagship sites, we will roll-out enhanced arrangements for customs and immigration controls nationally by 31 December 2008.
4. We will introduce new technology and IT to improve our effectiveness at the UK border and increase the chances of detection (see paras 4.10-4.12).
5. We will establish Service Level Agreements with port and airport operators at key locations (see para 4.13) by 31 December 2008.
6. We will carry out a review of sanctions and penalties for tobacco smuggling offences at the UK border (see para 4.27) by 31 May 2009. Building on strengthened powers to search containers in the Finance Act 2008 we will continue with a programme of modernising and strengthening customs powers needed by the UKBA at the frontier.
7. We will complete the introduction of a nationwide network of inland excise enforcement teams to implement our inland tobacco strategy (see paras 4.28-4.34) by 31 March 2009.

¹ *The Government will bring forward legislation to enable the UKBA to fully exercise HMRC functions at the frontier. In the meantime HMRC officers are working in the UKBA management structure subject to the overall direction of the Commissioners for Revenue & Customs.*

8. We will work in partnership with key stakeholders to develop a cross-Government communications strategy designed to change attitudes to illicit tobacco products (see paras 5.8-5.10) by 31 May 2009.
9. We will continue to take the lead in negotiations on a global agreement to tackle the illicit trade in tobacco (see para 5.13).
10. We will continue negotiations with the European Commission with a view to the UK signing the anti-smuggling agreements between the EU and certain international tobacco manufacturers (see para 5.14) as soon as remaining legal issues have been resolved.

Chapter 1

Background

- 1.1 In 2000, more than 1 cigarette in 5 smoked in the UK was smuggled – an increase of 50 per cent on the previous year – and this was predicted to rise to 1 in 3 within a few years. Tobacco smuggling was costing over £3bn a year in lost tax revenue.
- 1.2 In response to this rapid growth in smuggling, in Budget 2000 the Government announced a new strategic approach to tackling tobacco smuggling. The strategy was underpinned by the following key principles, which still apply today:
 - making it harder for smugglers to source tobacco;
 - disrupting the supply and distribution chain;
 - increasing the risks of and reducing the rewards from smuggling; and
 - tackling the demand side by raising public awareness.
- 1.4 In 2006, the Government published ‘*New Responses to New Challenges: Reinforcing the Tackling Tobacco Smuggling Strategy*’. This emphasised that the most important objectives for the next phase of the strategy would be tackling the growing challenge of counterfeit products and achieving significant cuts in the persistently high levels of smuggled hand rolling tobacco (HRT).
- 1.5 Building on the resources and controls already in place, a range of new measures was introduced to tackle these new threats. This was underpinned by a new target for HRT of reducing the size of the UK illicit market by 1,200 tonnes – equivalent to around 20 per cent – by 2007/08.
- 1.6 The key features of the 2006 refreshed strategy are set out below.

Investment in additional resources

- 1.7 When the strategy was launched in 2000, the Government invested an extra £209 million to fund the deployment of almost 1,000 additional front line and investigative staff. This additional capability was further enhanced by the deployment of a national network of scanners to detect high volume smuggling in freight containers.
- 1.8 In the 2006 refresh of the strategy, enforcement was strengthened at all the key points along the supply and distribution chain, with 200 extra staff to focus on HRT and a 30% increase in HMRC’s network of overseas Fiscal Crime Liaison Officers (FCLOs).

Publicity and communication

- 1.9 The strategy has been underpinned by a publicity campaign to increase public awareness of the harms associated with illicit tobacco. The campaign has also increased awareness of enforcement action to undermine further the appeal of smuggled and counterfeit product to current and potential consumers.

Working with tobacco manufacturers to tighten our grip on smuggling

Memoranda of Understanding

- 1.10 Prior to the launch of the Tackling Tobacco Smuggling strategy, the illicit market was predominantly made up of genuine cigarettes that were manufactured in the UK, exported, then smuggled back to the UK. Consequently, working with the tobacco manufacturers to restrict the availability of cigarettes to smugglers was identified as one of the key elements when the strategy was originally launched. This co-operation was initially formalised in Memoranda of Understanding (MoUs) between HMRC and the leading UK tobacco manufacturers in 2002. The MoUs set out a framework which has resulted in the incidence of UK-manufactured cigarettes being smuggled into the UK falling markedly. Building on the success of the original MoUs, they were strengthened in 2006 as part of the strategy refresh to improve the targeting of counterfeit product and expand their scope to include HRT.
- 1.11 The MoUs continue to be a key component of the strategy and UKBA and HMRC will work with the tobacco manufacturers to further strengthen and extend the MoUs.

Anti-counterfeit security marks

- 1.12 To address the rapid growth in the illicit trade in counterfeit tobacco products, the four leading UK tobacco manufacturers, representing over 97% of the UK cigarette market, voluntarily agreed to incorporate a covert security mark on cigarettes and HRT destined for the UK market. The mark was introduced for cigarettes in October 2007 and extended to HRT in October 2008. Packs are easily scanned with portable hand-held scanners provided by the industry, which enable enforcement officials quickly to distinguish genuine products from fakes.
- 1.13 The anti-counterfeit marking scheme is intended to deter and detect counterfeit tobacco product infiltrating the UK duty-paid supply chain, and ensure legitimate retailers are not unfairly disadvantaged. In order to allow for the throughput of unmarked cigarette packs already in the retail supply chain, enforcement activity has so far been limited. However, verification and enforcement of anti-counterfeit marks will be a key aspect of the work of the network of inland excise enforcement teams that HMRC is establishing (see paras 4.28–4.34 below).

Regulatory and policy changes

Fiscal marks

- 1.14 In 2001, the Government introduced fiscal marks on packs of cigarettes and HRT to make identification of smuggled product easier. This measure is intended to prevent duty-free tobacco products (which are not fiscally marked) from being sold as duty-paid product in the retail sector.

Changes to cross border shopping policy

- 1.15 In 2002, changes in Government policy were introduced to help distinguish more clearly between smugglers and genuine shoppers. These changes put the onus on HMRC to prove that activity was illegal, and imposed tougher penalties on repeat smugglers. Guide levels for shoppers from within the EU were increased from 800 to 3200 cigarettes and from 1kg to 3kg of HRT. These amounts represent about 6 months' supply for the average smoker, and allow HMRC officers to concentrate efforts on those who are more likely to pose a risk of smuggling.

Supply Chain Control legislation

- 1.16 To tackle the smuggling of genuine tobacco products, new legislation came into force in October 2006 placing obligations on all tobacco manufacturers to control their supplies of cigarettes and HRT to non-UK markets. The legislation is designed to restrict the supply of genuine tobacco products to lower taxing EU countries for smuggling into the UK. Tobacco manufacturers face penalties of up to £5m for failing to comply. Since the legislation was introduced, the overall proportion of large cigarette seizures that are genuine has continued to decline.
- 1.17 Central to the legislation is the sharing of information on large seizures with tobacco manufacturers, which is then used to identify and address potential weaknesses in supply chain controls.
- 1.18 Smugglers respond quickly to new control measures and we are now seeing the emergence of a growing threat from counterfeit HRT, with fewer seizures of genuine product. We will be carrying out further work during 2009/10 to determine the extent to which this can be attributed to the Supply Chain Control legislation.

Increased punishment

- 1.19 The strategy focuses on undermining the economics of the illicit trade through destabilising the criminal organisations behind tobacco smuggling. Consequently, in addition to the prosecution of key individuals behind tobacco smuggling our approach has focused on the disruption and continual loss of working capital to organised criminal gangs, through:
- a strict tobacco seizure and non-restoration policy, including the seizure of any associated vehicles;
 - running specific targeted disruption operations to break up illicit supply chains;
 - the confiscation of offenders' assets in cases where they have benefited financially;
 - fines of up to £5,000 for owners of premises caught selling non-fiscally marked tobacco products, along with the power through the courts to ban the sale of tobacco products for up to 6 months.

Strengthening customs powers

- 1.20 In parallel with the creation of the UKBA, we are undertaking a programme of strengthening and modernising customs powers, which will be exercised by the UKBA at the frontier. We have taken action to address weaknesses in customs powers to search containers. This enables the UKBA to intervene quickly without waiting for dock labour and avoids delays which can alert criminals to our interest. We have consulted on the use of customs powers to examine checked-in baggage before it is collected by the passenger. This will enable us more effectively to detect large scale organised tobacco smuggling by air. HMRC and the UKBA are continuing to work together closely to ensure that UKBA officers have the all the powers that they need to tackle tobacco smuggling at the frontier.

Chapter 2

Results and statistics

Outputs and outcomes

2.1 Since the start of the strategy we have:

- either met or exceeded every target we have been set for reducing the cigarettes illicit market;
- seized over 14 billion cigarettes and over 1000 tonnes of HRT both in the UK at airports, seaports and inland, and en route to the UK;
- broken up over 370 criminal gangs involved in the large-scale smuggling and supply of illicit tobacco products;
- successfully prosecuted over 2,000 people; and
- issued over £35 million worth of Confiscation Orders.

Cigarettes

2.2 In 2000, the illicit market share for cigarettes stood at around 21% and was predicted to rise to around 33% within a few years without Government action. When the *Tackling Tobacco Smuggling* strategy was published in 2000, the original target was a reduction in the illicit market to 17 per cent by 2005/06. However, the strategy was highly successful, cutting the illicit cigarette market to 16 per cent by 2003/04. The Government therefore set a new, more challenging target in 2004 to reduce the illicit share to 13 per cent by 2007/08.

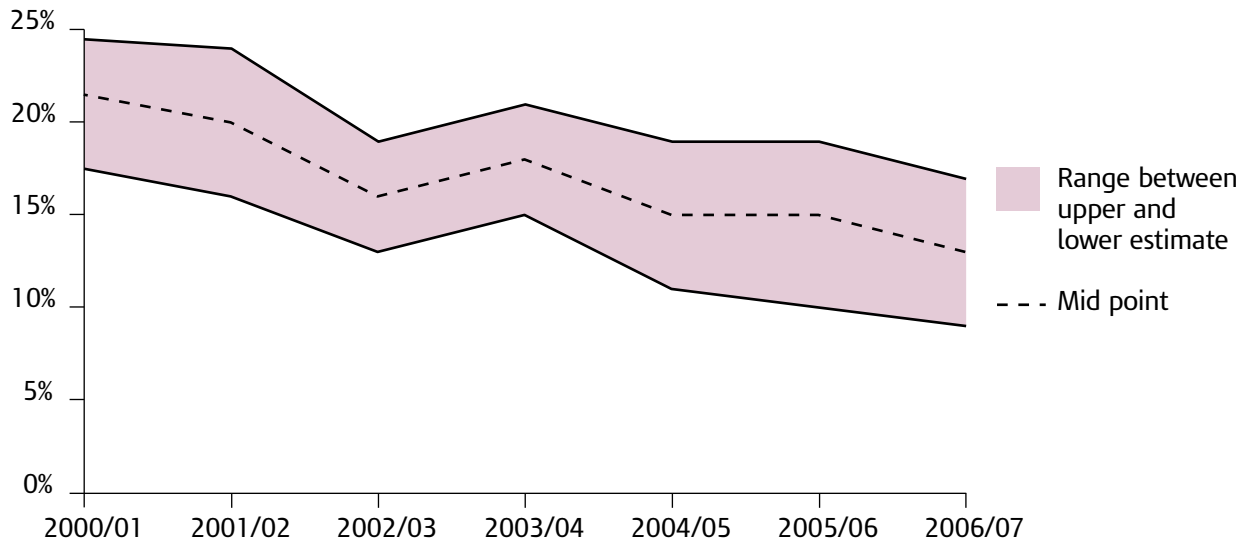
2.3 In recent years, the Government has published revised illicit market share estimates alongside the Pre-Budget Report. The following table tracks our progress in tackling the illicit market, and the associated revenue losses. It indicates that, assuming progress has been maintained in the most recent years (and using the mid-point of the range of estimates) we are on course to achieve or exceed our PSA target to reduce the cigarettes illicit market share to 13% by 2007/08.

Table 1: Cigarettes – Illicit market share estimates²

Cigarettes	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08 PSA target
Upper	24%	19%	21%	19%	19%	17%	
Mid-point	20%	16%	18%	15%	15%	13%	13%
Lower	16%	13%	15%	11%	10%	9%	
Revenue loss associated with the mid point	£2.7bn	£2.1bn	£2.4bn	£2.0bn	£1.9bn	£1.7bn	

² The 2006-07 estimates remain provisional because the General Household Survey (GHS) data on which it relies will not be confirmed until later in the year.

Figure 1: Cigarettes: Illicit Market Shares – Estimated Range



Hand rolling tobacco

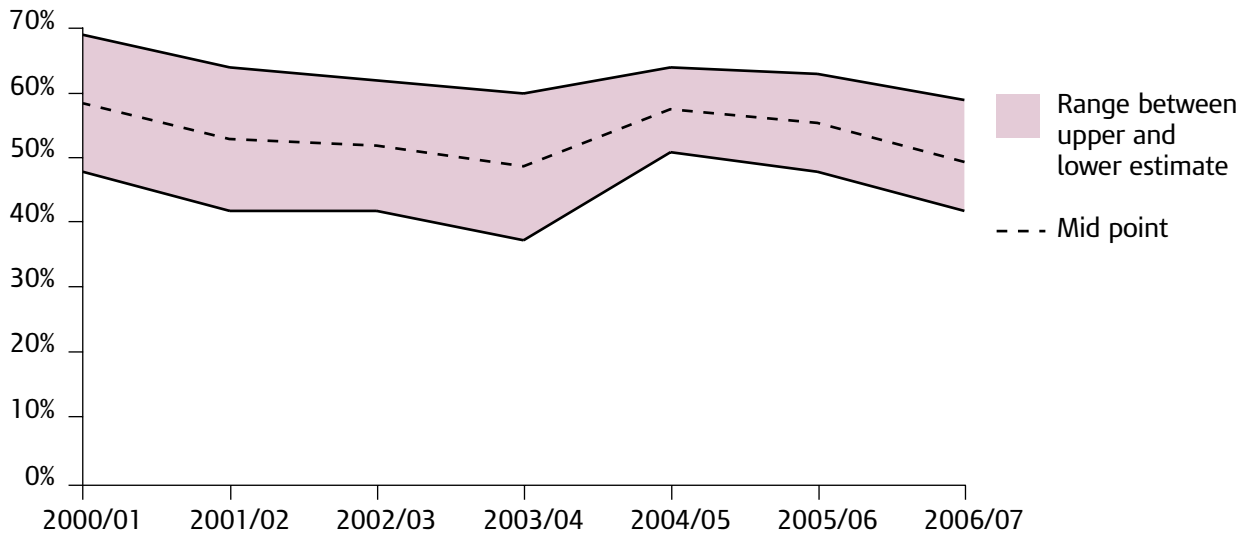
2.4 Hand rolling tobacco only represents around 5% of the total tobacco duty revenue in the UK. However, in 2006, the HRT illicit market share stood at 56%. At this point, the Government set a target to reduce this by 1,200 tonnes – equivalent to around 20% – by 2007/08. Using the mid point of the ranges detailed in Table 2 below, we estimate that there has been a reduction of approximately 450 tonnes, or 8%, from 2005/06 to 2006/07. While this is an encouraging start, there is still a long way to go to achieve our HRT target.

Table 2: HRT – Illicit market share estimates³

HRT tax gap	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07*
Upper	64%	62%	60%	64%	63%	59%
Mid-point	56%	55%	53%	59%	57%	53%
Lower	48%	48%	45%	54%	52%	48%
Revenue loss associated with the mid point	£710m	£730m	£680m	£840m	£790m	£750m

³ The 2006-07 estimates remains provisional because the General Household Survey (GHS) data on which it relies will not be confirmed until later in the year.

Figure 2: HRT: Illicit Market Shares – Estimated Range



Future outcome objectives

- 2.5 For the future, the Government has decided that, rather than setting very specific targets in respect of individual tax losses, work to reduce the tobacco illicit market share will contribute towards a wider HMRC Departmental Strategic Objective (DSO) to improve the extent to which individuals and businesses pay the tax due and receive the credits and payments to which they are entitled.
- 2.6 We expect that over the DSO period, from 2008/09 to 2010/11, action to tackle tobacco smuggling will be a key contributor to the successful delivery of the DSO. HMRC expect that tobacco activity will make one of the largest single contributions to its overall objective of reducing revenue losses from criminal attacks. UKBA seizures at the frontier will play an important part in that. Objectives for tobacco seizures for 2008/09 are set out in the UKBA partnership agreement, the relevant sections of which are annexed to this document.
- 2.7 In later years, as part of their annual planning cycles, HMRC and UKBA will determine the contributions that seizures at the frontier will be expected to contribute to the key tobacco outcomes set out in the UKBA partnership agreement. The agreement envisages that performance through the period from 2008 – 2012 will at least maintain the progress made during the period from 2004 – 2008. This means: (1) restricting the UK illicit cigarette market to no more than a 13% share; and (2) a reduction of around 20% in the size of the illicit HRT market.
- 2.8 The Government will continue to monitor and publish in HMRC’s Autumn Performance Report estimates of the illicit market share for tobacco products. We will also publish other more detailed measures of the performance of HMRC and UKBA, including seizure and prosecution statistics, so that our performance can be scrutinised.

Chapter 3

New and emerging threats

Product threats

- 3.1 Prior to the launch of the Tackling Tobacco Smuggling strategy in 2000, the illicit cigarette market was predominantly made up of genuine cigarettes that were manufactured in the UK, exported, then smuggled back to the UK. Since then, and in part as a result of the strategy, the brand mix found on the UK illicit cigarette market has been progressively diversifying. Initially, counterfeit cigarettes began to represent a rapidly growing share of the illicit market and, more recently, brands not sold on the legitimate UK market, in particular so called “cheap white” brands made by small independent tobacco companies are representing a growing share of cigarette seizures.
- 3.2 Analysis of our large⁴ tobacco seizures provides an indication of changes in smuggling patterns. The following trends have been identified from our analysis of these large seizures which, in 2007/08, represented approximately 55% by volume of all cigarette seizures and 52% of all HRT seizures.
- 3.3 The following table illustrates the breakdown of *all* large seizures, into genuine and counterfeit UK brands, and non-UK brands.

Table 3: Composition of large cigarette seizures

Cigarette seizures by type	2007/08 Full Year	2008/09 Quarter 1
Genuine UK brands	10%	6%
Counterfeit UK brands	46%	47%
Non-UK brands ⁵	44%	47%
Totals	100%	100%

The continuing threat from counterfeit cigarettes

- 3.4 As table 3 illustrates, huge quantities of counterfeit cigarettes continue to be targeted at the UK illicit market, as well as the rest of Western Europe. In 2007/08, counterfeit products made up 82% of large seizures of UK brands.
- 3.5 The rapid growth of the counterfeit tobacco trade is a global phenomenon which presents additional challenges and risks as the product is produced in an unregulated environment, bypassing production and supply chain regulatory controls, and hugely increasing the profits to those involved. The bulk of counterfeit cigarettes are manufactured in China and, to a lesser extent, Eastern Europe. These are typically shipped in bulk directly to the UK by sea, or re-routed via other EU ports. In the last year, we have also seen a concerted attempt to smuggle counterfeit tobacco products through the postal system.

⁴ From 2001 the large seizure threshold referred to cigarette seizures > 250,000 sticks. When the MoUs were revised in 2006, large seizures were extended to include HRT seizures > 100Kgs. Since the introduction of the Supply Chain Control legislation in 2006, the large seizure thresholds were lowered to 100,000 cigarette sticks and 50kg of HRT.

⁵ Non-UK brands may include some counterfeit non-UK brands.

Non-UK brands of cigarettes

- 3.6 In previous years, we have categorised cigarette seizures as either genuine or counterfeit product. However, more recently, we have seen the growth of a third seizure category of ‘non-UK branded’ cigarettes. These are products that would not normally be found for sale duty-paid in the UK. Non-UK brands comprise two different types of product which present distinctly different challenges.
- i. Brands produced by the large multi-national tobacco manufacturers, but which they do not market or distribute in the UK – these can be addressed through the Supply Chain Control legislation.
 - ii. Brands produced by smaller, overseas manufacturers that make no legitimate supplies of any tobacco products to the UK. There is often little or no legitimate market for these brands anywhere in the world. Effectively, these products – commonly known as “cheap whites” – are produced for smugglers. Going forward, there is a further risk that the production facilities used by the makers of these cheap white brands are capable of counterfeiting international brands. Furthermore, trademark protection is not global and there is a risk that UK-sensitive brands could be legitimately produced in countries where multi-national tobacco manufacturers are unable to protect their brands.
- 3.7 Multi-national tobacco manufacturers regard the cheap white brands as the next major development in the illicit tobacco trade. The threat affects EU partners as well as the UK and our ever closer engagement with OLAF (European Commission Anti-Fraud Office) and European partners will benefit our efforts to understand and combat this threat. While we do not have complete comparative data for previous years, we recognise this is a growing risk area, with substantial quantities of these brands now being regularly seized, as illustrated by Table 4.

Table 4: Top 3 non-UK brands seized in 2007/08

Brand	Country of origin	Number of large seizures	Total quantity seized
Raquel (various varieties)	Cyprus	31	49m
Richman	UAE	7	23m
Jin Ling	Russia	14	22m

- 3.8 The quantities of these brands now being targeted onto the UK market indicates that there is a niche in the illicit market for these products, and they are becoming more familiar to consumers, possibly viewed as an acceptable alternative to counterfeit.

Counterfeit HRT

- 3.9 Unlike the changes that we have seen over the last few years in the illicit cigarette market, the HRT illicit market has been consistently dominated by a small number of genuine brands. They are typically supplied to lower taxing EU countries where there is very little domestic demand for them, and then purchased duty paid and smuggled directly into the UK.
- 3.10 However, there are now early indications of a new threat from counterfeit HRT, either shipped in bulk from the Far East, or smuggled through the postal system. Taking into consideration the number of potential source countries, and the ongoing impact of the Supply Chain Control legislation – which will make it increasingly difficult for smugglers to obtain large quantities of genuine product – it is likely that the threat from counterfeit HRT will progressively increase over the next three years.

Table 5: Composition of large HRT seizures

HRT seizures by type	2007/08 Full Year	2008/09 Quarter 1
Genuine UK brands	75%	49%
Counterfeit UK brands	15%	36% ⁶
Non-UK brands	10%	15%
Totals	100%	100%

3.11 Tackling the existing HRT threat has already proved challenging and the potential growth of counterfeit HRT provides a potential new route to consumers, sold as genuine product through rogue traders in the retail sector. In anticipation of this threat, action has already been taken to protect this part of the supply chain, with the incorporation of the anti-counterfeit security mark on HRT pouches manufactured from October 2008 (see paras 1.12-1.13). As has been the case with counterfeit cigarettes, co-operation with tobacco manufacturers will be crucial to tackling this threat.

Niche products

3.12 In 2007/08, we have seen an increase in seizures of other tobacco products, in particular chewing tobacco, flavoured tobacco for use in water pipes, and beedies (hand-made cigarettes) which have raised our awareness of the smuggling risks from these so-called niche tobacco products. They tend to be popular amongst certain ethnic groups, and distributed mainly through informal channels and independent grocery stores. The scale of the threat is currently unknown though we are taking steps to enhance awareness of these products throughout HMRC, the UKBA and other enforcement agencies, and to improve compliance with both fiscal and health regulatory requirements.

3.13 When Smokefree legislation was introduced throughout the UK during 2006/07, we identified a risk that this could lead to an upsurge in smoke-free tobacco products such as snuff and ‘snus’⁷, or the introduction of alternative nicotine delivery devices such as electronic cigarette substitutes. Though there has been no evidence so far of any significant market developments in this area, we remain alert to the threat and the development of any new dutiable products.

Smuggling methods

3.14 Whilst the overall volume of cigarettes seized in 2007/08 is comparable to that of the previous year (1.8bn in 2007/08 compared to 1.9bn in 2006/07), the following table indicates notable changes in the points of interception.

⁶ This figure is distorted by one very large seizure of 9342kg of counterfeit HRT

⁷ Snus is a product which consists of small particles of tobacco mixed with flavourings. It is not smoked but placed in the mouth between gum and cheek and sucked. It comes in small sachets (similar to tea bags) or in loose form. Its supply in the UK is illegal.

Table 6: Interception points

Points of interception	2006/07 (sticks)	2007/08 (sticks)	% difference
Overseas	580m	726m	25%
Maritime	703m	505m	-28%
Air ⁸	367m	478m	30%
Inland	256m	97m	-62%
Total	1.9bn	1.8bn	-5%

3.15 This table demonstrates that the dynamics of tobacco smuggling and the *modus operandi* of smugglers are constantly changing in response to enforcement activity by the UK authorities and counterparts overseas. Given the scale of the smuggling threat and the huge profits to be made, it is crucial that we continue to refine and adapt our enforcement activity in order to maintain downward pressure on the illicit market.

Postal imports

3.16 In 2007/08, there was a concerted attempt to smuggle cigarettes and HRT via the postal system. The following table shows the year on year changes in cigarettes and HRT seizures from the postal system.

Table 7: Postal tobacco seizures

Postal seizures	2004/05	2005/06	2006/07	2007/08	2008/09 - Quarter 1
Cigarettes (sticks)	49m	120m	172m	311m	24m
HRT (tonnes)	2.1	20.7	26.3	44.6	17.7

3.17 As a result of our response and success in intercepting large volumes of smuggled product from China, Table 7 shows how seizures have subsequently started to drop off. There are indications that the threat is diversifying, with other countries emerging as sources, or transit points, for posted tobacco products, and we are assessing the displacement of this risk into other areas.

3.18 However, we have seen no major changes in smuggling in sea containers and Roll-on/Roll-off (RORO) freight, though smugglers continue to refine their methods to minimise the risk of being intercepted, and to reduce the impact of disruption when it does occur. For example, smugglers are loading smaller amounts of cigarettes into sea containers and certain transshipment hubs are growing in importance.

3.19 As this Chapter demonstrates, faced with a constantly changing picture of risk and the regular emergence of new threats, standing still is not an option for the *Tackling Tobacco Smuggling* strategy. Chapters 4 and 5 set out how the new partnership between the UKBA and HMRC will rise to the challenges that we now face.

⁸ Air interceptions include postal smuggling which accounts for the significant increase in air seizures.

Chapter 4

The integrated HMRC-UKBA response

- 4.1 Operational delivery of the tobacco strategy is spread across a number of different parts of HM Revenue & Customs and the UK Border Agency, which collectively provides a comprehensive and integrated response to the threats from tobacco smuggling. The following sections illustrate how HMRC and UKBA will work together to deliver the strategy.

Refreshed border detection strategy

- 4.2 The creation of the UK Border Agency has established a new 25,000 strong force to protect the border. Its officers work at all principal points of entry into the UK and in many locations overseas. This presents clear opportunities to capitalise on the increased capabilities the new Agency brings to support the fight against the illicit tobacco trade. UKBA will play a pivotal role in the strategy through the disruption of the illicit supply chain at the UK border.
- 4.3 UKBA has stretching targets for the disruption of tobacco smuggling into the UK, which are set out in the UKBA/HMRC Partnership Agreement (see Annex 1). In order to achieve this alongside its other key priorities, UKBA is already trialling closer integration at 5 key “flagship” sites at Edinburgh, Teesport, Harwich, Coquelles and Gatwick Airport, where immigration and customs powers have been “cross-conferred” and officers from former HMRC Detection and the Border and Immigration Agency are working closely together in joint teams. Already, over 500 immigration officers have been trained and given customs powers, enabling them to question travellers about tobacco products. The closer working underway is already bringing results. As this integration develops we expect to see an increase in the effectiveness of our tobacco disruption activity at the border.

Case Study 1: UKBA Flagship Site

A male passenger arriving into Gatwick from Tripoli was referred by the Immigration officer at the primary line for further examination as his route and reason for travel were considered suspicious. Examination of his baggage resulted in the seizure of just under 10,000 cigarettes and 11 Kilos of prohibited meat products.

Case Study 2: UKBA Flagship Site

A single male arriving into Gatwick from Vilnius came to the attention of the Immigration officer at the primary checkpoint when his name appeared on a watchlist. He was referred for further examination where a check on his baggage produced just 1200 cigarettes. The Immigration officer then identified another bag the man had been carrying when he arrived. This bag produced a further 10,800 cigarettes. As a regular traveller who has had cigarettes seized before he was arrested and interviewed. A total of 12,000 cigarettes were seized. The case is ongoing.

The Border Force

- 4.4 UKBA integration will extend to all major ports and airports with new arrangements for customs and immigration controls nationally by the end of December 2008. UKBA will also:
- Complete tobacco awareness training at key sites by the end of 2008;
 - Continue conferring limited HMRC powers to enable Immigration officers, once trained, to question travellers about tobacco products.
 - Implement the Border powers essential for an integrated Border Force to operate fully, through a new Borders, Immigration and Citizenship Bill.
 - Deploy tobacco detector dogs to work with Immigration search teams.
 - Deploy 9,000 officers at the border exercising both customs and immigration functions, with the appropriate powers and skills, providing a fully flexible force and maximising the breadth and depth of control.
- 4.5 The majority of people arriving into the UK through our ports and airports encounter UK Border Force officers. This presents great potential for gathering information and enhancing the flow of intelligence. We will establish clear lines of communication between Border Force Intelligence and HMRC's Risk and Intelligence Service, to ensure that any information that comes to UKBA relating to inland illicit tobacco activity is passed to HMRC's inland enforcement teams. Similarly, feedback generated from HMRC's inland tobacco disruption activity will be circulated to UK Border Force Intelligence to inform their tactical intelligence picture.
- 4.6 UKBA has carefully considered how best to deploy its resources in the most effective way. It has reviewed the way it directs and tasks its officers to meet its key priorities and how it coordinates their activities to best effect. A new Tasking and Coordination model has been agreed, which will improve the way UKBA deploys its resources.
- 4.7 To complement the tasking and coordination review, UKBA has also reviewed how it carries out the targeting and selection of people and goods. Since the end of October 2008, it has been implementing a revised Targeting and Selection Model. This new way of working will improve the quality of tobacco targeting and selection activity and lead to more effective interventions and improved results.
- 4.8 A review of the way UKBA deploys and uses its mobile forces such as the National Strike Force, Deep Rummage Teams and regional brigades has recently been completed. The findings of this review will be used to inform decisions on the way these national and regional mobile resources are best used in the future. UKBA will use these specialist teams based on the best intelligence available to maximise tobacco disruption activity and seizures at the frontier. This may involve covering new or emerging frontier threats or tackling areas that have not previously been a high priority.
- 4.9 The UKBA Detector Dog Service has 9 dogs trained to detect tobacco goods located around the UK. In early 2008 two additional tobacco detector dogs and handlers were deployed and immediately made a contribution to local tobacco seizure rates. The tobacco detector dogs were responsible for detecting over 18 million cigarettes and 197 tonnes of HRT during 2007/08. UKBA will review its detector dog resource to identify whether any increase or re-deployment might benefit tobacco disruption activity.

Making the most of technology and IT

4.10 UKBA has a wide range of tools available to help detect illicit goods at the border, including those detailed below which will be used to support the tobacco strategy.

<p>X-ray scanning equipment</p>	<ul style="list-style-type: none"> • A program of replacement and upgrading of mobile freight x-ray scanning equipment will enhance UKBA capability with new state of the art equipment. Two new mobile freight scanners will be operational by April 2009 to replace older units. A program of redeployment of mobile scanner units will seek to make best use of this method of screening large volumes of freight and container traffic. • New equipment, capable of x-raying whole pallets of goods, is being introduced. This will enable quicker, detailed screening of freight loads to identify possible tobacco concealments. • A program of replacing old static x-ray equipment at some airports with new high-definition x-ray equipment to detect tobacco products in passengers' baggage will add to the armoury of equipment available to Border Force officers.
<p>Automatic Number Plate Recognition (ANPR)</p>	<ul style="list-style-type: none"> • A review of the ANPR capability of UKBA, commencing in November 2008, will lead to a program of equipment upgrades and system enhancement during 2009.
<p>Freight Targeting System (FTS)</p>	<ul style="list-style-type: none"> • The FTS will be further expanded in November 2008, adding container traffic to the ever-increasing scope of its automated manifest-checking. This will be followed by enhancements to enable the checking of all other non-EU cargo entering the UK by 2010.
<p>E-Borders</p>	<ul style="list-style-type: none"> • By the end of 2008, we will begin counting people in and out of the country through the introduction of one of the most advanced electronic border systems in the world (e-borders). The pilot scheme for our electronic border system (Project Semaphore) has already checked over 67 million passenger movements since January 2005. The collection and analysis of passenger and crew data on all journeys to and from the UK will support targeting and selection activity. Since 2004 it has resulted in many seizures, including significant amounts of tobacco products. • Year on year development will result in the collection and analysis of 95% of passenger and crew details by 2011. The ability to match watchlists to passenger and crew data will significantly enhance UKBA's ability to monitor and intercept persons of interest.

4.11 The new opportunities presented by these technological developments will enable us to monitor the movements of repeat offenders and those we suspect of tobacco smuggling. Increased watchlist checks will be fully utilised as a means to interdict smuggling attempts and build a detailed intelligence picture.

- 4.12 The sale of cigarettes via the internet has expanded rapidly and UKBA are exploring innovative ways of exploiting technology to tackle this smuggling method. UK Border Intelligence officers have initiated an exercise to identify the top 10 internet suppliers using internet analysis tools with a view to targeting resource at postal consignments originating from these sites. Through high levels of interception and seizure of tobacco goods we want to put these companies out of business and discourage purchasers from buying tobacco goods online.

Port and Airport Operators

- 4.13 UKBA is negotiating Service Level Agreements (SLAs) with all key Ports and Airports, to be in place by the end of December 2008. These will ensure that robust measures are in place in support of the tobacco strategy, including controls on duty free tobacco sales and security controls to prevent the landing of illicit cigarettes. The SLAs will also ensure that Border Force officers have the facilities they need to intercept and examine passengers, crew, vehicles, vessels and freight.

Postal service operators

- 4.14 As explained in Chapter 3, tobacco smuggling in postal traffic has increased significantly in recent years. As Case Study 3 illustrates, we have worked closely with commercial stakeholders to increase the effectiveness of our examination of incoming parcels, with extremely positive results. We will continue to work with these stakeholders, with a view to finding solutions that prevent the postal system from being abused by tobacco smugglers.

Case study 3: Postal smuggling

As illustrated in paras 3.16-3.18 smuggling by post continues to present a significant threat. Our swift response to this threat has been centred on three key areas:

Enforcement – the tactical redeployment of additional UKBA staff to postal depots, resulting in the substantial year on year increase in seizures shown in Table 7. At the peak of the problem, more than 36m cigarettes were seized in one month alone. Working closely with commercial stakeholders, UKBA staff made use of postal depot technical equipment to increase throughput and x-ray examination of parcels, enabling them to target high risk locations and significantly improve seizure rates.

Upstream – Postal smuggling from China poses the greatest threat. Our Chinese partners from Customs and the Ministry of Public Security have gained a thorough understanding of the scale and impact of the problem through UKBA-hosted visits to UK postal depots. Back in China, they have then been actively engaged with HMRC's Fiscal Crime Liaison Officer network in devising strategies for tackling the illicit supply at source.

Regulatory – An ECJ⁹ ruling clarified that all tobacco products sent through the post to the UK from other EU countries are liable to UK duty – even gifts between individuals. This means that smugglers are no longer able to pass off smuggled goods as gifts.

⁹ The ruling in the 'Joustra' case confirmed that if someone else transports the goods (e.g. the postal service) duty is payable in the Member State of destination.

Law Enforcement Partners

- 4.15 UKBA and HMRC will strengthen their existing partnerships with other law enforcement agencies, as well as developing new relationships with agencies that play a role in tackling tobacco smuggling. These include:
- **UK Police Forces** – The close links already in place with UK Police Forces and Special Branch in particular, will be fully exploited and developed to further improve information flow at the border and identify new ways of working together to tackle tobacco smuggling. The recently signed Memorandum of Understanding between UKBA and the Association of Chief Police Officers (ACPO) clearly sets out how the two groups will work together. UKBA representatives on ACPO will play a key role in championing the tobacco agenda with our Police partners.
 - **Maritime and Coastguard Agency** – UKBA will engage with the Maritime and Coastguard Agency (MCA) to identify areas of mutual interest and develop action plans. Smuggling tobacco goods by sea using commercial vessels, fishing boats and pleasure craft has been identified as a clear threat. MCA officers, especially Coastguard officers, are frequent and regular attendees at coastal locations and are well placed to gather information in this challenging environment. The UK Border Force Maritime Branch, with its fleet of five Cutters, frequently works with MCA officers and this relationship will be strengthened through a series of liaison visits, awareness sessions and joint exercises.
 - **Local authorities** – Recognising the expertise that trading standards officers have developed in dealing with counterfeit goods at local level, we will enhance our working arrangements with local authorities to tackle the availability of counterfeit tobacco within communities.

Making the most of intelligence

- 4.16 Understanding and managing risks in the illicit trade in tobacco products are pivotal to our ongoing success, and HMRC and UKBA each have dedicated intelligence resources to support the tobacco strategy. Intelligence support for the tobacco strategy is a top priority for both organisations.
- 4.17 The creation of the UKBA saw the transfer of HMRC's **mode of transport intelligence** teams to UK Border Force Intelligence. Their extensive knowledge and experience of smuggling by the various modes of transport will continue to be invaluable in combating tobacco smuggling. UK Border Force Intelligence will work closely with HMRC's Criminal Intelligence Group and Analysis teams, to provide the tactical and operational intelligence required by Border Force officers to deploy most effectively.
- 4.18 Border Force Intelligence will support Tasking and Coordination using the latest tobacco intelligence to inform deployment decisions. Similarly it will inform Target and Selection activity to ensure that selections are made based on the best available information leading to higher quality selections and improved performance.
- 4.19 **Tactical intelligence**, particularly relating to new and emerging tobacco smuggling threats, will be supplied by HMRC. This will be vital to the success of Border Force activity. Key features of HMRC's new risk and intelligence structure are detailed on the next page.

Criminal Intelligence Group (CIG)	<p>Tackling tobacco smuggling is one of the top priorities for HMRC's new Criminal Intelligence Group (CIG). Its tasking and coordination function provides tobacco intelligence to support interventions against criminal activity and frontier threats. CIG includes:</p> <ul style="list-style-type: none"> • National Humint Centre (NHC), which records all intelligence from human sources: this captures information on all aspects of tobacco smuggling for assessment – strategically, tactically and for operational purposes. • National Co-ordination Unit (NCU), which provides 24/7 support, disseminating tobacco-specific intelligence to operational teams within both HMRC and UKBA.
Intelligence Management Unit	<p>From October 2008, a new HMRC Intelligence Management Unit is being set up which will manage intelligence from a number of sources including the Customs Hotline and Tax Evasion Hotline. This will allow us to build a critical mass of tobacco intelligence and improve our handling and dissemination of material.</p>
Tobacco Centre of Expertise (CoE)	<p>The Tobacco CoE is the largest of all HMRC's commodity CoEs. Its responsibilities include liaison with the tobacco manufacturers, including in relation to the Supply Chain Control legislation.</p>
Intelligence Analysis	<p>The consolidation of HMRC's intelligence analysis capability into a national, flexible, multi-functional resource has seen the addition of a 'Futures' analysis capability, using analytical methods and approaches recognised across industry, Government and academia.</p>
Centralised intelligence -sharing relationship with local authorities	<p>HMRC analysts will act as the intelligence gateway under a new, closer working protocol with local authorities. This relationship will substantially enhance our understanding of the retail end of the illicit tobacco market, which in turn will enhance our understanding of the supply chain.</p>
Customs Hotline Online	<p>Our intelligence gathering capability has recently been extended through the introduction of a new secure online webpage which is available to members of the public both at home and abroad to report suspicious activity in relation to tobacco smuggling. Online reporting can be found at: www.hmrc.gov.uk/customs-hotline/ .</p>

4.20 In summary, HMRC's Risk and Intelligence Service will continue to gather information and seek out high quality intelligence from within and outside the UK. RIS will analyse a wide range of data and assess the risks and threats in order to provide high-quality, risk and intelligence products for HMRC enforcement and compliance teams, UKBA and other partners. These intelligence products will complement those delivered by UKBA's own intelligence capacity in respect of threats presented by different modes of international transport. The work which UKBA will undertake utilising its full range of information sources and new technology, such as the Freight Targeting System, will enable it to run progressively more focused profiles, which will drive the vast majority of the tobacco-based interventions conducted by UKBA at the border.

Case Study 4: Project Tiger

This project has been running since December 2007 with the aim of developing intelligence and investigating previous commercial seizures of tobacco products at east coast ports. The intelligence developed enables further seizures to be made as well as the identification of the criminal organisations behind the shipments for further investigation. The project has so far led to the seizure of over 26 million cigarettes, 6 tonnes of HRT and £10,000 in cash. In addition a hydroponics cannabis factory was identified and referred to the Metropolitan Police for action. In total 11 arrests have been made to date.

Overseas Intelligence

- 4.21 HMRC and UKBA both have valuable resources strategically positioned overseas. Overseas activity in relation to tobacco products remains the primary responsibility of HMRC's Fiscal Crime Liaison Officer (FCLO) network. This network has been, and remains a key component of our dynamic and flexible response to the international tobacco smuggling threat. In 2006, the network was expanded, and recent collaborative work with partner agencies to exploit upstream opportunities in human source intelligence has proved successful and is developing.
- 4.22 Following an extensive analysis of illicit tobacco activity over the past 12 months, we have concluded that further expansion of the FCLO network in key strategic locations will enhance operational delivery and help us stay on top of emerging threats. In particular, the FCLO network will have a key role to play in helping to tackle the growing threats from new source countries producing counterfeit tobacco products and non-UK brands of cigarettes.
- 4.23 Each FCLO has a wide geographic coverage, often reaching across a number of countries and covering the areas of the world where the fiscal threats to the UK are greatest. But in other areas where there is a smaller tobacco threat, insufficient to justify FCLO coverage, we will seek to utilise the capability of the UKBA's Risk and Liaison Overseas Network (RALON) as necessary. The primary focus for the UKBA network is people trafficking and migration and it is deployed according to those risks. It is possible that in places where there is a UKBA RALON presence but no HMRC FCLO coverage, opportunities may exist to extend our global reach and ensure that we fully exploit information flows between the networks. A program of awareness training on tobacco smuggling risks will be introduced for those parts of the world where there is no FCLO coverage but there is a UKBA presence, to enable those officers to help HMRC gather information in support of tobacco disruption activity.

Criminal Investigation

- 4.24 Since the merger of the Inland Revenue and HM Customs and Excise in 2005, HMRC's direct and indirect tax investigation resources have been amalgamated within a single Criminal Investigation Directorate. To further strengthen HMRC's Criminal Investigation and enforcement capability, an additional 160 investigators were recruited during 2007/8. In the short term this represents a significant training and development commitment but, in the longer term, it will significantly increase HMRC's investigation capability.
- 4.25 All investigation teams are now multi-functional, which enables the most flexible possible response to criminal attacks on the tax and duty systems and a prioritised response to key threats, including tobacco smuggling.

- 4.26 The tobacco strategy is underpinned by a range of enforcement tools and sanctions, including seizure of illicit goods and associated vehicles, criminal prosecution, financial investigation, custodial sentences, and asset confiscation. The following case studies illustrate the diversity of this type of criminal activity and the tough penalties that those convicted of involvement in the illicit tobacco trade face.

Case study 5: Operation Yogin – cigarette smuggling

In July 2007, 6 men, were sentenced to a combined total of 30 years and nine months imprisonment. The cigarettes were smuggled in containers, which were removed from the port with the connivance of a corrupt port employee, who was among those convicted. When the arrests were made at a farm, the suspects were in the middle of unloading 6 million cigarettes from a container that the port computer showed was still on the dockside awaiting clearance.

Case study 6: Operation Tanyard – HRT smuggling

In January 2008, a man was sentenced to 6 years imprisonment for his involvement in the importation of over 85 tonnes of HRT involving a revenue loss of £12.5 million pounds. The tobacco was purchased from legitimate outlets in Belgium and then smuggled in mis-described freight into the U.K. Over £145,000 in cash, which was en route to Belgium to fund further tobacco purchases, was also seized under the Proceeds of Crime Act. Had this crime group continued their activities unabated, we estimate they would have had the capacity to import 250 to 300 tonnes of tobacco per year.

Case Study 7: Operation Watermark – counterfeit tobacco production

In March 2008, 5 men were sentenced to a total of 12 years imprisonment for their part in a UK-based counterfeit operation. A manufacturing unit was set up at a poultry farm and the building was sound-proofed to avoid suspicion. Four tonnes of tobacco were recovered along with 43,000 counterfeit Golden Virginia HRT pouches. The estimated tax and duty evaded was £425,000.

- 4.27 We will review all possible options to further deter those who seek to bring illicit tobacco products into the UK. HMRC and UKBA will work closely over the coming months with the Revenue and Customs Prosecution Office, the Crown Prosecution Service and other Government Departments to explore a range of sanctions that punish persistent offenders and deter those who consider themselves immune from any form of punishment.

Inland enforcement

- 4.28 Inland enforcement activity has been a feature of the Tackling Tobacco Smuggling strategy since its inception. While the primary focus of the strategy – reflected in performance targets and resource deployment – has necessarily been on preventing large quantities of illicit tobacco products from reaching the UK market, the importance of complementary action to tackle distribution further down the supply chain has always been recognised.
- 4.29 Targeted disruption and dismantling of the supply and distribution chains for illicit tobacco products within the UK can have a real impact on the availability of illicit products, resulting in increased prices as these illicit tobacco products become more scarce. This type of activity can also be a valuable source of intelligence to drive other work.

- 4.30 Prior to the creation of the UKBA, inland tobacco enforcement activity was generally undertaken by multi-functional teams who also had frontier detection responsibilities. However, when the UKBA was launched, it was agreed that responsibility for inland excise enforcement would remain with HMRC. As a result, HMRC is in the process of establishing a national network of inland enforcement teams, covering 9 regional areas.
- 4.31 The exclusive focus of these teams will be inland enforcement. As well as providing essential 24/7 support for criminal investigations, the teams will undertake a pro-active programme of activity designed to identify offences connected to the distribution and supply of illicit tobacco products. The work will be intelligence-driven, drawing on and enhancing our existing intelligence capability, but also developing links with other organisations that have a role in tobacco control, particularly local authorities and the public health community.
- 4.32 A range of sanctions and enforcement tools are already available for inland enforcement and it will be crucial to make the most effective possible use of these. There will be a particular focus on the identification for prosecution of retailers selling tobacco products that do not carry the UK DUTY PAID fiscal mark, which carries a fine of up to £5,000 and also risks a court order prohibiting the sale of tobacco products for a period of up to 6 months.
- 4.33 As noted in paras 1.12-1.13, in October 2007, tobacco manufacturers began to covertly mark all cigarettes packs intended for the UK market. This was extended to HRT pouches in October 2008. The manufacturers also provided HMRC with handheld scanners, enabling them to identify product that does not carry the covert marking and which is therefore counterfeit. Given that, increasingly, counterfeit tobacco products do contain a version of the UK DUTY PAID fiscal mark, the ability to identify these counterfeit products quickly and efficiently on retail premises will enable officers to take swift action against retailers who are buying products from illicit sources. All of our inland enforcement teams will be equipped with these handheld scanners.
- 4.34 UKBA Enforcement Teams also operate inland, identifying and repatriating people who overstay their visit to the UK or are here illegally. These teams often identify people who are also involved in criminal activity, including tobacco smuggling. This additional presence in local communities will help us to gain valuable information, which can then be passed to HMRC's inland detection teams for action.

Chapter 5

Cross-government and international action

Smuggling and health

- 5.1 While the primary focus of HMRC and UKBA activity is reducing revenue losses from smuggling, it is important to remember that revenue-raising is not the only driver for the UK's tobacco taxation policy. The price mechanism is generally accepted to be the most effective population-level policy lever available to Government to combat smoking.
- 5.2 High levels of taxation of tobacco products, resulting in high prices, have been a feature of tobacco policy in the UK. The UK has some of the most expensive cigarettes in the world. Evidence from the World Bank shows that price has a greater impact on consumption of tobacco than any other factor, suggesting that a 10% rise in price can lead to a 4% fall in prevalence. Price responsiveness is considered to be even greater among young people and more deprived groups.
- 5.3 The Government recently announced a commitment to develop a new national tobacco control strategy to further reduce smoking prevalence. Over the last few months the Department of Health (DH) has been consulting on a package of measures which includes a number of options to reduce the availability of tobacco products. HMRC has been working closely with the DH to consider any consequences these options may have for the illicit market, and will continue to do so as these options are developed.
- 5.4 Despite the significant success of HMRC and the UKBA in reducing smuggling, the availability of cheap, illicit tobacco in communities undermines the effectiveness of this policy and the Department of Health's efforts to reduce smoking prevalence, especially among young people and those in routine and manual workers groups. Illicit tobacco products are available in our communities at less than half the price of their duty paid equivalent.
- 5.5 Illicit tobacco products are available at a number of locations in communities across the UK, including in the workplace, in pubs, in street markets, at car boot sales and on the street. Smuggled tobacco is also made available in some communities from people's own homes. This creates a completely unregulated distribution network, and makes tobacco far more accessible to children and young people.
- 5.6 One of the priorities for HMRC's new nationwide network of inland enforcement teams, in collaboration with other enforcement agencies, including local authorities and the Police, will be to tackle this low level supply of illicit tobacco products. This will provide visible assurance to local communities that, as well as focusing on cutting off the supply of illicit tobacco products through effective upstream intervention, the Government's strategy is also to take strong, effective action against those who peddle illicit tobacco in our communities.

Case study 8: The North of England Health Action Plan for Tackling Illicit Tobacco

Through our collaboration on the development of a new North of England Health Action Plan for Tackling Illicit Tobacco, we are helping to build working relationships with regional and local partners to tackle the impact of illicit tobacco in some of the more deprived communities in the North of England. The plan is a result of close collaborative working between the NHS, Department of Health, local government, trading standards professionals, the Association of Chief Police Officers, the Serious and Organised Crime Agency, non-government organisations, UKBA and HMRC.

Demand reduction

- 5.7 Given the price incentives to purchase illicit tobacco however, it is also important to address the demand-side aspects of the problem. Recent research indicates that attitudes to purchasing cheap tobacco products are fairly relaxed, perpetuated by the widespread belief amongst consumers that they are buying genuine product, either duty-free or smuggled.
- 5.8 Communications is a key component of the tobacco strategy and the key aims of our communications strategy are detailed below. We intend to commission further research to develop a better understanding of the consumers that purchase illicit product so that we can improve the way we communicate with different target groups (e.g. regional, gender, age, etc).
- 5.9 We will work alongside the Department of Health and local authorities to develop and deliver a more effective media campaign to raise consumer awareness and understanding of the risks involved with illicit tobacco products, and therefore increase the deterrent effect.

Key aims of our tobacco communications strategy

To broaden the knowledge and awareness of enforcement action and penalties, in order to increase its deterrent impact;

To undermine the attractiveness of illicit product to potential consumers by highlighting a) its counterfeit nature and, b) its links to organised crime; and

To encourage the public and businesses to pass on information and intelligence on the illicit market.

- 5.10 UKBA and HMRC communications specialists will work together to achieve the optimum publicity for seizures of cigarettes and HRT, highlighting the effect illicit tobacco smuggling has on the UK economy. HMRC and UKBA will publicise the outcome of all prosecutions, making it clear that tobacco smuggling is a crime, and that crime does not pay.

International action

- 5.11 The illicit trade in tobacco products is a serious global problem. As such, enforcement agencies must work together to tackle international organised crime groups operating outside of the jurisdiction where the tax loss occurs.
- 5.12 The UK has long been a primary target for the smugglers because of our well established policy of using high tobacco duty rates to increase prices and reduce smoking prevalence. Most of the tobacco criminal investigations carried out by HMRC involve some degree of cooperation with law enforcement agencies overseas, and as such, HMRC already has well-established links with enforcement agencies both in the European Union and beyond. Through these channels we are

able to enhance international cross-border cooperation through the sharing of information and contributions to joint operations. We will supplement this through political lobbying to persuade our international partners to take fully effective action against tobacco smugglers and illicit tobacco manufacturers.

- 5.13 To a greater or lesser extent, tobacco smuggling now affects the vast majority of EU countries. For that reason, the EU and the UK are playing a prominent role in the development of an Illicit Trade Protocol to the World Health Organisation's Framework Convention on Tobacco Control (FCTC). The Illicit Trade Protocol will provide a binding legal framework for international regulation of tobacco production and distribution and for international co-operation between tobacco enforcement authorities. The proposed protocol is wide-ranging and ambitious but among the potential measures under discussion are: the licensing and regulation of tobacco producers and machinery manufacturers; global standards on tracking and tracing of tobacco products; regulation of internet sales; administrative and enforcement co-operation and mutual legal assistance. Parties to the FCTC are committed to seeking an agreement on the protocol by 2010.
- 5.14 To date, the UK has not been a party to the agreements on tackling tobacco smuggling that the European Commission and Member States have signed with Philip Morris International and Japan Tobacco International. The agreements cover many of the same issues that are addressed in the UK's 2006 Supply Chain Control Legislation and the Government is keen to ensure that, if the UK were to sign up to the agreements, neither the agreements themselves nor the UK legislation would be undermined. We have made good progress towards resolving these issues in discussions with European Commission lawyers and hope to make further progress in the near future, to enable the UK to be in a position to sign the agreements.

Annex 1

Relevant extracts from the Excise Delivery Agreement between HMRC and the UKBA for 2008-09

Key outcomes

UKBA will:

- Undertake a balanced range of border activity in response to agreed fiscal risks designed to ensure that excise tax gap targets for the CSR '04 years are met and at least maintained through the CSR '07 years, in particular by:
 - Helping restrict the size of the UK illicit cigarette market to no more than a 13% share by seizing at least 20% of the illicit cigarettes targeted on the UK.
 - Helping reduce the size of the illicit Hand Rolling Tobacco market by 1200 tonnes against 2003/04 levels by progressively raising the proportion of HRT seized to 15% and beyond.

Key outputs

In 2008/09 UKBA will:

- Seize in the range of 1.4 to 1.9 billion **illicit cigarettes** targeted on the UK.
- Seize in the range of 175 to 375 tonnes of **illicit hand rolling tobacco** targeted on the UK.
- Action all referrals and requests for frontier activity from HMRC Criminal Investigation teams subject to detailed operating protocols on timeliness and precision of requests.
- Notify all qualifying seizures of tobacco to manufacturers and HMRC under the terms of the 2006 supply chain legislation within agreed timescales.

Other key activities

UKBA will:

- Contribute to the development and implementation of collaborative, multi-functional strategies aimed at preventing and detecting alcohol, tobacco and oils duty evasion and fraud.
- Provide appropriate support for all agreed national alcohol, tobacco and oils strategy projects.
- Play a full and active part in delivery of excise strategies, including by participating in appropriate Director-level steering groups and working level delivery groups.
- Follow up excise border activity efficiently and effectively, in accordance with HMRC policy (e.g. routine appeals against excise seizures, excise restoration reviews and complaints, storage/disposal of seized good).
- Further increase its visibility at smaller locations including regional airports in order to reassure the public and deter excise smuggling activity.
- Introduce effective, alternative techniques to ensure a wider coverage of ports and airports.

- Work with HMRC to curb the use of the postal system for tobacco smuggling.
- In line with the announcement made at Budget 2008, develop by PBR 2008 a plan for refreshing border aspects of the *Tackling Tobacco Smuggling* strategy by leveraging the benefits of the integrated UK Border Agency to enhance excise anti-smuggling performance and publish quantified improvements upon the targets set out in this document.

Inputs

UKBA will:

- Deploy not less than 1500 staff years to excise border activity in 2008/09.

Procedures

UKBA will:

- Undertake border fiscal activity in accordance with agreed operating procedures, including, e.g. National Operating Protocol between UKBA and HMRC Referred Investigation Teams (RITs)
- Manage reputational risks associated with the enforcement of excise regimes by maintaining adequate levels of training and assurance on the application of Criminal Justice Enforcement Standards and subject to assurance by HMRC and external regulators.

Monitoring and reporting

UKBA will:

- Maintain a detailed set of performance records as agreed with HMRC's Excise, Stamps & Money Businesses Directorate covering staff year usage, activity levels and output results utilising existing information systems.
- Submit agreed monthly, quarterly and annual performance reports to Excise Stamps & Money Businesses within an agreed timetable.
- Provide such other performance reports or analysis as may, from time to time, be requested by Excise Stamps & Money Businesses within agreed timescales and utilising existing information systems.

HMRC responsibilities

- Over the period from 2008/09 – 2011/12 HMRC will ensure that tobacco activity will make one of the largest single contributions to its overall objective of reducing revenue losses from criminal attacks. HMRC recognises that the UKBA seizure target is critical to this commitment, and that UKBA cannot achieve that target without strong support from HMRC, especially from Investigation, Intelligence and the development of technological profiling, such as the Freight Targeting System (FTS).
- Tobacco (cigarettes and HRT) is therefore among the top operational priorities for Criminal Investigation (CI) and Risk & Intelligence Services (RIS). Tasking and co-ordination activity in both CI and RIS will clearly reflect this.
- HMRC RIS will continue to provide intelligence products to inform and enhance UKBA's border activities in respect of excise duty controls. These intelligence products will be derived from HMRC's ongoing responsibility for tackling excise fraud within the UK and overseas and will complement those delivered by UKBA's own intelligence capacity in respect of goods threats presented by different modes of international transport following the transfer of border-related intelligence staff from HMRC to UKBA management structures in April 2008.
- HMRC's Criminal Investigation (CI) and Risk & Intelligence Service (RIS) are strongly committed to supporting UKBA in the delivery of its frontier excise targets. Working in collaboration with UKBA representatives CI and RIS will continuously evaluate the effectiveness of their contribution to the delivery of those frontier excise targets with the aim of achieving the necessary impact on UKBA's frontier excise delivery commitments.
- In particular, HMRC RIS and UKBA Intelligence will engage regularly to agree specific risk and intelligence requirements, and will produce quantitative and qualitative measurements of the impact of HMRC and UKBA intelligence products to inform further joint planning for frontier operational activities.
- RIS will also apply its full range of intelligence collection assets, including covert sources and the Overseas Liaison Officer network, in support of its priorities which will include excise fraud.
- Criminal Investigation will aim to adopt at least 95% of frontier referrals that meet the agreed adoption criteria.
- HMRC alcohol and tobacco policy leads will meet regularly with UKBA colleagues to discuss possible legislative or policy options that arise out of border activity and will actively consider any proposals from the UKBA for policy or legislative changes that would enhance border activity on alcohol and tobacco.
- HMRC will extend FTS to container traffic by October 2008.

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