

ASIAN CONSULTANCY ON TOBACCO CONTROL
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Legco Security Panel, 8 April 2011.

To: Chair and Members

Re: 2011 Budget: Tobacco tax

I respectfully request, as a Hong Kong resident since 1967, being allowed to contribute global information on tobacco smuggling to the panel.

Smuggling seriously harms public health, helps finance criminal groups, and reduces government revenue.

SUMMARY

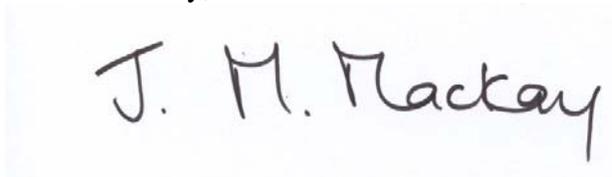
1. 11% of global cigarettes sales are smuggled across all borders, often multi-directionally, in a manner that is surprisingly unrelated to price.
2. Documents uncovered during recent law suits confirm that the tobacco industry itself is responsible or involved in many large-scale cigarette smuggling operations worldwide.
3. Cigarette smuggling undermines the public health efforts of the government, as the cigarettes are sold more cheaply, escaping restrictions like packet warnings.
4. The solution to this, as with all crimes, is for governments to fight crime, and not reduce commitment to public health.
5. Evidence shows that even if tobacco tax increases lead to increased smuggling (and in general they do not), smoking rates, especially among the young, still fall.
6. Hong Kong is now party, via China, to the World Health Organisation's Framework Convention on Tobacco Control (FCTC) and thus under international obligation on this issue (see Appendix). The first protocol of the treaty, currently under negotiation, will be on tobacco smuggling.

Kindly also note:

7. Price measures have been shown around the world to be the one, single, most effective measure in reducing tobacco use, especially among the young.
8. Tobacco tax increases are therefore the core of governmental tobacco control policy, designed to both prevent youth smoking and also encourage smokers to quit.
9. 60 countries already have tobacco tax levels of 65% and above of retail price. 40 countries have tax levels above 70%. Thus the recent budget measures are neither

extreme nor extraordinary, but are consistent with global trends (in fact, a bit behind).

Yours sincerely,

A handwritten signature in black ink that reads "J. M. Mackay". The signature is written in a cursive, slightly slanted style.

Dr Judith Mackay, SBS, OBE, JP, FRCP (Edin), FRCP(Lon)

Director, Asian Consultancy on Tobacco Control
Senior Advisor, World Lung Foundation
Senior Policy Advisor, WHO Tobacco-Free Initiative
Senior Consultant, Asia Pacific Association for the Control of Tobacco
Senior Advisor, Chinese Association on Smoking and Health
Visiting Professor, Chinese Academy of Preventive Medicine
Honorary Professor, Dept of Community Medicine, University of HK

Kindly find attached:

Fact Sheets: Tobacco smuggling UICC. Luk Joossens
<http://www.globalink.org/en/smuggling.shtml>

Fact Sheets. Smuggling TFK
http://www.tobaccofreecenter.org/fact_sheets#trade

Tobacco Smuggling FCA (slightly different document than what I sent in, but similar)
New Report: *How Eliminating the Global Illicit Cigarette Trade would Increase Tax Revenue and Save Lives.*
http://www.ftc.org/dmdocuments/INB3_fact_sheet_illicit_trade_save_revenue_lives.pdf

How can cigarette smuggling be reduced?
Luk Joossens, Martin Raw
BMJ 2000;321:947-950 doi:10.1136/bmj.321.7266.947 (Published 14 October 2000)
<http://www.bmj.com/content/321/7266/947.full>

Cost benefit analysis of the FCTC Protocol on Illicit Trade of Tobacco Products
<http://www.ash.org.uk/tax/analysis>

World Bank Smuggling Toolkit: Understand, measure and combat tobacco smuggling, by David Merriman
<http://siteresources.worldbank.org/INTETC/Resources/375990-1113490055569/Smuggling.pdf>

APPENDICES

WORLD HEALTH ORGANIZATION FRAMEWORK CONVENTION ON TOBACCO CONTROL

PART IV: MEASURES RELATING TO THE REDUCTION OF THE SUPPLY OF TOBACCO

Article 15

Illicit trade in tobacco products¹

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.

2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:
 - (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “*Sales only allowed in (insert name of the country, subnational, regional or federal unit)*” or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
 - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.

4. With a view to eliminating illicit trade in tobacco products, each Party shall:
 - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;

¹ There has been considerable discussion throughout the pre-negotiation and negotiation process concerning the adoption of an early protocol on illicit trade in tobacco products. The negotiation of such a protocol could be initiated by the INB immediately following the adoption of the FCTC, or at a later stage by the Conference of the Parties.

(b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;

(c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;

(d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and

(e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.

5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.

6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.

7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.