

# Tackling Tobacco Smuggling - building on our success

A renewed strategy for HM Revenue & Customs  
and the UK Border Agency

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# Foreword

The Government believes that tobacco smuggling must be tackled head on. Tobacco fraud costs taxpayers over £2 billion a year, depriving the general public of revenue to fund vital public services that support us all. The availability of illegal tobacco products undermines public health objectives and impacts on the health of both individuals and wider communities; circumventing health labelling requirements and age of sale restrictions.

Since Her Majesty's Revenue and Customs' (HMRC) "Tackling Tobacco Smuggling" Strategy was first introduced in 2000 the size of the illicit cigarette market has been cut by almost half with more than 20 billion cigarettes and over 2,700 tonnes of hand-rolling tobacco seized. There have been more than 3300 criminal prosecutions for tobacco offences following action by our officers.

The smuggling of cigarettes and hand-rolling tobacco is also a key business for organised criminal gangs who use the proceeds of this crime to fund the smuggling of drugs, weapons and also human beings. It harms the overwhelming majority of law-abiding businesses who sell tobacco products legally, diverting revenues from retailers all over the country.

This Government is committed to stepping up action to deal with this problem and "*Tackling Tobacco Smuggling – building on our success*" shows how HMRC with the support of UK Border Agency will work together to ensure that those who think that this is a quick, easy and above all profitable crime are targeted, tackled and punished.



A handwritten signature in black ink, appearing to read 'Justine Greening'.

**Justine Greening**  
Economic Secretary to the Treasury



A handwritten signature in black ink, appearing to read 'Damian Green'.

**Damian Green**  
Minister of State for Immigration, Home Office

# Chapter 1

## Introduction

- 1.1 Tobacco smuggling undermines efforts to reduce smoking prevalence and costs the UK taxpayer an estimated £2.2 billion per annum. Tackling the illicit tobacco market is a key Government objective.
- 1.2 Smoking remains the primary cause of preventable illnesses and premature deaths in the UK. Illicit tobacco makes smoking more affordable. Unregulated distribution networks associated with smuggling make tobacco more accessible to children and young people and perpetuate health inequalities across socio-economic groups.
- 1.3 Although the tobacco illicit market has been reduced significantly over the last decade, methods of tobacco smuggling have evolved. It is now a global problem carried out by highly organised criminal gangs that operate across international boundaries. In the UK, we are facing continued threats from cheap counterfeit products and a growing problem of “illicit whites”<sup>1</sup>. We also continue to see significant amounts of popular UK brands purchased abroad and sold illicitly in the UK.
- 1.4 We are therefore renewing our strategy to tackle these threats, building on our previous successes. With £917 million additional investment to tackle organised crime, tax evasion and avoidance through the Government’s Spending Review our objective is to achieve further sustainable downward pressure on the illicit market in cigarettes and hand-rolling tobacco through to 2015.

<sup>1</sup> *Illicit whites are cigarettes manufactured for the sole purpose of being smuggled into and sold illegally in another market. They usually do not pay tax in the country where they are made. In most cases illicit whites are produced in countries outside the European Union, smuggled into the UK and sold at a street price of £2.50 to £3.00 per packet (Source: Tobacco Manufacturers’ Association).*

### HMRC and UKBA will

- increase resources to target and tackle the organised criminals behind the fraud by:
  - expanding our criminal intelligence and investigation capabilities;
  - expanding our successful Fiscal Crime Liaison Officer (FCLO) network; and,
  - introducing new technology, intelligence and detection capability to improve our ability to respond more flexibly at the border;
- robustly apply new powers of assessment and penalties and pursue proceeds of crime to deter offending and prevent re-offending;
- reduce the minimum indicative levels for EU travellers<sup>2</sup>;
- explore options with industry to restrict the availability of duty free tobacco products that are subsequently diverted onto the UK illicit market;
- press for, and support, the successful conclusion to the World Health Organisation (WHO) negotiations to develop a new international protocol to fight illicit trade in tobacco products in 2012;
- sign a revised closer working protocol with Trading Standards Services to combat the sale and supply of illicit tobacco products;
- review Memoranda of Understanding (MoUs) with the major tobacco manufacturers in 2011 to ensure that we have a strong framework of co-operation in place for working together to tackle the illicit trade;
- continue to work with the industry establishing new working groups, identifying and addressing intelligence gaps, developing a collective understanding of the illicit market in the UK and sharing insight into consumer and retail education; and,
- continue to publish annual estimates of the illicit market share and key information (for example, seizure and prosecution statistics) that we use to monitor and scrutinise the performance and impact of the strategy

<sup>2</sup> These levels are used as a guide for determining whether tobacco products imported from the EU are for personal use.

## Chapter 2

# The “Tackling Tobacco Smuggling” Strategy since 2000

2.1 In 2000, approximately 1 in 5 cigarettes smoked in the UK were smuggled, costing over £3 billion a year in lost tax revenue.

2.2 In response to this problem the first “*Tackling Tobacco Smuggling*” Strategy was introduced with the following key principles. These still apply today:

- making it harder for smugglers to source tobacco;
- disrupting the supply and distribution chains;
- increasing the risks of, and reducing the rewards from, smuggling; and,
- tackling the demand side by raising public awareness.

2.3 In 2006, the Government published “*New Responses to New Challenges: Reinforcing the Tackling Tobacco Smuggling Strategy*”. The emphasis was to tackle the growing threat of counterfeit product and achieve significant cuts in the high levels of smuggled hand-rolling tobacco.

2.4 With the launch of the UK Border Agency (UKBA) in April 2008 we took the opportunity to enhance the strategy. Working together, HMRC and UKBA designed a strategy to jointly combat illicit tobacco entering and being sold in the UK. The creation of the UKBA increased the enforcement capability at the border to make the most effective use of our combined intelligence, powers and sanctions.

2.5 Since 2000, in excess of 20 billion cigarettes and 2,700 tonnes of hand-rolling tobacco have been seized. We have prosecuted over 3,300 criminals involved in the illicit tobacco trade.

### Significant changes introduced since 2000:

- Investment in additional resource – 1000 additional staff in 2000 with a further 200 staff in 2006;
- Regulatory change – introducing fiscal marks and supply chain legislation;
- Increased sanctions – including strong seizure and restoration policy, confiscation of offenders’ assets and fines up to £5000 and bans in tobacco trading;
- Working with industry – formalised through the signing of Memoranda of Understanding and leading to voluntary introduction of the covert security mark on cigarettes;
- EU anti-smuggling agreements with the major tobacco manufacturers – designed to prevent large-scale smuggling of legitimate cigarettes and hand-rolling tobacco into the EU.

# Chapter 3

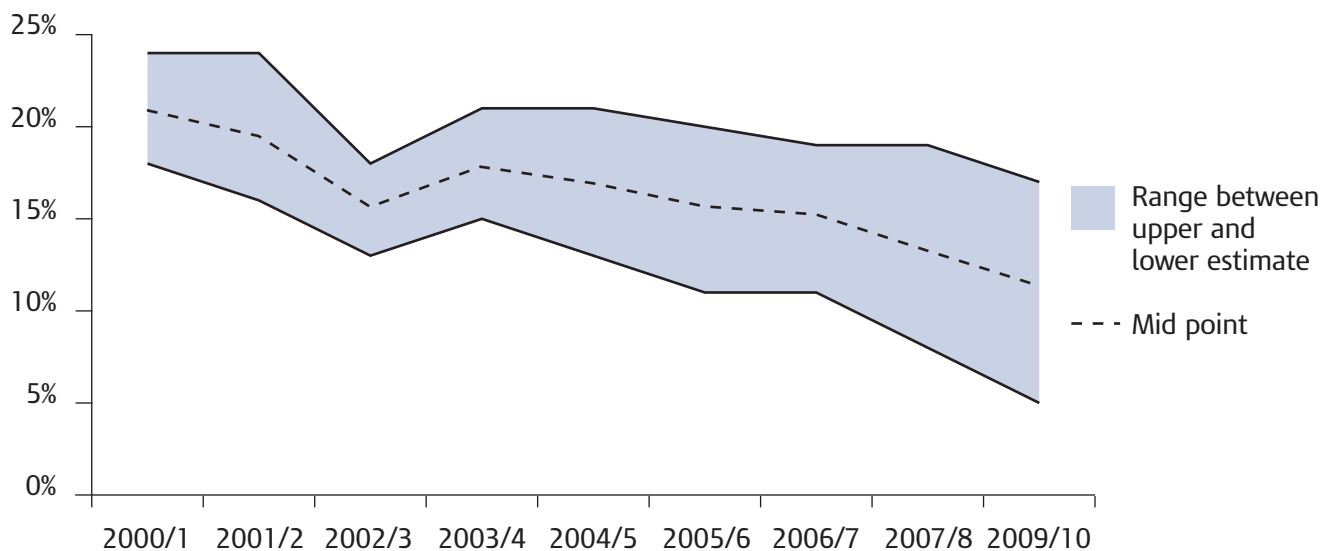
## The UK Illicit Market

### The tax gap

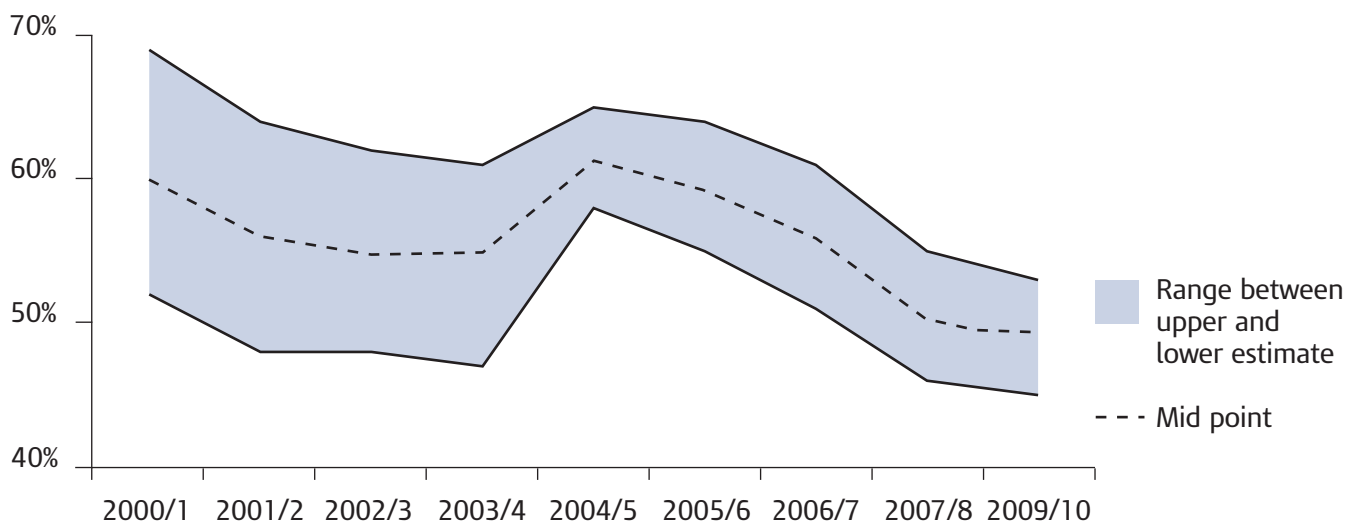
**3.1** Tobacco duties contributed £8.8 billion to public finances in 2009/10. Latest estimates indicate that smuggling of cigarettes costs the UK in the region of £1.4 billion per year in lost revenue and £0.8 billion per year for hand-rolling tobacco.

**3.2** The Strategy has been successful in significantly reducing the tobacco illicit markets in the UK. The illicit cigarette market has reduced from 21% to 11% since 2000, and from 61% to 49% for hand-rolling tobacco over the same period.

**Fig 1: Trends in the cigarette illicit market**



**Fig 2: Trends in the hand-rolling tobacco illicit market**



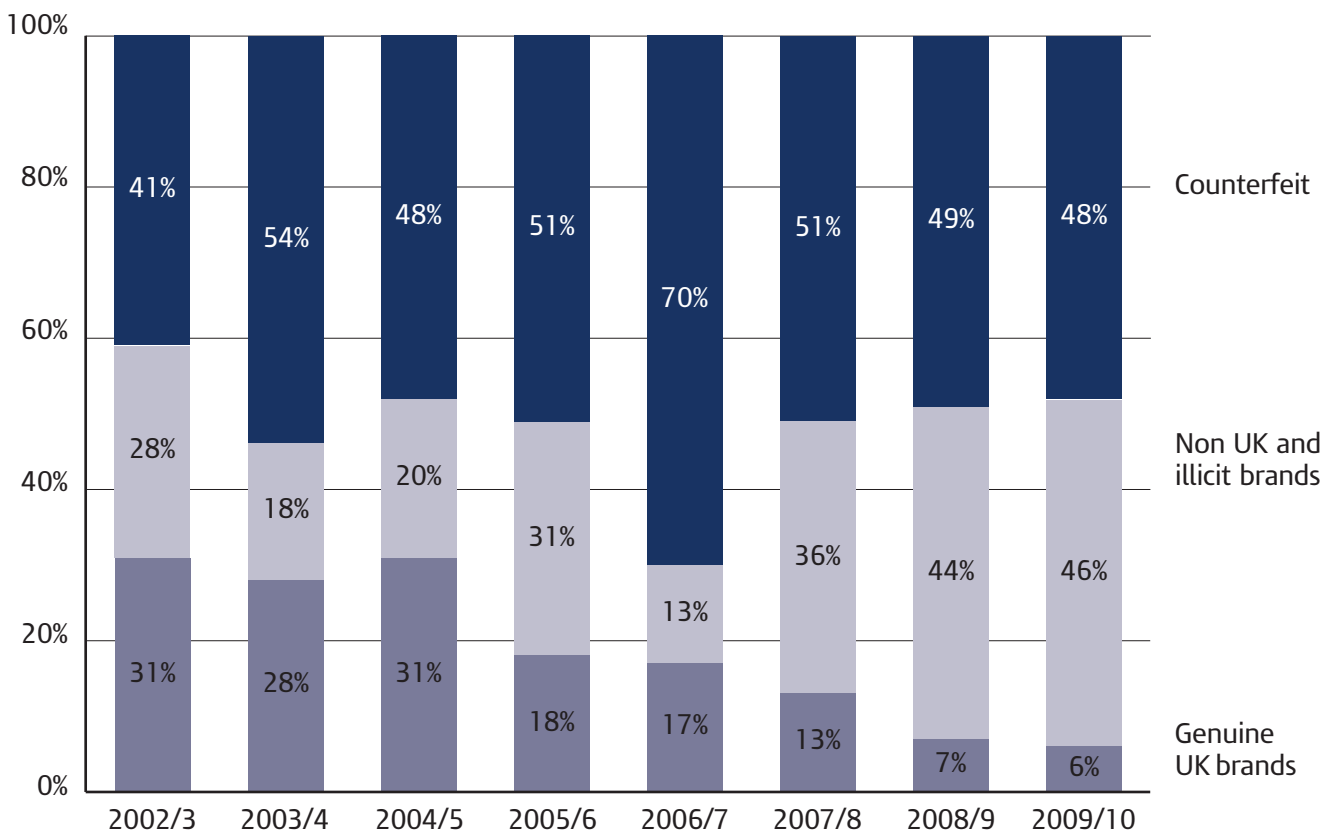
How the illicit market has changed

3.3 The illicit tobacco market in the UK has changed significantly since 2000. Historically it was made up of genuine UK brands of tobacco smuggled from lower-priced EU countries. Currently, it is much more a mix of genuine UK and non-UK brands of cigarettes, hand-rolling tobacco, counterfeits, and increasingly, illicit whites.

3.4 The emergence of counterfeit, non-UK and illicit white brands is reflected in increased proportions of these products in seizures of commercial quantities of cigarettes destined for the UK illicit market.

3.5 Smuggling of genuine UK brands continues to be a particular problem for hand-rolling tobacco, which is relatively small in volume but high in value. In 2009/10, half of HMRC and UKBA seizures of hand-rolling tobacco<sup>4</sup> were genuine UK brands, with the remainder being counterfeits of UK brands (24%) and non-UK brands (26%).

Fig 3: HMRC and UKBA seizures of cigarettes in commercial quantities<sup>3</sup>



<sup>3</sup> Seizures of cigarettes over 100,000 sticks.

<sup>4</sup> Data is only available for seizures of over 50kg of hand-rolling tobacco.



## Counterfeit Cigarettes

Counterfeits of UK brands originate mostly from the Far East, with China continuing to be the major source. The counterfeiters show ever increasing sophistication in the face of international enforcement efforts. They frequently move manufacturing bases and distribution hubs, and are constantly challenging border controls with new routings or methods of concealment of goods.

## Illicit White Cigarettes

Illicit whites, from a range of non-EU sources, continue to increase their market share in the UK. Along with counterfeits, they represent the most significant threat to legitimate trade and tobacco revenues in the UK from large scale organised criminality. A number of illicit white brands have now established themselves in the UK, including Raquel and Jin Ling, with new brands beginning to emerge.



## Chapter 4

# Building on the success of the “Tackling Tobacco Smuggling” strategy

- 4.1 The Government is committed to tackling tobacco fraud in all its forms and has provided additional investment to strengthen the strategy through the Spending Review.
- 4.2 Good progress has been made in reducing the illicit market in recent years. We have renewed our strategy to build on that success and meet the challenges we continue to face from the variety of tobacco smuggling threats.
- 4.3 The renewed strategy is comprehensive, seeking to combine policy and legislative changes, enforcement, and collaborative working with stakeholders to address the source, supply and demand for illicit tobacco in the UK.
- 4.4 The key objectives of the renewed strategy are:
  - a) **Targeting and disrupting the organised criminal gangs behind the fraud**
- 4.5 Tobacco fraud remains one of the main pillars of organised criminal activity in the UK, and prosecution remains the most effective and powerful sanction we have to tackle it. More HMRC criminal investigative resource is focused on tackling tobacco fraud than any other form of fraud. However, the criminals involved remain resilient.
- 4.6 Our aim is to significantly undermine the ability and confidence of criminal gangs to target the UK. We will expand our tobacco criminal intelligence and investigation capacity by approximately 20% to pursue and prosecute key individuals involved and dismantle their organisations. In doing so, we aim to increase the amount of revenue we protect by around 30% over the Spending Review period.
- 4.7 We will identify more of the principal controllers of the fraud: the networks for moving, storing and distributing illicit tobacco, and the inter-connectivity between the various parties. This will lead to more effective deployment of existing and new investigative resources. In conjunction with international agencies via our FCLO network, the UKBA and Inland Detection teams we will undermine the structure of the organisations that operate the fraud and cause them maximum damage both at home and abroad.
- 4.8 There will also be additional capacity for HMRC to work with UKBA at the border to gather intelligence on interceptions of large consignments of illicit tobacco. This will enable us to respond more quickly to changes in the modes of smuggling used by organised criminals. It will also improve our ability to target disruption activity upstream as well as along illicit supply chains at home and overseas.

**b) Seizing greater volumes of illicit product to undermine the economics of the fraud**

- 4.9** Tobacco smuggling is driven by profit. It is vital to seize sufficient volumes of illicit product to undermine the economics of the fraud and take the profit out of the crime.
- 4.10** Tobacco smuggling can take many forms. Goods can be consigned in commercial-sized loads or small packages.

They may be transported on their own or secreted amongst other products. They can be transported by air or maritime accompanied, for example, in vehicles or passenger baggage, or sent by post. Ever more creative methods are being employed with increasing use of sophisticated concealments to avoid detection. Recent examples include hiding cigarettes and tobacco within coils of rubber cord rope, transformers, tyres, footwear and computer hardware.

**Table 1: Points of interception of smuggled cigarettes<sup>5</sup>**

	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>
Overseas	580m	726m	855m
Maritime	686m	491m	557m
Air	367m	478m	244m
Inland	256m	98m	180m
Total	1.9bn	1.8bn	1.8bn

<sup>5</sup> Figures in millions (m) or billions (bn) of cigarette sticks.

## Chapter 4: Building on the success of the “Tackling Tobacco Smuggling” strategy

- 4.11** Intercepting consignments of illicit goods upstream, in particular overseas, is where we can have the greatest economic impact on fraudsters. We aim to increase the seizures we make overseas by 20% over the Spending Review period.
- 4.12** Tobacco smuggling is an international crime. In response, we will extend the reach of our capability, through our FCLO network, co-ordinating enforcement work overseas with other tax authorities. FCLO officers collaborate with the host tax authorities exploiting opportunities to share intelligence and co-ordinate enforcement action against production and transport of illicit goods destined for the UK market. This has resulted in seizures of approximately 2 billion illicit cigarette sticks targeted on the UK in the last two years. Seizures abroad now account for over half of the total illicit cigarette seizures.
- 4.13** Our world-wide FCLO network currently covers over 60 countries. In 2011, we will begin extending our coverage further by creating five new FCLO posts. This will enable us to respond to threats from new source countries for counterfeit and illicit white cigarettes and strengthen co-operation with countries through which these goods transit on their way to the UK. In addition, for the first time we will provide a specific focus on hand-rolling tobacco.
- 4.14** We need to be as flexible as possible at the border and inland to increase the likelihood of detecting illicit tobacco. In 2011, we are increasing intelligence resource at the border, improving our understanding of how, where and when illicit product will enter the UK. We are also investing in mobile inspection facilities to enable UKBA and HMRC to deploy resources more quickly and flexibly to provide more effective coverage of ports of entry. Additional resources and extra scanning equipment will also be deployed at international postal hubs to tackle an increasing risk of counterfeit hand-rolling tobacco imported from China through the post.
- c) Taking hard-hitting action against offenders to deter and punish those involved in the fraud**
- 4.15** To deter and prevent fraud, we will increase the likelihood of being caught and increase the sanctions against those we catch.
- Sanctions**
- 4.16** We are investing in over 100 additional enforcement posts from April 2011 to enable HMRC, in conjunction with UKBA, to apply a harder hitting range of sanctions. This will enable robust criminal and civil action to be taken against more individuals linked to fraud at all levels.

### Hard-hitting sanctions

- Seizure of goods;
- Seizure of vehicles/ vessels and possible non-restoration;
- Seizure of cash under the proceeds of crime;
- Criminal prosecution with a custodial sentence of up to 7 years;
- Confiscation of assets as part of the proceeds of crime;
- Assessment for the loss of duty;
- Financial wrongdoing penalties of up to 100% of the duty due;
- Civil action including winding up orders and bankruptcy;
- Fines of up to £5000 for selling illicit tobacco not bearing the UK duty paid fiscal markings;
- Prohibition on the sale of tobacco products for up to 6 months;
- Travel restrictions on repeat tobacco smugglers.

- 4.17 Extra criminal investigation resources will increase the number of prosecutions we make, particularly repeat offenders. We will conduct more financial investigations to recover criminal assets through the Proceeds of Crime Act 2002 (POCA) lifestyle provisions. This will take the profit out of the crime for those individuals who have amassed considerable wealth through their involvement in tobacco smuggling.
- 4.18 Where we detect illicit tobacco we always seize the illicit goods. New powers for HMRC to tackle excise fraud came into force in 2010 adding significant new financial sanctions to deter and punish those involved in smuggling illicit tobacco.
- 4.19 These include changes in EU and UK law to allow us to also assess those who hold or supply illicit tobacco for unpaid duty<sup>6</sup> and levy penalties up to 100% of the value of tax evaded<sup>7</sup>. For example, somebody caught smuggling 20,000 premium UK branded cigarettes costing around £4,000 to purchase on the near-continent could now face the loss of that product, a tax bill of roughly £4,250 and a further penalty of up to £4,250 – a financial cost to the smuggler of around £12,500. These multiple sanctions can be applied against anyone caught in possession of tobacco on which duty hasn't been paid.

<sup>6</sup> <http://www.legislation.gov.uk/ukxi/2010/593/contents/made>

<sup>7</sup> <http://www.hmrc.gov.uk/about/new-penalties/>

## Chapter 4: Building on the success of the “Tackling Tobacco Smuggling” strategy

- 4.20** To recover tax losses or debts arising from fraud we will instigate liquidation against a business facilitating fraud or bankruptcy proceedings where we find an individual’s lifestyle is funded through fraud. Where links to UK fraud are established in other countries, we will also apply to have criminal assets frozen internationally.
- 4.21** Changes to powers to check compliance came into force on 1st April 2011 which will facilitate HMRC officers’ search for documentation as well as goods to evidence fraud.<sup>8</sup>

### d) Reducing the availability of genuine tobacco products for fraud

- 4.22** Popular UK branded tobacco products are widely available overseas. These are smuggled predominantly duty-paid from lower-priced countries for illicit re-sale in the UK. Often these source countries are supplied with volumes of tobacco well in excess of legitimate demand in those countries.
- 4.23** Reducing the availability of genuine popular UK brands to be sourced abroad for illicit supply chains and illicit re-sale in the UK will reduce both supply and demand for illicit product in the UK.

### Supply chain controls

- 4.24** We will continue to work with the UK tobacco manufacturers to make it harder for smugglers to obtain large quantities of genuine tobacco products from the near-continent for the purposes of re-sale on the UK illicit market.
- 4.25** Following the introduction of UK Supply Chain Legislation (SCL) in 2006, new measures introduced by the UK tobacco manufacturers to improve their supply chain controls are having an impact on the availability of genuine product to smugglers. However, a large part of the UK illicit market is still made up of UK genuine product, particularly in the hand-rolling tobacco market. We are therefore looking at how we apply the UK SCL to make further progress.
- 4.26** We will also build on the EU anti-smuggling agreements with the multi-national tobacco manufacturers, Member States and the European Anti-Fraud Office (OLAF) to continually develop our understanding of the smuggling risks from source countries and the actions available to the tobacco manufacturers to reduce this risk.
- 4.27** We will refresh the Memoranda of Understanding (MoUs) currently in place with UK manufacturers to ensure that we have the right framework of co-operation in place for working together to tackle the illicit trade.

<sup>8</sup> <http://www.hmrc.gov.uk/about/new-penalties/qa-compliance-checks.htm>

## Duty free sales

4.28 Export shops in ports and airports within the UK have also been targeted by organised criminals. The criminals exploit weaknesses in the system which allows travellers to buy goods duty free for consumption outside the EU. Criminals buy these goods then divert them onto the UK illicit market evading substantial amounts of tax.

4.29 We will consult with export shop operators on options to restrict the availability of UK duty free tobacco for fraud. This is to remove incentives for organised criminals currently targeting port and airport export shops buying UK premium brands for diversion onto the home market.



## Chapter 4: Building on the success of the “Tackling Tobacco Smuggling” strategy

### Minimum indicative levels for EU travellers

**4.30** Large volumes of UK branded tobacco are also smuggled onto the market involving travellers who abuse cross-border shopping rules, buying quantities of tobacco in excess of duty free<sup>9</sup> or EU minimum indicative levels<sup>10</sup> for onward sale to colleagues, friends and family on their return home.

**4.31** We will reduce the minimum indicative levels to 800 cigarettes and 1 kg hand-rolling tobacco in the autumn. These levels are used as a guide for determining whether tobacco products imported from the EU are for personal use. This will deter travellers who seek to abuse cross border shopping rules from purchasing large quantities of non-UK duty paid tobacco for illicit re-sale in the UK.

### e) Decreasing demand for illicit tobacco products

**4.32** Approximately one fifth of the UK’s smoking population admit to purchasing illicit tobacco. Around two-thirds of illicit tobacco buyers claim that cheaper illicit tobacco makes it possible for them to smoke when they otherwise could not afford to.

**4.33** Smokers buy from a wide variety of outlets. These range from independent shops to houses in local communities, pubs/clubs, markets and ice-cream vendors selling illicit tobacco to children.

**4.34** As well as undermining efforts to reduce smoking prevalence, illicit trading also harms honest retail businesses which not only lose direct sales of tobacco but also sales of other products to customers. This affects employment in the retail and manufacturing sectors that depend on these sales.

### Marketing

**4.35** In the 2006 “*Tackling Tobacco Smuggling Together*” Strategy we made a commitment to work in partnership with key stakeholders to develop a cross-government communications strategy to change attitudes in the UK and reduce demand for illicit tobacco.

**4.36** Since then, we have worked in collaboration with the Department of Health to develop a comprehensive three-year marketing strategy which was published last year. Campaigns to pilot the strategy were run in Portsmouth and Liverpool in 2010 and succeeded in raising awareness of illicit tobacco, and in Portsmouth, prompted the public to report instances of illicit trading to the Crimestoppers hotline.

<sup>9</sup> The limits for bringing tobacco products into the UK from outside the EU are 200 cigarettes or 100 cigarillos or 50 cigars or 250g hand-rolling tobacco.

<sup>10</sup> There are no limits to volumes of tobacco travellers can bring back from the EU provided the goods are transported by them and are for their own use. However, Member States can set guide levels for determining whether the goods are for personal use. The UK levels are currently set at 3200 cigarettes and 3Kg of hand-rolling tobacco.



4.37 The recently published Department of Health tobacco control plan<sup>11</sup> sets out the Government's intention to support the development of evidence-based marketing campaigns by local authorities to reduce illicit tobacco use in their communities. We will engage regional and local partners to establish how we might support these campaigns.

#### Working with partner agencies in the UK

4.38 Trading and consumption of illicit tobacco happens throughout the UK. Joining-up marketing and multi-agency enforcement will be essential to tackle this problem.

4.39 The "*North of England Tackling Illicit Tobacco for Better Health Programme*" is an example of how this can work. The programme combines the use of marketing and enforcement across several agencies to tackle the illicit tobacco market, including the Police, Trading Standards, Licensing Officers and HMRC. The tobacco control plan provides a clear lead for local authorities in England to adopt such a multi-agency approach to tackling illicit tobacco within communities, with support from HMRC.

4.40 We will continue to work with the Department of Health, Trading Standards, Police and other national, regional and local partners to develop joined-up approaches to tackling illicit activity. As part of this commitment, HMRC and Trading Standards are developing a stronger 'Closer Working' Protocol.

4.41 We will also continue to work with other partners, such as Action on Smoking and Health (ASH), other public health stakeholders and academics, including those at the UK Centre for Tobacco Control Studies. Our aim will be to exploit all available external research and data sources in support of delivering our strategic objectives.

#### f) Collaborating with overseas partners and international organisations

4.42 Tobacco fraud is an international problem and we need an international strategy to make a lasting impact on the global illicit trade. We will continue productive work with European and international governments, strengthening diplomatic links and co-operation between enforcement officials.

#### The World Health Organisation Framework Convention on Tobacco Control (FCTC)

4.43 The FCTC is an international legally-binding treaty designed to reduce tobacco-related deaths and disease. It came into force in 2005. The Convention obliges its 172 signatories, who include all EU Member States and the European Commission in its own right, to implement proper controls with a view to eliminating the illicit trade in tobacco. These controls are set out in a draft protocol currently being negotiated by the parties to the Convention.

<sup>11</sup> "*Healthy Lives, Healthy People: A Tobacco Control Plan for England*".

## Chapter 4: Building on the success of the “Tackling Tobacco Smuggling” strategy

**4.44** The UK, with EU partners, will seek to negotiate a positive and effective protocol for international regulation of tobacco production and distribution, and for international co-operation between tobacco enforcement authorities.

### **g) Working with industry**

**4.45** We will set up a new anti-illicit joint working group with the UK tobacco manufacturers and the Tobacco Manufacturers’ Association with the aim of proactively developing an improved and shared understanding of the illicit market in the UK. We have already agreed a number of initiatives to be taken forward together and these will be continually reviewed and refreshed as the risks evolve.

**4.46** Joint initiatives with tobacco manufacturers to be taken forward in 2011 include:

- improving our collective understanding of the illicit market in the UK, assessing the current and emerging threats the industry and HMRC face from the illicit trade and exploring what more the industry and HMRC can do in response to the assessment;
- identifying key intelligence gaps to obtain a more complete picture of the illicit trade and emerging threats both in the UK and overseas;

- establishing how the industry operates in source markets for illicit product and other information that the industry has access to that could inform the picture of risk; and,
- sharing insight into customer and retail education with the aim of improving consumer knowledge and awareness of illicit tobacco products.