

The Impact of COVID-19 on contraband tobacco and provincial tax revenues in Canada:

March-August 2020



Executive Summary

By causing the temporary shutdown of First Nations tobacco manufacturing and sales operations in Ontario and Quebec, COVID-19 has revealed the extent of the illegal cigarette market in Canada – and the price provinces are paying in foregone tax revenue. As documented in this report, the First Nations closures lasted from late March to early- to mid-June 2020. As these sources of contraband cigarettes dried up, a gradual but sustained uptick in legal sales of cigarettes is observable across several data sets, followed by a decline to normal baseline levels immediately following the re-opening of on-reserve cigarette factories and “smoke shops.”

This report also examines other factors that might, theoretically at least, have contributed to the observed temporary spike in legal cigarette sales followed by the plunge in sales. It finds no evidence of a temporary increase in smoking prevalence during the pandemic or plausible alternative explanation for the sales spike other than this temporary shutdown and startup of illegal manufacturing and sales facilities.

The key finding of this report is the degree to which provincial tobacco tax revenues could increase if there were more effective enforcement activities to stem the on-reserve production and sale of illegal tobacco. Further efforts are required to prevent the off-reserve movement and distribution of illegal tobacco products, which are shown to be as pervasive in Ontario and Quebec as had been previously estimated, and much more so in the Atlantic provinces.

Key findings include:

- Nationally, legal cigarette sales in June 2020 were 24% higher than in June 2019. This sudden reversal of the trend in which year-over-year cigarette sales have historically declined is explained by the closure of illegal tobacco manufacturing, sales and distribution networks owing to COVID-19, which forced consumers of illegal cigarettes to purchase through legal channels.
- For the large sample of convenience stores included in this study, legal sales of cigarettes in the month of June increased 44.9% in New Brunswick, 47% in Prince Edward Island and 44.3% in Newfoundland and Labrador, compared to June 2019.
- This implies that associated provincial tobacco tax revenues increased by a total of almost \$32 million in the single month of June as a result of the on-reserve shut down of illegal tobacco manufacturing and sales due to COVID-19.
- Similarly, associated federal tobacco excise duties increased by more than \$18 million in the month of June as a result of COVID-19 related closures of illegal First Nations tobacco manufacturing and sales.
- This means that the closure of illegal tobacco operations generated over \$50 million in additional tax revenues to the federal and provincial governments (not including the increase in applicable sales taxes) in the month of June alone, and again, this only includes stores in this study's sample, not the entire population of convenience stores.
- In Ontario, the increase in sales for the sample of stores surveyed reveals a tobacco tax revenue increase of \$6,368,817 in June. Given the data limitations of this study, the windfall to the provincial treasury resulting from the shutdown of illegal tobacco enterprises is likely much higher.
- Provincial and federal governments' stated health objective of decreasing the incidence of smoking is being significantly undermined by a lack of effective enforcement against the illegal tobacco trade.

Convenience Industry of Canada Council Recommendations for Governments

1. No tax increases: The first pillar of a successful plan to combat illegal tobacco is a prudent tax policy that keeps legal tobacco costs from rising until illegal tobacco can be significantly removed from the market. Provinces and the federal government should institute a freeze on any tobacco tax increases.
2. Empower law enforcement: Provinces should seek the federal government's agreement to empower all police forces to enforce the federal *Excise Act 2001*, and provincial law enforcement should be provided greater resources and incentives to pursue contraband tobacco infractions. This increased enforcement approach has been deployed in Quebec, with considerable success and a demonstrated return on investment for a number of years.
3. Tackle illegal tobacco collaboratively: We know the illegal tobacco is moving across provincial borders, so without a concerted interprovincial effort that involves Canada's federal government, meaningful action in one jurisdiction will be undone by lacking enforcement in a neighbouring province. Provinces should call on the federal government to exercise its powers to aid in interprovincial efforts to stop the trade and sale of illegal tobacco.
4. Direct funds to, and work directly with, Indigenous councils: Provinces should negotiate with respective indigenous band councils to apply a levy to non-indigenous purchasers of tobacco products. The levy collected would be kept by the reserve, for allocation by the reserve's leadership.

Convenience Industry Council of Canada Recommendations for Ontario

While some provinces have made concerted efforts to combat the growth of illegal tobacco originating from First Nations reserves, Ontario has been slower to react. As one of Canada's epicentres of illegal tobacco production and distribution, the Convenience Industry Council of Canada recommends that the province of Ontario take the following actions to increase revenue for Ontario and for provinces across Canada:

5. Increase enforcement: Acting on what has worked in neighbouring jurisdictions, Ontario should seek the federal government's agreement to empower all police forces to enforce the federal *Excise Act 2001*, it should remove the "in plain view" provision from the *Smoke-Free Ontario Act*, invest more money in Ontario's Contraband Tobacco Enforcement Unit and allow local police to keep fines and disposal of assets seized as proceeds of crime arising from enforcement action against illegal tobacco, thus providing greater resources and incentives for local law enforcement.
6. Work with First Nations: Ontario should engage First Nations in order to include taxes in the price paid by on-reserve retailers and introduce a tax rebate program for fuel and tobacco sold to status First Nations peoples. Alternatively, Ontario should negotiate with the province's indigenous band councils to apply a levy to non-indigenous purchasers of tobacco products. The levy collected would be kept by the reserve, for allocation by the reserve's leadership.

Without immediate action, illegal tobacco rates in Ontario and across Canada are likely to rise as the economic realities of the pandemic hit consumers. But by taking steps to enforce existing laws and curb the flow of illegal tobacco, provincial governments across Canada can increase their revenues and further their stated public health goals.

I. Introduction

On Wednesday, March 11, 2020 the World Health Organization (WHO) declared a rapidly spreading coronavirus outbreak a “pandemic”.¹ In response to this looming global public health threat, most countries, including Canada, quickly adopted strict control measures designed to contain and slow the spread of the virus. In Canada, these measures resulted in a temporary forced shutdown of large sections of the economy for several months.

The subject of this report is one unanticipated and largely positive impact of COVID-19 closures: a temporary windfall gain to the federal and provincial governments in the form of an unexpected uptick in tobacco tax revenues. This was not the result of a tax increase. Nor was it because the incidence of smoking had spiked due to the pandemic. As the evidence presented in this report shows, tobacco tax revenues increased from late March until early- to mid-June 2020 because the pandemic forced the shutdown of the unlicensed, illegal production and sale of contraband tobacco products on certain First Nations Reserves. These closures dramatically curtailed access to illegal “smoke shops” by visiting non-indigenous off-reserve customers, which the industry estimates account for the majority of illegal cigarette sales in Canada (with the remainder being shipped off-reserve and distributed to consumers in communities across Canada). With access to on-reserve, illegal cigarettes cut off by COVID-19 counter measures, many smokers who frequented illegal smoke shops instead purchased legal, tax-paid products from legitimate retail vendors, including member firms of the Convenience Industry of Canada Council (CICC), the sponsor of this study.

In recent years, the proliferation of illegal cigarette manufacture and sale in Ontario and Quebec has made it difficult to determine the actual size of the cigarette market in Canada. Illegal cigarette sales are not tracked or reported. Industry estimates have historically relied on a variety of techniques to gauge the true market penetration of illegal cigarettes, with varying degrees of accuracy. But with the closure of access to illegal cigarettes on First Nations reserves and elsewhere in the supply chain, the pandemic has provided a unique opportunity to gauge the true demand for cigarettes in the Canadian market, from which we can finally extrapolate a more accurate picture of the illegal market—and the dollar value of foregone tax revenues as a result of the illegal cigarette market.

Although the impact varied by province, for the large sample of CICC members whose sales data was collected, consolidated and included in this study, national cigarette sales volumes and associated sales revenues gradually increased over the March-June 2020 period compared to the same period in 2019, coinciding with the pandemic-related closure of illegal cigarette manufacturing facilities and “smoke shacks.” This same uptick in legal sales is observable in the cigarette sales data from tobacco manufacturers who are members of the Canadian Tobacco Manufacturers Council.

This noticeable uptick in legal sales volume peaked in June, when sales increased by almost 24% nationally compared to 2019, before declining sharply in July when the on-reserve factories and smoke shops re-opened.

As the shutdown of on-reserve sales and manufacturing was short-lived and would not have stopped the flow of illegal product already in the distribution pipeline, the 24% increase in national volume sold should not be taken as an estimate of the size of the illegal market in

relation to the total market, but merely as the lower bound of a potentially much larger market share.

For many years it has been known that illegal, contraband tobacco products constitute a significant share of the overall market for tobacco in Canada. This is especially the case in the provinces of Ontario and Quebec, where the illegal manufacture, distribution and sale of tobacco in Canada began and remains concentrated. But there has been some debate surrounding estimates of the exact size of illegal tobacco's market share, especially on a national or province by province basis. This is largely because, by its nature, it is challenging to directly measure the illegal market. Estimates of its size rely on indirect means, such as undercover surveillance and intelligence, "butt count" studies, tracking interdiction trends in seizure data, and so on. Until now, these were the best available means of estimating the size of the illegal tobacco market in Canada. The widespread closures of First Nations reserves accompanying the first wave of COVID-19 provide new data points with which to measure the penetration of illegal tobacco in the Canadian market, lifting the veil on the size of these large-scale illegal operations and their impact on provincial treasuries.

This report provides a fresh take on this phenomenon by charting: (1) the timing of the closure as well as the subsequent reopening of the illegal production and sales outlets; and (2) the related legal sales uptick and subsequent decline back to "normal" baseline sales levels. It finds a strongly positive correlation between the two.

The report then identifies and evaluates conceivable alternative explanations for what we have observed and, in doing so, dispels any reasonable likelihood that they had much, if any, contributing explanatory value, thereby validating a direct causal relationship between the reduction in contraband selling and an increase in legal sales.

Finally, based on these findings, the report draws some general conclusions and refers to the Convenience Industry of Canada Council's recommendations to combat the manufacture and sale of illegal tobacco.

II. The Nature and Challenges of Illegal Tobacco

The production and sale of illegal, contraband tobacco products is a worldwide phenomenon that is not restricted to Canada. It occurs wherever and whenever there is a significant difference in the price of legal products compared to illegal products; the greater the price differential, the greater are the potential profits from the sale of illegal products and the greater the magnitude of the problem. Additionally, where penalties and enforcement efforts are lacking, illegal operators are furthered emboldened to pursue profits by flooding markets with cheap, illegal tobacco products.

The price differential is primarily driven by the significant levels of taxation that are placed on tobacco products to achieve the stated public health goal of reducing the incidence of smoking, especially among young people.² But this public health goal is undermined when taxation levels are so high as to incentivize contraband production, leading to an increase in contraband sales as legal sales are decreased. Other things equal, this risks meaning that as taxation levels increase, overall smoking levels may remain relatively unchanged as more smokers change their buying habits and start substituting cheaper untaxed

contraband in place of taxed legal products. It also means that declining legal tobacco sales do not necessarily mean that smoking levels are declining in lockstep. For this reason, governments need to allocate significant enforcement resources with the aim of ensuring compliance with tax laws, the interdiction, seizure and destruction of contraband products and the prosecution of offenders, in addition to supplemental non-tax health policies designed to reduce smoking (in particular, smoking bans in public places and workplaces).

Greatly complicating these challenging enforcement efforts in Canada is the fact that all of the illegal production, and much of the illegal selling, occurs on indigenous First Nations territories located in Ontario and Quebec. Raw leaf bulk tobacco is smuggled into Canada and onto reserves.³ Manufacturing is centralized on two such reserves: Six Nations in Southwestern Ontario and Kahnawake in Quebec. From these territories, the contraband is distributed to other reserves, particularly the Tyendinaga Mohawk Territory in Ontario and Kanasatake in Quebec, as well as reserves in Northern Ontario and other provinces nationally through a network of sellers, both large and small, the larger of them involved in other organized criminal activity.⁴

The additional challenge this presents to effective enforcement and successful achievement of compliance with tax laws is significant. In addition to physical safety risks associated with the interdiction activities of law enforcement officers in the field, it creates a risk of political tensions and civil disturbances that could undermine the indigenous reconciliation objectives and initiatives of the federal and provincial governments. This handicaps law enforcement operations and creates an effective “no fly zone” within the territories where illegal tobacco is produced. Such a restriction makes the coordination of effective off-reserve enforcement activities all the more important as a critical success factor.⁵

Estimates of the size of the illegal tobacco market and its share of the total market vary by province. The best evidence-based estimates of the market share that illegal tobacco occupies have been in Ontario and Quebec, the two provinces where the illegal production takes place. These are also the two most populous provinces in Canada, meaning that they likely account for a significant proportion of total illegal tobacco sold in Canada.

It has been estimated that illegal tobacco accounts for over one-third of the total market in Ontario and that this constitutes over 80% of all contraband sold in Canada.⁶ The share of illegal tobacco in Quebec was estimated at 30% in 2009, but this estimate fell to about 12% by 2016 due to the province’s continued investments in enforcement.⁷

Appendix 1 provides historical data on legal cigarette sales by province collected by Health Canada from 2001 to 2017 (the last year for which such annual data are available). The data demonstrate that sales have trended downward nationally, but there is also significant variation in the trendlines across different provinces. It would be tempting to conclude that smoking cessation policies may have been more successful in some provinces than others, but a more likely explanation is that the provinces showing the greatest decline in legal sales (i.e. Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island) in fact have a rising proportion of illegal sales displacing the officially-recorded legal sales.

This report only examines the impact COVID-19 had on the on-reserve production and sale of illegal combustible tobacco products, specifically cigarettes, and by extension on legal sales and revenues. There is growing evidence that smokeless tobacco products have also

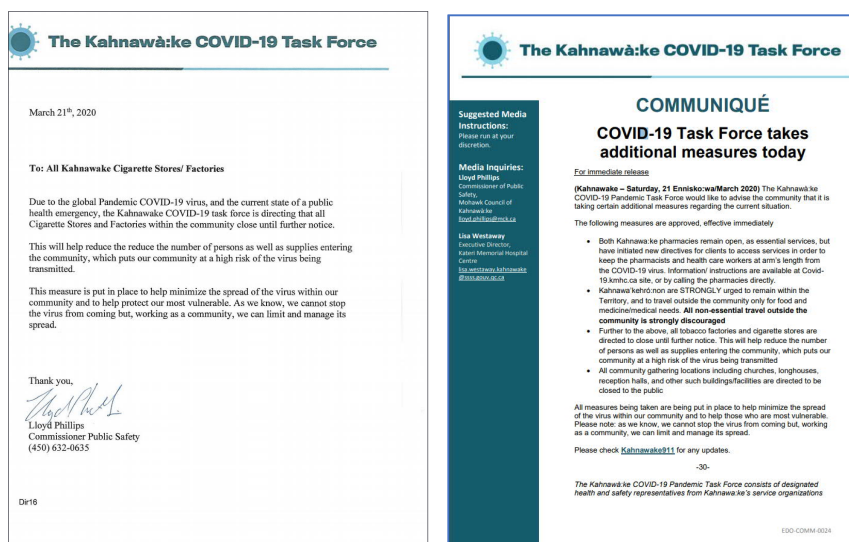
found their way on to the shelves of smoke shops on these same reserves, and in substantial quantities. For the most part these smokeless products are produced for legal sale in the United States, not in Canada, and they are being sold at substantially reduced prices compared to comparable products being sold by vendors legally in Canada. Furthermore, many of them are flavoured in contravention of rules in effect in certain provinces

Nor does this report examine sales of vaping products. At the present time, there is no evidence that vaping products are manufactured on reserves, or are widely available at contraband smoke shops. However, revenue from the sale of these products is of growing importance to convenience stores, particularly as revenue from tobacco products has been eroded by competing sales of contraband (as well as successful smoking cessation efforts of government). If the same historical pattern of greatly increased taxation and regulation by the federal government and the provinces applies to vaping products as it has to combustible tobacco products, then the potential for profit will create an undeniable incentive for contraband vaping products to be produced and sold on these reserves as well.

III. Timing and Extent of Suspension of Illegal Production and Sale ⁸

Federal, provincial and municipal governments in Canada reacted swiftly to the WHO's announcement on March 11, 2020 that COVID-19 had reached the status of a pandemic. First Nations governing bodies were no different.

On the Kahnawake Reserve in Quebec, for example, the Mohawk Council of Kahnawake formed the Kahnawake COVID-19 Task Force to oversee and communicate COVID-19-related actions and initiatives. Significantly, one of its first directives was the closure of all cigarette factories and stores on the reserve on March 21, 2020 (see the letter to cigarette stores and factories from the Commissioner of Safety and the Communiqué to residents, at the links below).



Source: <http://covid-19.kmhc.ca/wp-content/uploads/2020/04/16-cig-stores-fac-dir16.pdf>

Source: <http://www.kahnawake.com/news/pr/pr03212020a.pdf>

On March 23rd the Mohawk Council of Kahnawake issued a press release *"to inform the general public that ALL tobacco stores are CLOSED at this time, due to the COVID-19 pandemic."* The press release further advised that the directive would be posted in French and English on the electronic billboards located on Highways 30, 132 and 138 and that this initiative would help prevent the spread of the virus because *"it affects a significant number of persons from our neighboring communities who purchase tobacco on a regular basis."* This was followed by a communiqué from the COVID-19 Task Force advising that fines of up to \$1,000 could be levied on persons who violate the directive.

This closure was extended several times throughout the spring. On May 26, 2020, the Task Force advised that Phase-One re-openings of certain businesses would commence on June 1, 2020 and confirmed that this would include cigarette factories and stores. This was not to be an entire return to "business as usual", however, since COVID-19 health and safety precautions would remain in place and hours of business to non-locals would be restricted from 6:00 am to 10:00 pm.

Meanwhile on the Six Nations Reserve in Ontario, the story was similar. On March 13, 2020 the Six Nations of the Grand River Council announced a travel ban after having declared a community emergency two days earlier on the heels of the WHO's declaration that COVID-19 had become a pandemic.

On March 29, 2020, the Council announced that access to the community would be restricted effective immediately *"due to the large amounts of non-residents entering the territory to buy cigarettes and gas"* and asked all non-essential businesses to shut down operations. The same day, Chief Mark Hill stated that several people were reporting COVID-19 symptoms and were self-isolating. He then added *"I am also urging all smoke shops to close immediately. As I drove into the radio station today, I just see nothing but people lined up. A congregation of people buying cigarettes. I'd like to question what is more important at this point: the sale of cigarettes and money, or the health and safety of the community?"* He also asked that gas stations suspend all tobacco sales for the time being and said the community was taking further action by setting up checkpoints at its entrances and exits.⁹

On June 15, 2020, the Council announced that the Second Phase of reopening would begin and it would include Retail Operations, including tobacco shops.

For purposes of this analysis, these announcements, as well as media reports, establish the time period during which the on-reserve shutdown and restricted access to contraband tobacco products lasted was from late March until early- to mid-June 2020. The full closure announcements and their sources are found in Appendix 2.

IV. Impact of the Suspension of Illegal Manufacture and Sale

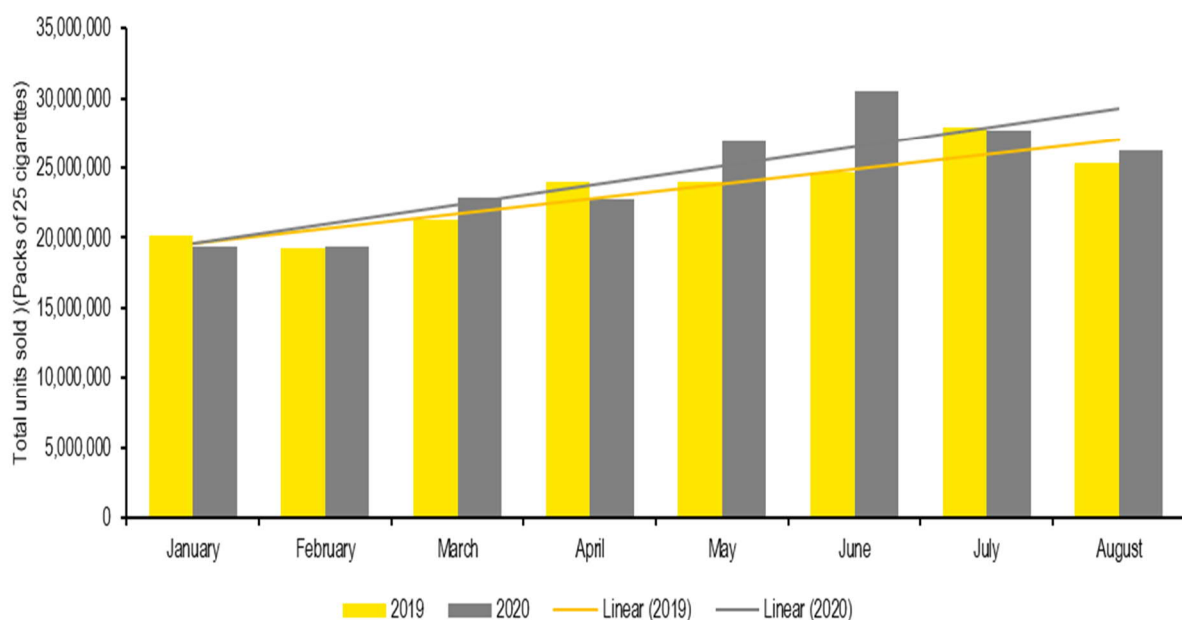
With a slight lag in timing, the suspension of the illegal manufacture, distribution and sale of contraband tobacco on First Nations reserves had a noticeable impact on legal sales, as did the resumption of illegal production and selling. In order to best establish and validate this impact, it can be triangulated using multiple sources of data, as shown below. First, sales data collected from a selection of CICC member stores is presented. This is followed by sales and shipment data collected from the three major tobacco manufacturers who sell products in the Canadian legal market and are members of the Canadian Tobacco Manufacturers Council (CTMC). Finally, information provided from the Canada Revenue Agency on legal cigarette production and federal excise duty revenue is also presented.

a. Convenience Industry Council of Canada (CICC) Sales Data

For purposes of this study and report, EY requested and obtained detailed cigarette sales and revenue data by province from a large sample of convenience store chains and independent stores that are members of the CICC. Data was collected for the period January-August 2020, as well as the same period for 2019 in order to make a valid year-over-year comparison and remove any impact of seasonality in the pattern of tobacco sales. (It should be noted that seasonal fluctuations in tobacco sales are well documented; smoking increases in the warmer months and decreases throughout the winter. Year-over-year, these seasonal fluctuations are historically part of a larger trend that sees smoking rates in gradual decline.) Removing this “explained impact” means that any residual “unexplained impact” must be due to some other factor, or combination of factors.

In order to protect the confidentiality of the data received from each reporting entity, the results were combined and then consolidated in the four charts shown here below. Chart 1 shows sales volume (packs of 25 cigarettes); Chart 2 shows sales revenue (\$); Chart 3 shows sales volume by province; and Chart 4 shows sales volume by province for the month of June alone, when legal sales reached their peak.

**CHART 1: Consolidated National Sales Volume, January-August 2019 versus 2020
(Packs of 25 cigarettes)**



As indicated in Chart 1 and 2, there was a significant increase in legal cigarette sales and associated revenues between March and June, 2020, compared to the same period in 2019. This increase coincides with the period during which on-reserve manufacture and sale of illegal cigarettes was halted due to COVID-19.

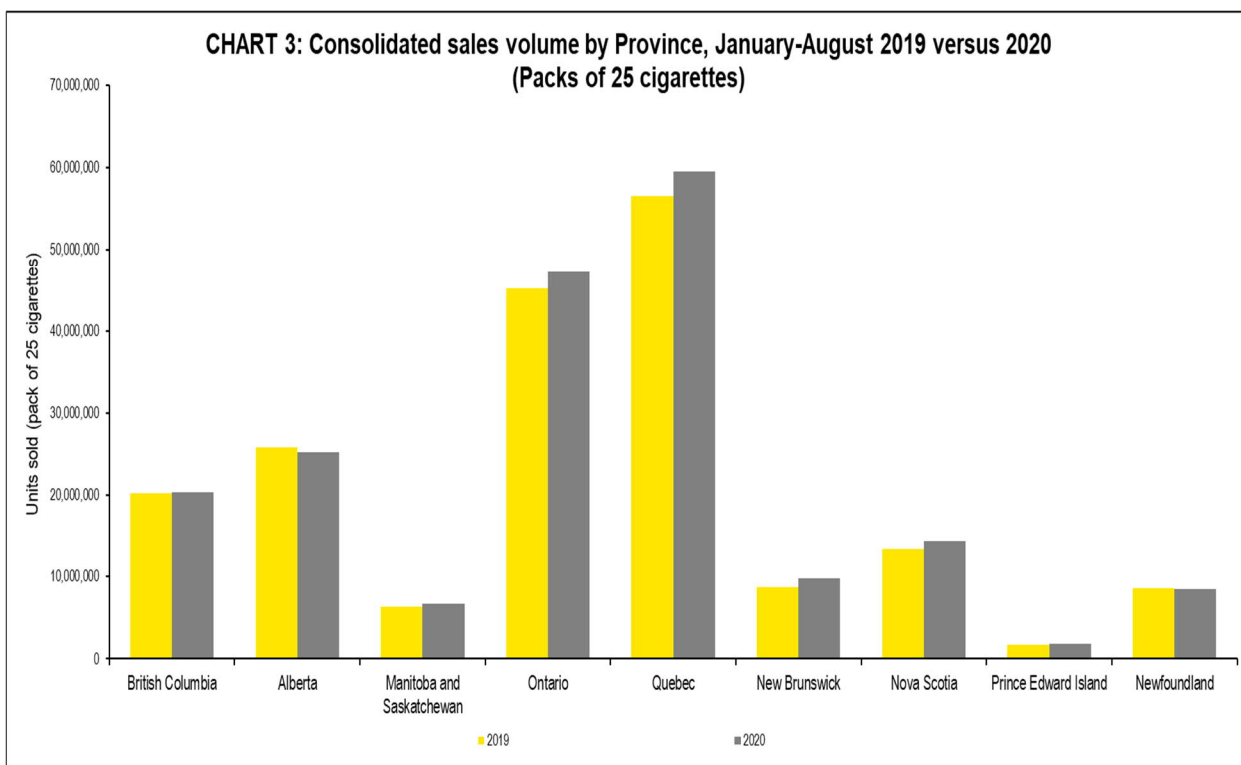
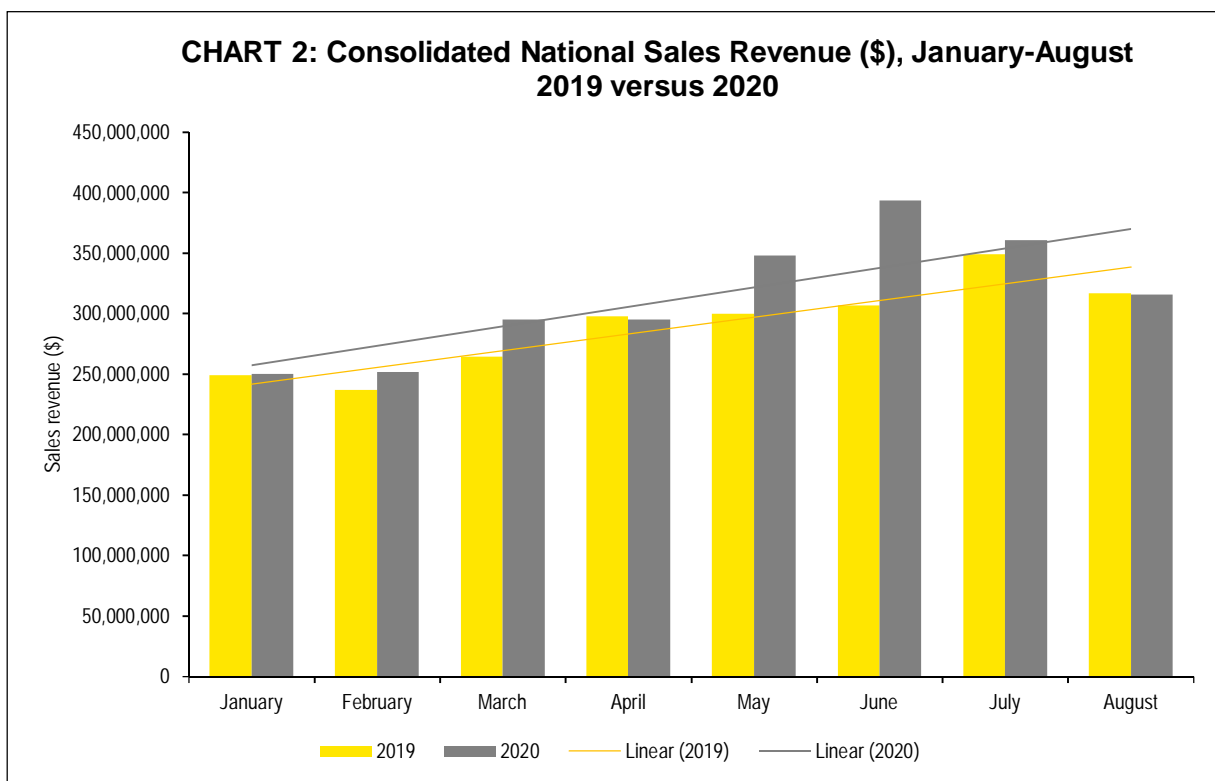
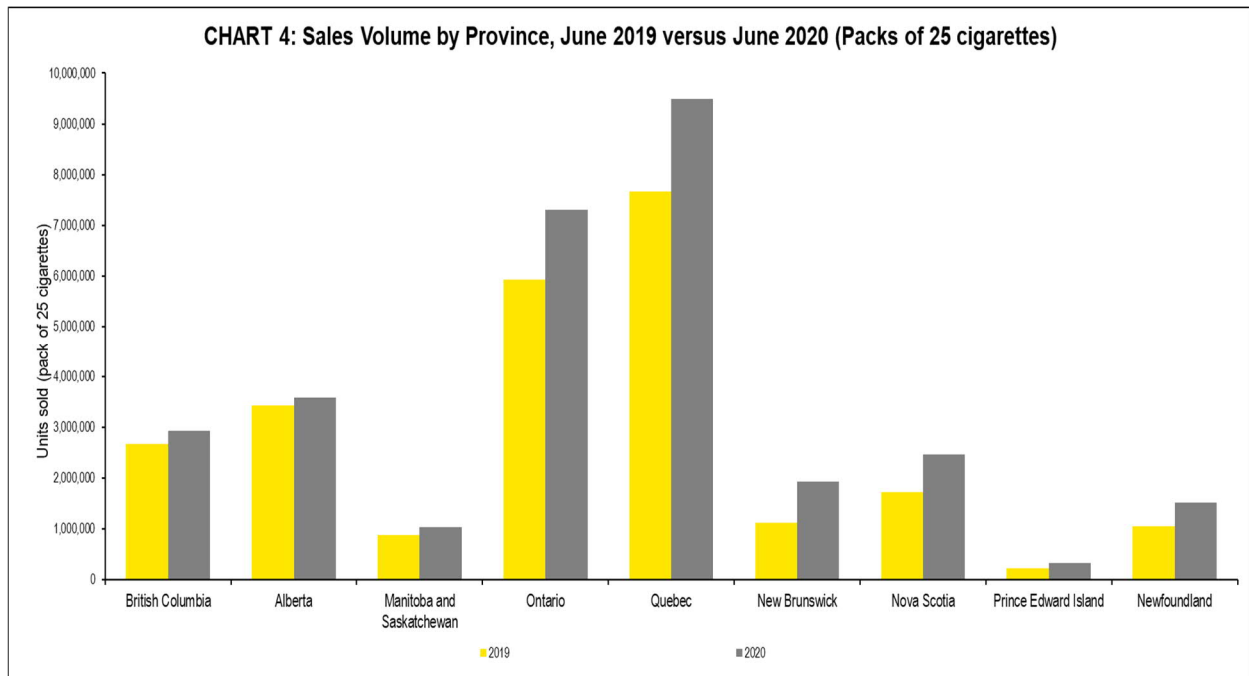


Chart 3 demonstrates that the increase in legal cigarette sales in the first half of 2020 was most acute in Ontario and Quebec, where illegal cigarettes are manufactured and more easily distributed through well-established sales channels. Chart 3 also shows a year-over-year increase in legal sales in New Brunswick and Nova Scotia, two provinces in which the penetration of illegal cigarettes and

the scale of the contraband market was previously unknown.



In Chart 4, we see a year-over-year increase in every province in the month of June, where in normal circumstances the trend is for year-over-year declines in legal sales. This strongly indicates the prevalence of illegal tobacco sales across Canada.

b. Analysis

Chart 1 shows the steady increase in the volumes of duty-and-tax-paid cigarettes sold in retail stores over the period March-June 2020, during which time the on-reserve stores selling contraband cigarettes were shut down. As the chart indicates, this increase was followed by a fairly steep decline in July and August when the on-reserve factories and smoke shop stores were back in operation, conforming exactly to *a priori* expectations.

There was considerable variation in the pattern of sales by province, as shown in Chart 3. Once again conforming to expectations, the contraband source provinces of Ontario and Quebec experienced the greatest increase in legal sales volume in absolute terms, and legal sales increased proportionally by more in the provinces east of Quebec than in the provinces west of Ontario, again mirroring what we know to be a stronger, more established contraband pipeline going into the Maritime provinces than into Western Canada.

Legal sales peaked in the month of June, as shown in Chart 4. On a national basis, year-over-year monthly sales volume for all of the stores in our sample increased by 23.8% in June. The absolute increase in legal sales was highest in Ontario and Quebec, but in relative terms the increase was even greater in the Atlantic Provinces:

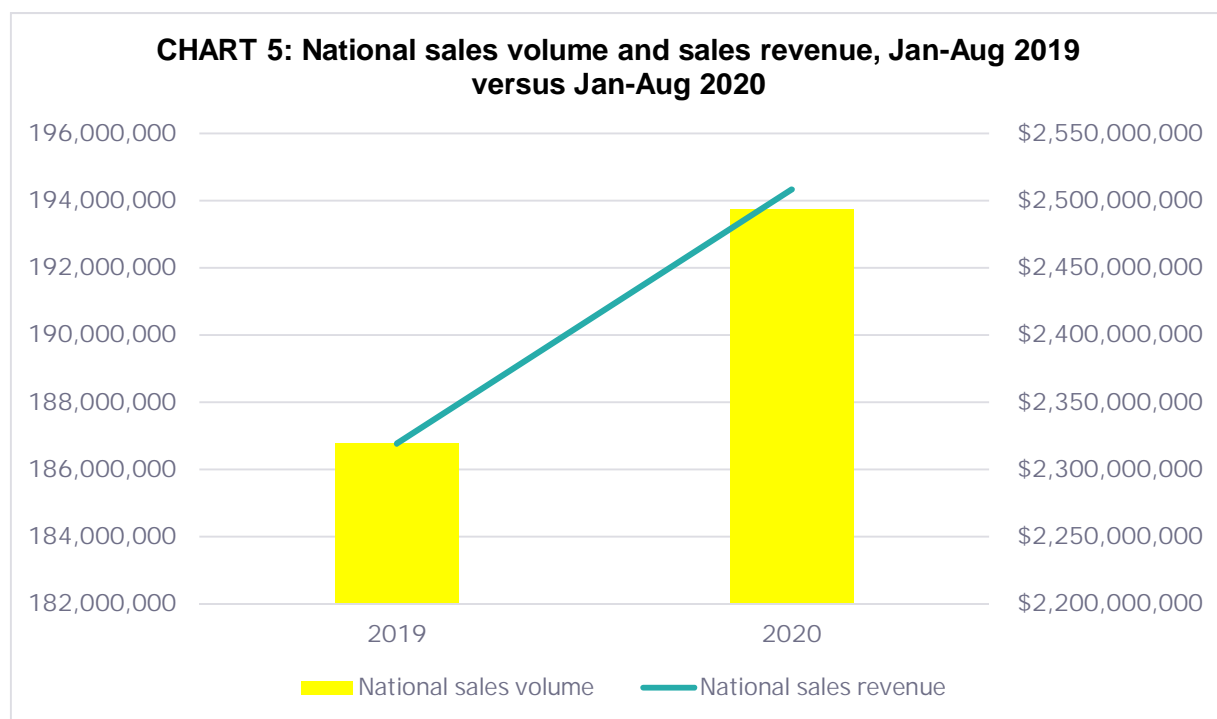
- 47% increase in PEI;
- 44.9% increase in New Brunswick;
- 44.3% increase in Newfoundland and Labrador;
- 21.1% increase in Nova Scotia;
- 16.1% increase in Ontario; and
- 12.4% increase in Quebec

The higher percentage impact in Atlantic Canada is particularly noteworthy, given that prior to COVID-19 very little was known about the extent of the illegal cigarette market in these provinces. This impact may have been the result of a lower stockpile of contraband inventories as well as a secondary impact that COVID-19 had on the contraband supply chain's ability to bring product into those provinces from the source provinces of Ontario and Quebec. "Atlantic bubble" travel restrictions may have prevented (or at least discouraged) carriers from making their regular delivery runs to stock the underground sales networks there due to an elevated risk of interdiction by law enforcement officers (primarily the RCMP).

The impact of vaping on smoking is well outside the scope of this analysis and report, but another contributing factor for the larger increase in legal cigarette sales in Maritime Provinces like Nova Scotia might be the ban on flavoured vaping products that was implemented on April 1, 2020. However, there is only anecdotal opinion and evidence of this at the present time that is difficult to substantiate.¹⁰

In addition to variation in the sales impact across provinces in our sample, there was also considerable variation across individual stores, with some realizing sales increases as much as 44% in the month of June. This is understandable, given that illegal sales can vary greatly even within provinces, influenced by factors including proximity to illegal manufacturing facilities or to illegal distribution centres.

Chart 5 summarizes the difference in national sales volume sold in the retail stores from January to August in 2020 compared to 2019 (a 3.7% increase) as well as the difference in revenue (a 7.4% increase). It is notable that the sales volume increase in the months March to June alone (when the on-reserve factories were closed) was 11.7%, whereas year-over-year sales were completely flat (a less than 1% increase) in the months when the on-reserve factories were operating (January-February and July-August).



c. Canadian Tobacco Manufacturers Council (CTMC) Data on Sales

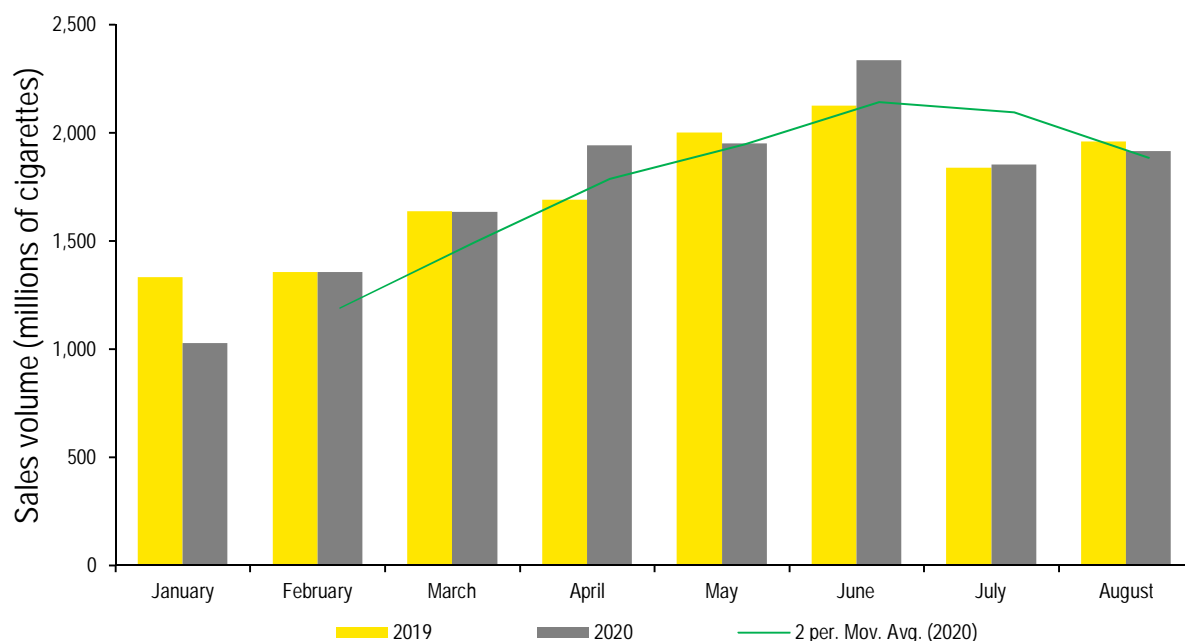
For purposes of this study and report, EY also requested and obtained cigarette sales data from tobacco manufacturers who are members of the CTMC. The three members of the CTMC—Rothmans, Benson and Hedges, JTI-Macdonald Corp. and Imperial Tobacco Canada Limited—account for 99.5 per cent of legal tobacco sales in Canada. Data was requested for the period January-August 2020 as well as the same period for 2019 (once again, in order to make valid same month year-over-year comparisons and exclude any impact of seasonality in the month-to-month same year sales data).

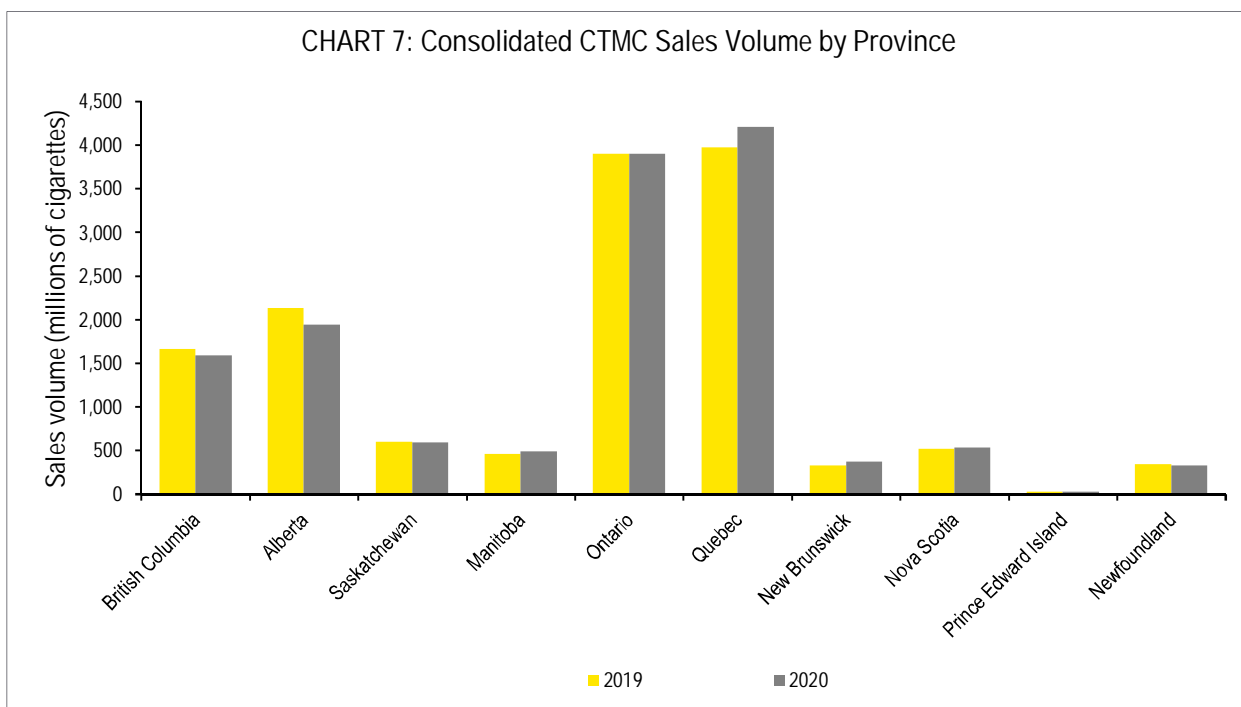
In order to respect the confidentiality of the data received from each reporting entity, the results were combined and consolidated and are presented in the two charts shown below. Chart 6 shows monthly sales volume (millions of cigarettes) in each year nationally, while Chart 7 shows total sales in each year by province.

Once again, this pattern of CTMC sales conforms exactly to expectations. Whereas the seasonal pattern of increased sales leading into the summer months is quite consistent in 2020 when compared to 2019, there is a noticeable spike in 2020 sales compared to 2019 during the period when the on-reserve factories and smoke shops were closed and, once again, this was followed by a decline in sales back to and slightly below “normal” 2019 volumes once the factories and stores reopened.

It will be noted that the sales over time and sales by province illustrated in Charts 6 and 7 do not track precisely the same pattern as the data shown in Charts 1 and 3. This is for two reasons: (1) the data summarized in Charts 4 and 5 comprise virtually 100% of cigarettes legally manufactured and sold in Canada, whereas the data in Charts 1 and 3 only comprise a large-sample subset of the total population of retail sellers and sales; and (2) Charts 6 and 7 are sales from manufacturers to wholesalers and retailers, whereas the sales in Charts 1 and 3 are from retailers to consumers. There is therefore a slight lag in the timing of these respective sales.

CHART 6: Consolidated CTMC National Sales Volume

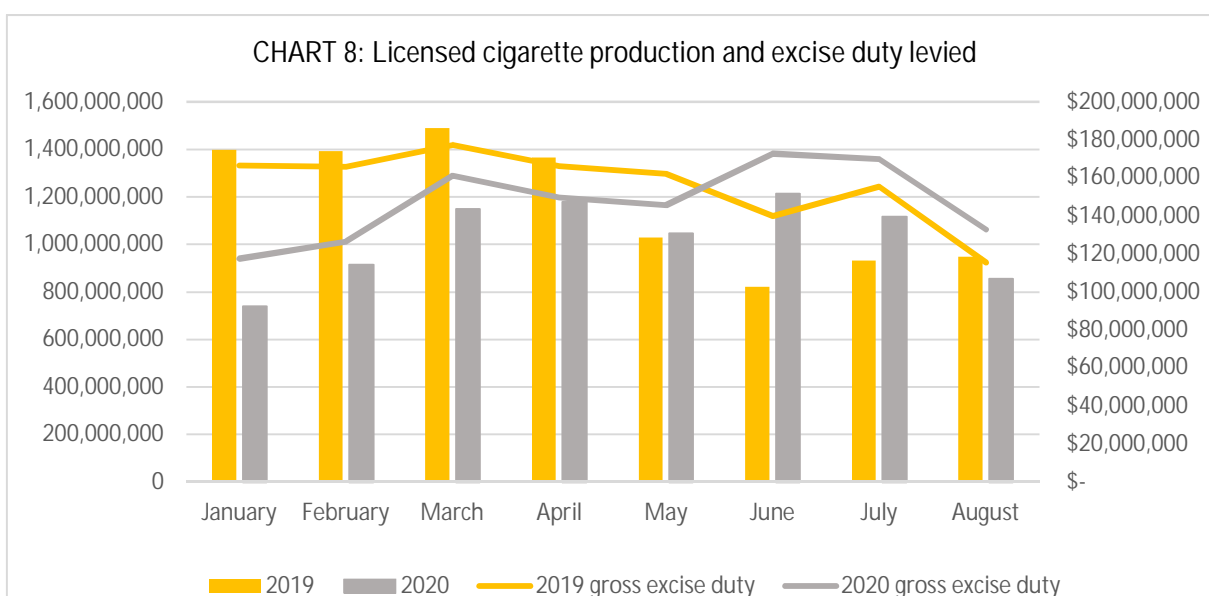




d. Federal Excise Duty Data on Legal Production and Revenue

Finally, data was also requested from the Canada Revenue Agency on domestic production and packaging of cigarettes by the holders of excise duty tobacco licences for the periods January-August 2019 and January-August 2020, as well as associated excise duty revenue collected.

This data is summarized graphically in Chart 8, below. As this chart shows, the pattern of production and associated excise duty revenues over these two time periods differed quite significantly. Production and revenues trended downward over the 2019 period, but in 2020 they trended upward over roughly the same time period when on-reserve contraband production and selling had stopped, before declining steeply after the on-reserve factories and smoke shop facilities reopened.



As noted in the commentary in the previous section on sales by tobacco manufacturers as opposed to retailers, while the pattern of production shown here does not precisely map that of wholesale and retail sales, once again it does conform exactly to expectations in relation to the timing of closures of on-reserve contraband production and sales facilities.

V. Alternative explanations or contributing factors for the sales increase

a) Price or tax decreases

For most products, there is an inverse relationship between the quantity demanded and price, as represented by a downward-sloping demand curve when plotting price and quantity demanded in two dimensions. That means that if there were price reductions (caused, for example, by tax reductions or reduced supply chain profit margins passed on to smokers), this could explain in part the increase in sales volumes that have been observed.

The degree to which quantity demanded responds to a given price change is known as the price elasticity of demand. The more “elastic” the demand, the bigger is the response at the margin. It is well established empirically that the demand for tobacco products is relatively inelastic due to the addictive nature of nicotine. In other words, if there were any price decreases, they would need to be fairly significant, other things equal, for even a relatively modest increase in tobacco sales to have occurred.¹¹

There were, in fact, modest retail price increases, not decreases, over the period in question, so this first alternative explanation for the increase in sales can be safely eliminated from further consideration.¹²

b) Reduction in cross-border casual importation of tobacco products

In addition to sales of tobacco products through retail outlets in Canada, legally-manufactured, packaged and stamped tobacco products may also enter the domestic market if purchased and brought back to Canada by travellers returning from other countries. Such importations are allowed within personal exemption limits for travellers who have been outside Canada for at least 48 hours and are at least 18 years of age without payment of additional duty or tax, but quantities are limited to 200 cigarettes (1 carton); 50 cigars; 200 tobacco sticks; and 200 grams (7 ounces) of manufactured tobacco. A special federal duty has been applied to cigarettes, tobacco sticks or loose tobacco imported this way, such as Canadian-made products sold at duty-free shops.

One significant control measure that was implemented by most countries, including Canada, to slow the spread of COVID-19 was a restriction of international travel. In many cases, travel was limited to the movement of goods and essential services through most ports of entry and by most modes of transportation. In Canada’s case, the Canadian and US federal governments announced that the Canada-US land border ports of entry would be closed to non-essential travel on a temporary basis on March 18, 2020. An extension of that closure, with few exceptions, has been announced a number of times since then, and at time of writing this report the land border remains closed to non-essential travel.

During the COVID-19 pandemic, duty free stores announced that they were committed to keeping the public and their employees safe. Accordingly, some stores temporarily closed, while others

remained open to essential travellers only and have implemented safety precautions.

There is no doubt that a certain number of smokers would ordinarily have travelled internationally during the March – August 2020 time period examined here and prior to their return to Canada purchased duty- and tax-free tobacco products within their personal exemption limits, but travel restrictions or COVID-19 concerns prevented them from doing so.

These same smokers in all likelihood purchased tobacco products instead at domestic retail outlets. To the extent that this happened, the travel restrictions may have been a contributing explanatory factor for the increase in retail sales. That said, casual importations of tobacco products constitute only a tiny proportion of the total legal consumption of tobacco products in Canada, so this impact would have been negligible. Exact measurement is difficult because while Canada Border Services Agency (CBSA) officers routinely ask returning travellers if they have purchased alcohol and tobacco products as part of the declarations, they only conduct physical examinations to verify quantities declared in an extremely small percentage of cases. However, monthly shipments of cigarettes by licensed tobacco manufacturers to duty-free stores for sale to returning travellers typically constitute less than two-tenths of one percent of their total domestic sales.¹³

c) Increased incidence or prevalence of smoking

It is recognized in the scientific literature that there are certain triggers, beyond changes in price, that elicit a response from smokers in the form of increased or decreased consumption. Stress, for example, can be a trigger. It could therefore also be postulated that smoking incidence in Canada (the number of persons who start to smoke during the period divided by the total number of non-smokers) and prevalence (number of persons who start to smoke and persons who continue to smoke divided by the total population) may have increased because of the stress of dealing with COVID-19. To the extent that one or both of these things might have occurred over the time period in question, this could be an alternative explanation for the sales increase observed, or a contributing factor for the increase.

There are also strict public and workplace restrictions on smoking in Canadian provinces. With the temporary closure of many offices and continued restricted access to workplaces, this begs the question whether smokers now working from home instead of at the office have consumed more or less tobacco products as a consequence.

It is also recognized that some products are compliments for tobacco products. When their consumption increases, so does the consumption of tobacco products, the best example being alcoholic beverages. With many bars and restaurants licensed to serve alcoholic beverages temporarily closed because of COVID-19, or operating with restricted access and capacity, on-premises sales of alcoholic beverages have declined. However, take out and delivery sales as well as sales at retail beer and liquor stores are up.

With no recent reliable in-depth survey data available to analyze, one can only speculate on the net impact these factors may have had. Valid arguments could be made that the incidence and prevalence of smoking may have increased slightly. But equally valid arguments could be made that in some cases they may have decreased. The COVID-19 crisis presented a sustained opportunity for introspection and “New Year’s resolution” commitments to break unwanted habits. In conclusion, it is felt any change in these two metrics, one way or the other, would have had at most only a very marginal impact on sales of tobacco products, other things equal.

VI. Conclusions

COVID-19 caused the temporary shutdown of on-reserve illicit tobacco manufacturing operations in Six Nations in Ontario and Kahnawake in Quebec as well as the on-reserve smoke shops in these and a number of other First Nations reserves. The duration of the closure was from late March to early-to mid-June 2020. As these sources of contraband cigarettes dried up, an uptick in legal sales of cigarettes occurred, followed by a decline to normal baseline levels immediately afterward. This study strongly suggests a direct causal relationship between these two events.

It also provides some insight into how much tobacco tax revenues could potentially increase if there were more effective enforcement activities that could stem the on-reserve production and sale, as well as the off-reserve movement and distribution, of illegal tobacco products.

In the single month of June for the sample of legal stores included in this study (i.e., not including all legal retailers) as a result of the on-reserve shut down due to COVID-19, provincial tobacco tax revenues (i.e., not including sales taxes, where applicable) increased as shown in Table 1:

TABLE 1
Incremental Tobacco Tax Revenue in June
(excluding applicable sales taxes)

Province	Tobacco Tax Revenue Gain
British Columbia	\$1,903,885
Alberta	979,935
Manitoba/Saskatchewan	1,085,480
Ontario	6,368,817
Quebec	6,774,642
New Brunswick	5,126,859
Nova Scotia	5,494,476
Prince Edward Island	717,542
Newfoundland	3,435,459
Total	\$31,887,095
Federal excise duty	\$18,224,288
Grand Total	\$50,111,383

Add to this provincial total of almost \$32 million, an increase in federal excise duties of over \$18 million, and the on-reserve closures generated total incremental tax revenues to the federal and provincial governments of over \$50 million in that single month alone. The relevant tax rates used in these calculations may be found in Appendix 3.

While Ontario and Quebec, the two source provinces of the national supply of illegal cigarettes, were the biggest beneficiaries of foregone tax revenues restored in absolute terms, every provincial treasury benefitted, in particular those in Atlantic Canada, which benefitted the most in relative terms.

In fact, perhaps the biggest takeaway from this study is evidence it provides concerning the extent of the illegal tobacco problem in the eastern provinces. Although the contraband problem has been well documented in Ontario and Quebec¹⁴, it has not been subjected to the same degree of scrutiny in the Atlantic region. The evidence that has come to light as a result of COVID-19 shows just how significant the challenge of illegal cigarettes is in the Atlantic provinces, which merits further study.¹⁵

As mentioned in section II of this report, illegal activity tends to flourish most intensely in those jurisdictions where tobacco taxes are highest because this creates the highest profit potential. Tobacco tax rates are much higher in the Atlantic provinces than in Ontario and Quebec. This probably accounts for what is potentially a comparatively high market penetration of illegal tobacco in the Atlantic provinces, despite the additional transportation cost and associated interdiction risk. A further factor may be that family income levels in the Atlantic provinces are below the Canadian average, making affordability of legal products a contributing factor.¹⁶

On November 12, 2020, the New Brunswick government released the province's second-quarter financial results for the 2020-21 fiscal year showing a projected deficit of \$183.3 million compared to the budgeted surplus of \$92.4 million.¹⁷ On a fiscal year-to-date basis (up to September 30, 2020), actual tax revenues were lower than the province's budgetary forecast for all taxes except its tobacco tax.

In sharp contrast, tobacco tax revenues actually increased by \$14.6 million compared to the budget forecast.¹⁸ This increase is consistent in direction and magnitude with the sales volume increase in the month of June for New Brunswick retail stores included in our sample and helps corroborate and validate the results reported here.

Historical evidence shows that the illicit manufacture and sale of contraband tobacco has serious negative societal costs. By pricing cigarettes as low as 1/10th their legal price, illegal tobacco mitigates the success of government health policy objectives to reduce the incidence and prevalence of smoking, it robs the federal and provincial governments of tax revenues at a time when deficits and debt are increasing sharply because of necessary COVID-19 economic support and recovery expenditures and it deprives legitimate medium and small retail enterprises of much needed revenues that could make or break their continued sustainability at a time of economic stress. Illegal tobacco products are produced without adherence to manufacturing regulations, packaged without compliance with labelling laws and sold without regard for applicable age of majority laws meant to prevent young people from acquiring tobacco.

It is difficult to accurately forecast what the impact on tobacco tax revenues would be were the supply of contraband to be eliminated entirely, or (more realistically) reduced significantly. There would be a trade-off between higher revenues from higher legal sales on the one hand, and downward pressure on consumption on the other because of the significantly higher price of legal versus contraband products. One thing is virtually certain – without low-priced contraband, the total market for tobacco products would shrink to some extent and public health objectives would be more successful.

Convenience Industry Council of Canada Recommendations

The facts and sales patterns observed in this study suggest that in addition to investment in a comprehensive enforcement plan by each affected government, what is needed is a coordinated multijurisdictional approach to enforcement, with ramped up intelligence gathering and joint-force operations such as recent ones that have had success in making large-scale seizures of tobacco products, cash and weapons, laying of civil and criminal charges and levying of significant financial

penalties. While these activities would have a financial cost, the return on such investments could be significant in financial terms to governments and businesses.

As the evidence shows, illegal tobacco is a problem not just in Ontario and Quebec, but across Canada. The production, distribution and sale of illegal tobacco is costing provincial governments tens of millions of dollars a month in foregone tax revenues while undermining stated public health goals. Immediate action is required to prevent the illegal tobacco market from growing, and to reduce it over time. By taking steps to enforce existing laws, empower law enforcement officials and work with First Nations communities to curb the flow of illegal tobacco, provincial governments across Canada can increase their revenues and further their stated public health goals.

Convenience Industry of Canada Council Recommendations for Governments

1. No tax increases: The first pillar of a successful plan to combat illegal tobacco is a prudent tax policy that keeps legal tobacco costs from rising until illegal tobacco can be significantly removed from the market. Provinces and the federal government should institute a freeze on any tobacco tax increases.
2. Empower law enforcement: Provinces should seek the federal government's agreement to empower all police forces to enforce the federal *Excise Act 2001*, and provincial law enforcement should be provided greater resources and incentives to pursue contraband tobacco infractions. This increased enforcement approach has been deployed in Quebec, with considerable success and a demonstrated return on investment for a number of years.
3. Tackle illegal tobacco collaboratively: We know the illegal tobacco is moving across provincial borders, so without a concerted interprovincial effort that involves Canada's federal government, meaningful action in one jurisdiction will be undone by lacking enforcement in a neighbouring province. Provinces should call on the federal government to exercise its powers to aid in interprovincial efforts to stop the trade and sale of illegal tobacco.
4. Direct funds to, and work directly with, Indigenous councils: Provinces should negotiate with respective indigenous band councils to apply a levy to non-indigenous purchasers of tobacco products. The levy collected would be kept by the reserve, for allocation by the reserve's leadership.

Convenience Industry Council of Canada Recommendations for Ontario

While some provinces have made concerted efforts to combat the growth of illegal tobacco originating from First Nations reserves, Ontario has been slower to react. As one of Canada's epicentres of illegal tobacco production and distribution, the Convenience Industry Council of Canada recommends that the province of Ontario take the following actions to increase revenue for Ontario and for provinces across Canada:

5. Increase enforcement: Acting on what has worked in neighbouring jurisdictions, Ontario should seek the federal government's agreement to empower all police forces to enforce the federal *Excise Act 2001*, it should remove the "in plain view" provision from the *Smoke-Free Ontario Act*, invest more money in Ontario's Contraband Tobacco Enforcement Unit and allow local police to keep fines and disposal of assets seized as proceeds of crime arising from enforcement action against illegal tobacco, thus providing greater resources and incentives for local law enforcement.
6. Work with First Nations: Ontario should engage First Nations in order to include taxes in the

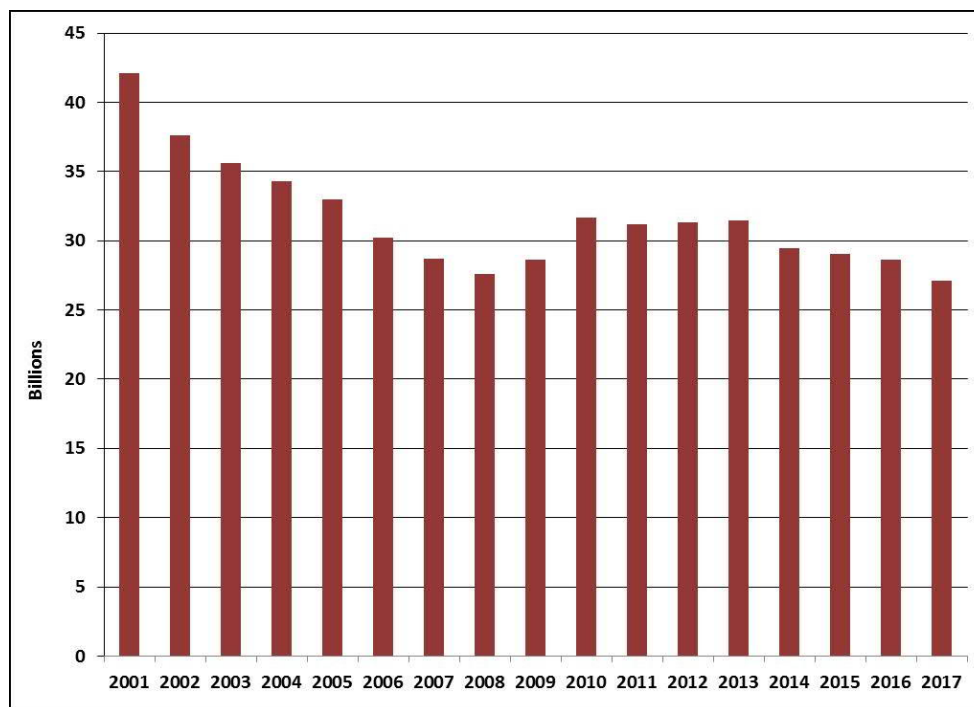
price paid by on-reserve retailers and introduce a tax rebate program for fuel and tobacco sold to status First Nations peoples. Alternatively, Ontario should negotiate with the province's indigenous band councils to apply a levy to non-indigenous purchasers of tobacco products. The levy collected would be kept by the reserve, for allocation by the reserve's leadership.

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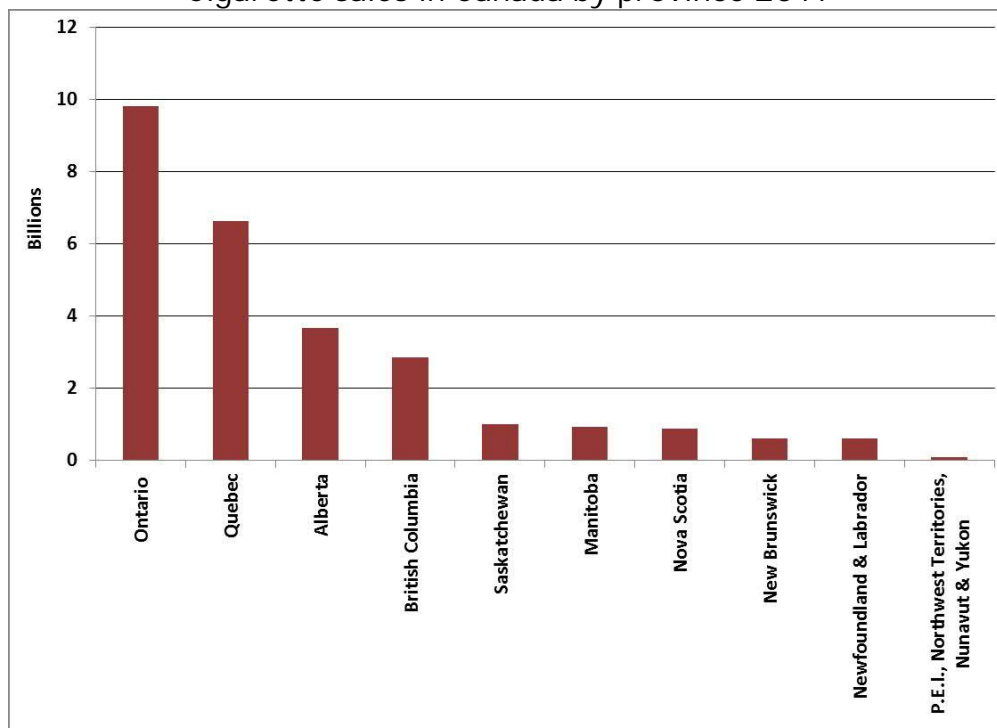
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Appendix 1

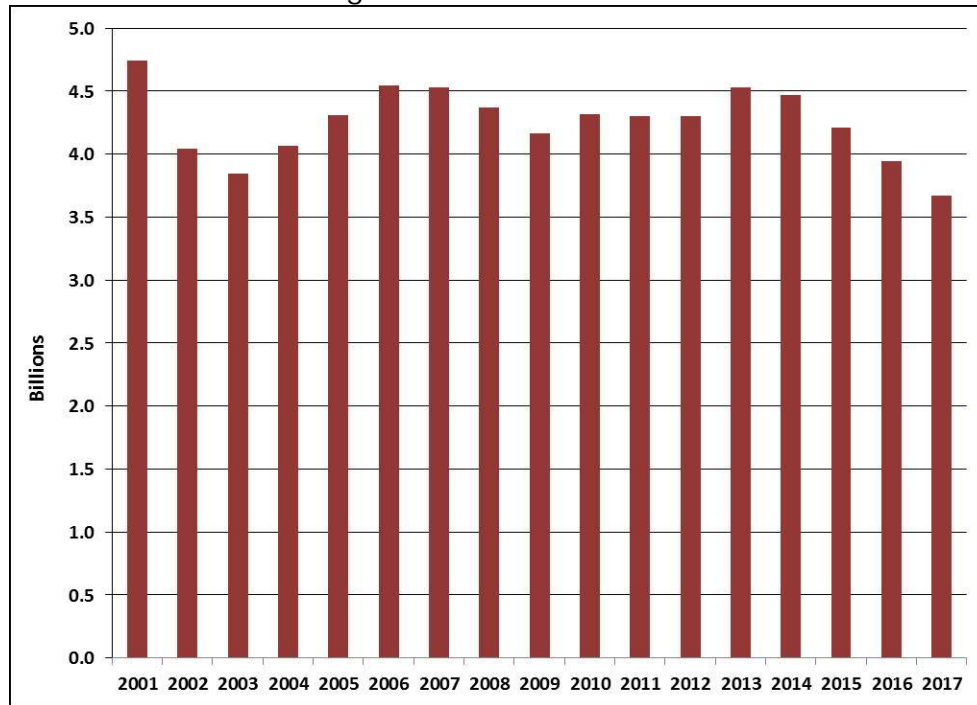
Cigarette sales in Canada from 2001-2017



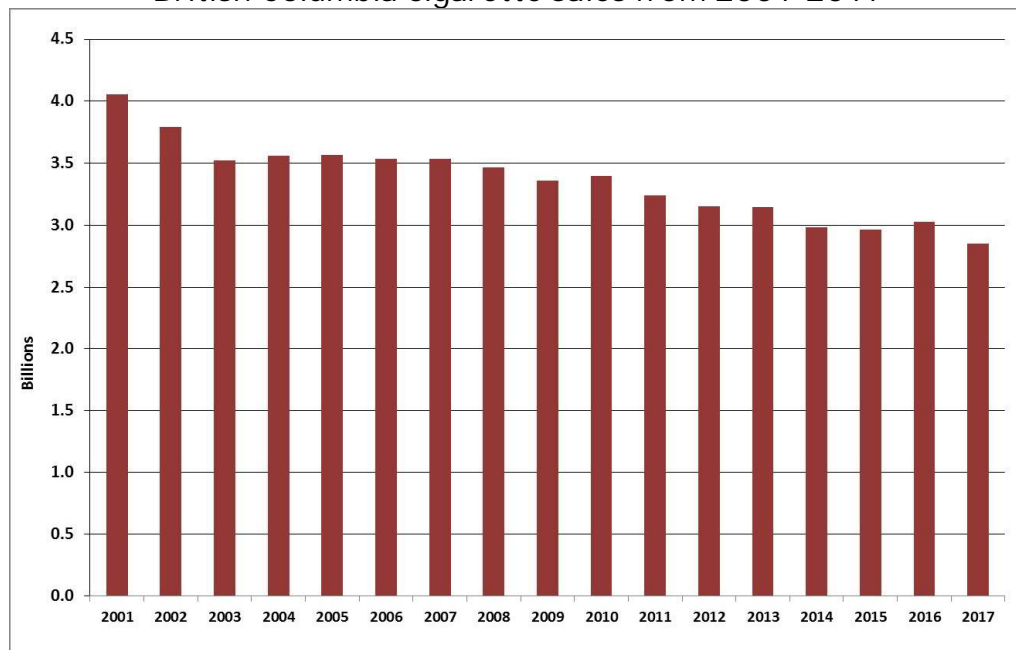
Cigarette sales in Canada by province 2017



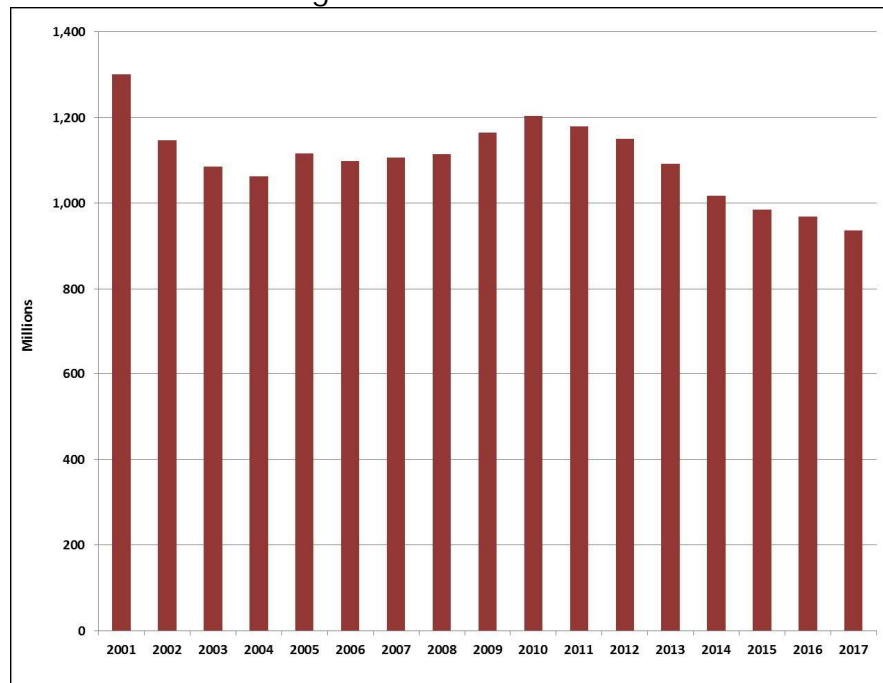
Alberta cigarette sales from 2001-2017



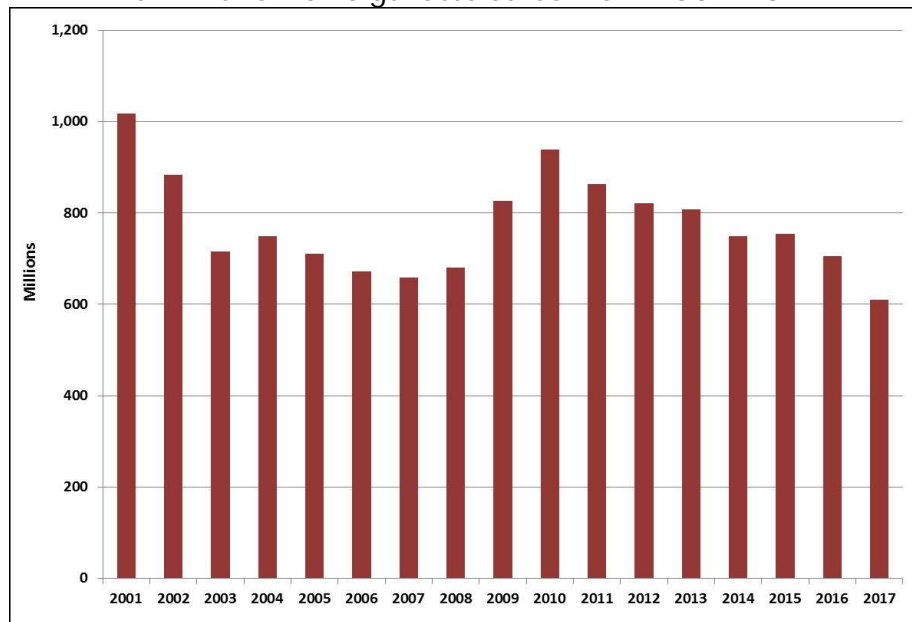
British Columbia cigarette sales from 2001-2017



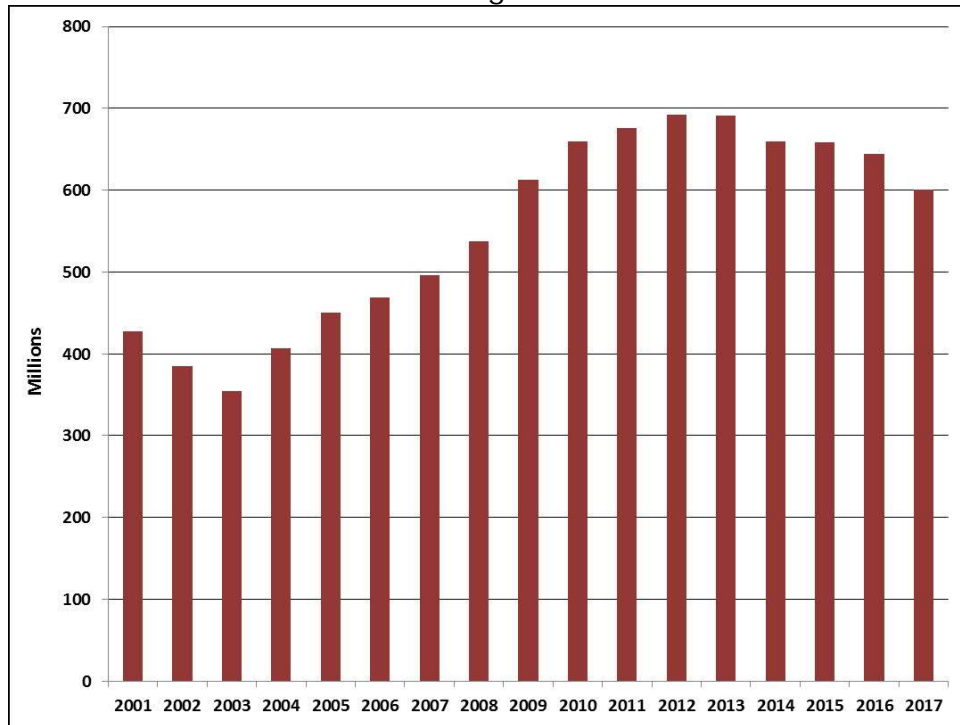
Manitoba cigarette sales from 2001-2017



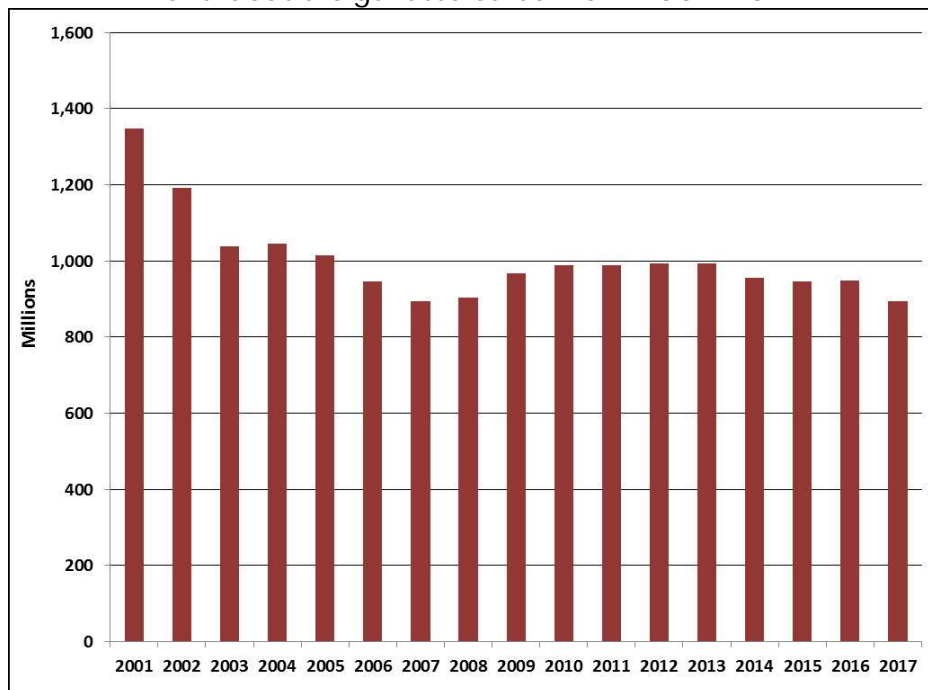
New Brunswick cigarette sales from 2001-2017



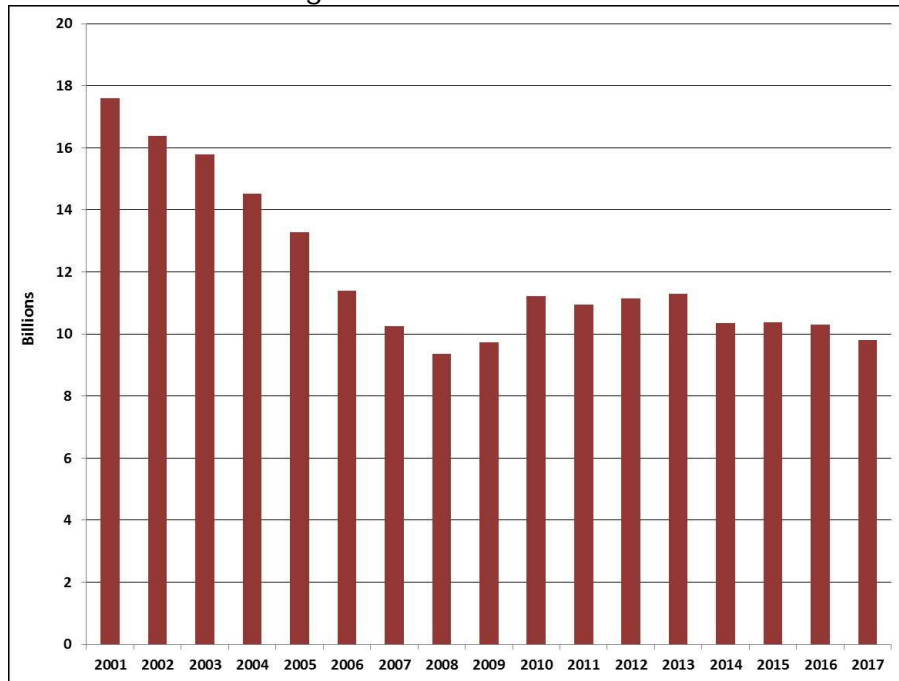
Newfoundland and Labrador cigarette sales from 2001-2017



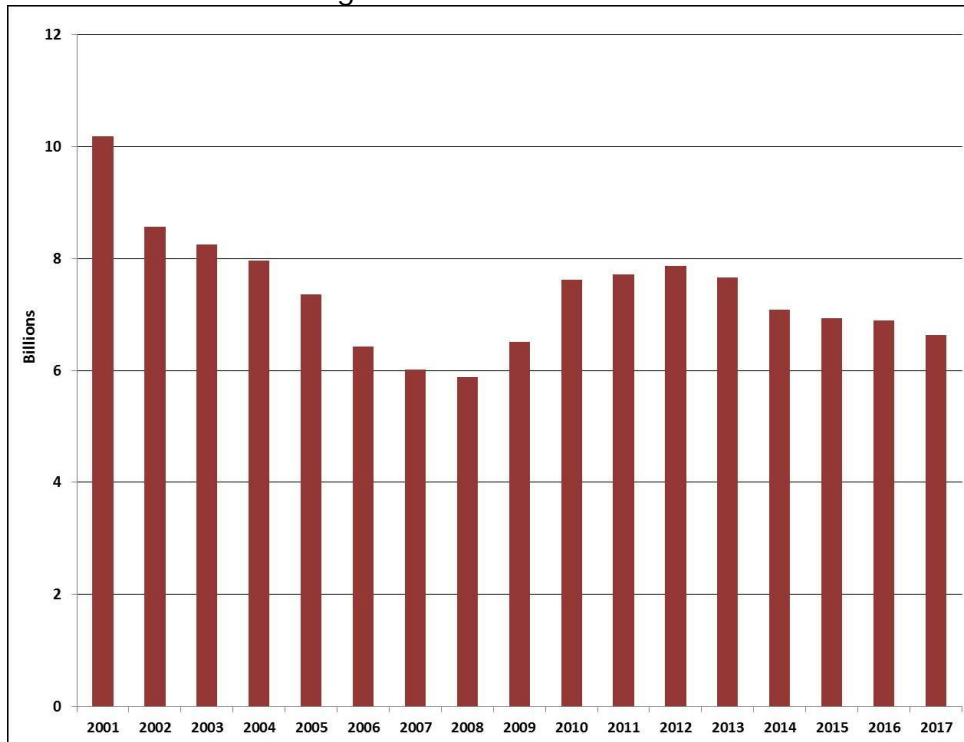
Nova Scotia cigarette sales from 2001-2017



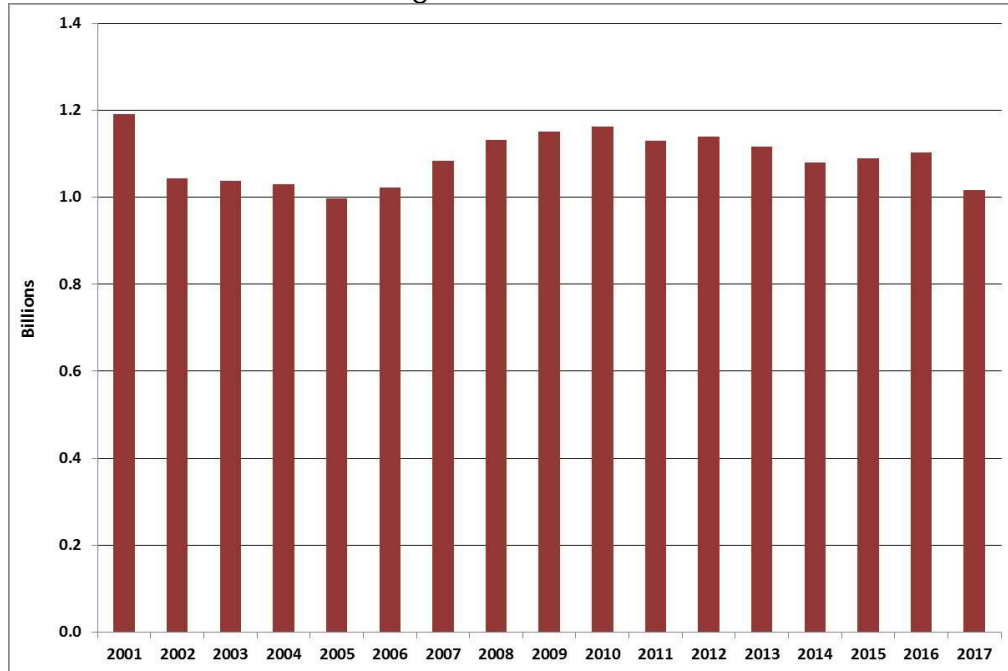
Ontario cigarette sales from 2001-2017



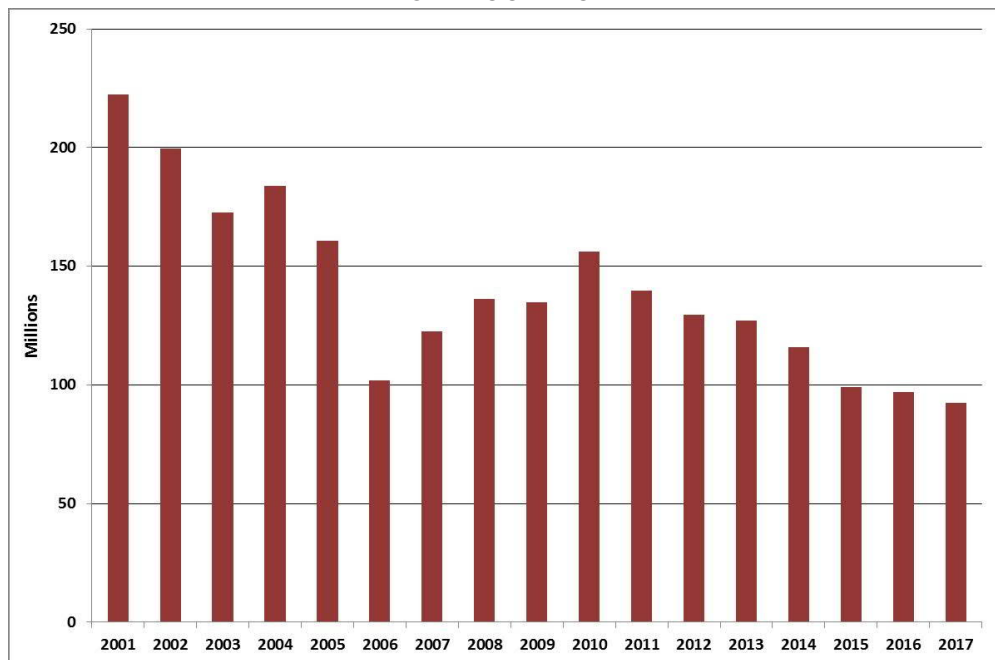
Quebec cigarette sales from 2001-2017



Saskatchewan cigarette sales from 2001-2017




Prince Edward Island, Northwest Territories, Nunavut and Yukon cigarette sales from 2001-2017



Note: Sales data for PEI and the territories are merged due to the limited number of companies active in those markets. Unit sales may not represent total consumption as they only include direct shipments by tobacco companies and exclude products shipped from wholesalers in other provinces.

Source: <https://www.canada.ca/en/health-canada/services/publications/healthy-living/federal-provincial-territorial-tobacco-sales-data/page-2.html>

Appendix 2



Tsi Nahò:ten Karihwanàkere Nò:nen'k

PRESS RELEASE

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mckmedia@mck.ca

Mohawk Council of Kahnawà:ke
 Kahnawà:ke Mohawk Territory
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 JOL 1B0
 Tel: (450) 632-7500
 Fax: (450) 638-5958

As per the MCK Communications Protocol, all media requests must be arranged through the Public Relations / Communications Unit

Notice – NO tobacco products being sold in Kahnawake

For Immediate Release

(Kahnawake – 23, Enniakó:wa/March 2020) The Mohawk Council of Kahnawà:ke (MCK) wishes to inform the general public that ALL tobacco stores are CLOSED at this time, due to the COVID-19 pandemic.

The directive to close the stores was made by Kahnawà:ke's COVID-19 Task Force, which has been given the mandate to address the pandemic on behalf of the community. The decision to close the stores was made to reduce the number of persons entering Kahnawà:ke, which puts the community at a high risk of the virus being transmitted.

There are **no** exceptions to this directive.


"We are issuing this release to make it clear that we will do everything we can to reduce our risk," said Ratsénhaehns (Council Chief) Harry Rice, who represents the MCK on the COVID-19 Task Force. "The directive will be posted in French and English on the electronic billboards located on Highways 30, 132 and 138, which should help."

"It is only one of many initiatives to help prevent the spread of the virus," he added, "but one that affects a significant number of persons from our neighboring communities who purchase tobacco on a regular basis. We appreciate everyone's understanding during this challenging time."

-30-

EDO-COMM-0001

Source: <http://www.kahnawake.com/news/pr/pr03232020d.pdf>



The Kahnawà:ke COVID-19 Task Force

Media Inquiries:
Lloyd Phillips
 Commissioner of Public Safety,
 Mohawk Council of Kahnawà:ke
lloyd.phillips@mck.ca

Tonya Perron
 Elected Council Chief,
 Mohawk Council of Kahnawà:ke
tonya.perron@mck.ca

COMMUNIQUEÉ

COVID-19 Task Force Notice – ALL stores in Kahnawake closed to Non-Locals, subject to fines

For immediate release

(Kahnawake – 3, Onerahótó:ha/April 2020) The Kahnawà:ke COVID-19 Pandemic Task Force is reminding the general public that **ALL STORES ARE CLOSED TO NON-COMMUNITY MEMBERS** at this time, due to the COVID-19 pandemic. This includes all tobacco stores on the Territory. Please note the following:

According to Section 31 of the Kahnawà:ke Emergency Preparedness Law, "Every person who contravenes any provision of this Kahnawà:ke Communal Law, or incites a person to do so, is guilty of an offence and liable to a fine of not more than \$1,000 in the case of a natural person, or to a fine of not more than \$10,000 in the case of a corporation or partnership."

Section 180 C.C. (1) states, "Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than two years, or is guilty of an offence punishable upon summary conviction who commits a common nuisance and by doing so a) endangers the lives, safety or health of the public or b) obstructs the public in the exercise or enjoyment of any right that is common to all."

The Kahnawà:ke COVID-19 Task Force has the mandate to address the pandemic on behalf of the community. The decision to close the stores to non-locals was made to reduce the number of persons entering Kahnawà:ke, which puts the community at a high risk of the virus being transmitted.

There are **no** exceptions to this directive.


"We need to make it absolutely clear that we are doing everything we can to reduce our risk," said Ratsénhaehns (Council Chief) Tonya Perron of the Mohawk Council of Kahnawà:ke. "The directive has already been posted in French and English on electronic billboards located on the highways running through Kahnawà:ke, but some people are still coming into the heart of the community searching for tobacco products – which is unacceptable."

"We appreciate everyone who has respected our directive during this challenging time," she concluded.

-30-

EDO-COMM-0024

Source: <http://www.kahnawake.com/news/pr/pr04032020c.pdf>


The Kahnawà:ke COVID-19 Task Force

Suggested Media Instructions:
Please run at your discretion.

Media Inquiries:
Lloyd Phillips
Commissioner of Public Safety,
Mohawk Council of Kahnawà:ke
lloyd.phillips@mck.ca

COMMUNIQUÉ

Kahnawà:ke stores remain CLOSED to non-residents

For immediate release

(Kahnawake – 4, Onerahtohkó:wa/May 2020) The Kahnawà:ke COVID-19 Task Force wishes to issue a reminder that Kahnawà:ke stores remain **CLOSED** to non-residents.

"Any and all measures we take are done for the health and safety of our vulnerable population, especially our elders," said the Commissioner of Public Safety Lloyd Phillips.

Although Quebec has re-opened some retail outlets, this does **NOT** apply to Kahnawà:ke at this time. Please note, however, that the delivery of food from local restaurants to outside residents is permitted.

Non-locals are **NOT** permitted in Kahnawà:ke unless they have proof that they are working in essential services on the Territory. Businesses, including tobacco outlets, are **NOT** open to non-locals.


Any person who disregards these directives are liable to face fines if you come to Kahnawà:ke.

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The Kahnawà:ke COVID-19 Pandemic Task Force consists of designated health and safety representatives from Kahnawà:ke's service organizations

EDO COMM-0024

Source: <http://kahnawake.com/news/pr/pr05042020a.pdf>



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As per the MCK Communications Protocol, all media requests must be arranged through the Public Relations / Communications Unit.

Tsi Nahò:ten Karihwanákere Nò:nen'k

PRESS RELEASE

State of Emergency extended

For immediate release

(Kahnawake – 19, Onerahtohkó:wa/May 2020) The Mohawk Council of Kahnawà:ke (MCK) wishes to inform the community that the current State of Emergency was formally extended for a period of thirty (30) days at today's duly-convened Council meeting. The Mohawk Council Resolution was passed by consensus by all eleven (11) Council members present. The passage of this Resolution includes the extension of the Mandate for the Kahnawà:ke COVID-19 Task Force.

The original Declaration of State of Emergency was ratified on April 21, 2020. By law, the State of Emergency cannot be declared for an indefinite period and, instead, must be renewed on a monthly basis.

The Declaration of State of Emergency was taken to ensure the protection of Kahnawà:ke's jurisdiction during the COVID-19 pandemic. It also gives the MCK the ability to make changes to various public safety laws (Kahnawà:ke Emergency Preparedness Law, Sanitary Conditions Law) if required to ensure the next phases of the pandemic are addressed.

-30-

EDO COMM-0001

Source: <http://kahnawake.com/news/pr/pr05192020c.pdf>



The Kahnawà:ke COVID-19 Task Force

May 26th, 2020

June 1st Kahnawà:ke Phase-One Business Opening

Due to the global Pandemic COVID-19 virus, and the current state of a public health emergency, the Kahnawà:ke COVID-19 task force is advising the community that June 1st, 2020 is the official opening date for Phase-One business re-opening.

Although permitted to open, it is required that all businesses implement and maintain the health and safety measures set forth by the Task Force. All businesses are required to be inspected by the Task Force before they can resume operations.

This measure rescinds and replaces directives:

Directive # 16 Cigarette Store Factory Closure
Directive # 19 Non-Essential Business Closure
Directive # 19.1 Kahnawà:ke is for Kahnawà:ke Residents Only

On June 1st, 2020, general delivery and home maintenance services in the community will also be permitted.

This measure is put in place to help minimize the spread of the virus within our community and to help protect our most vulnerable. Working as a community, we can limit and manage its spread.

Thank you,

Lloyd Phillips
Commissioner Public Safety
Kahnawà:ke COVID-19 Task Force
(450) 632-0635

Dir37

Source: <http://covid-19.kmhc.ca/wp-content/uploads/2020/05/37-Phase-1one-business-opening-37.pdf>



The Kahnawà:ke COVID-19 Task Force

May 29th, 2020

Kahnawà:ke Restricted Access

Due to the global Pandemic COVID-19 virus, and the current state of a public health emergency, the Kahnawà:ke COVID-19 task force is advising the community that Kahnawake will remain restricted access. Effective June 1st modification to restrictions will allow for non-residents to be within Kahnawake for the purpose of trade and commerce.

Non-residents will have limited access to the community from the hours of 06:00 – 22:00. Non-residents who are permitted in the territory are required to leave immediately after completion of trade and commerce activities. The Kahnawake Peacekeepers will have heightened vigilance to ensure this directive is adhered to.


We also call upon community members and business owners to ensure measures are taken to ensure adherence to this directive. Working as a community, we can limit and manage its spread.

Thank you,

Lloyd Phillips
Commissioner Public Safety
Kahnawà:ke COVID-19 Task Force
(450) 632-0635

Dir39

Source: <http://covid-19.kmhc.ca/wp-content/uploads/2020/05/39-Kahnawake-Restricted-Access-39.pdf>

 **** IMPORTANT NOTICE ****
**** TRAVEL ADVISORY ****

The World Health Organization declared a pandemic on March 11, 2020 due to the Coronavirus-19 (COVID-19). On March 13, 2020 Six Nations Council passed that Six Nations of the Grand River will have a travel ban for all Six Nations Elected Council and employees and also declared COVID-19 as a community emergency. Travelling during this pandemic will increase the risk of bringing this virus to the community. Canada is recommending that all non-essential travel outside Canada be avoided and that people outside of Canada need to consider returning as soon as possible. At this time Six Nations of the Grand River and Six Nations Health Services are doing everything possible to keep our staff, clients, our residents and the community safe.

As many of our families may be travelling from March 14 through to April 5, 2020, the Public Health Agency of Canada recommends that travellers avoid non-essential travel to areas with widespread transmission of COVID-19. Visit this link for more health advice: <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/latest-travel-health-advice.html>

If you are travelling, please speak to your Supervisor/Manager to let them know of your travel plans. Please let your Supervisor/Manager know the following:

- Where you will be travelling?
- How you are getting there?
- What is your expected date back to Canada?

Daily preventative measures, including while travelling:


- Make sure you have hand sanitizer and tissues with you at all times.
- Avoid large gatherings and avoid contact with sick people.
- Avoid touching your face, eyes and mouth.
- Clean your hands frequently with hand sanitizer or soap and water.
- Cover your cough and sneezes with your elbow or a tissue.
- Do not drink from the same cups or water bottles.
- If you become sick, avoid others and contact a health clinic in the area
- Clean/disinfect frequently touched items/surfaces (i.e., door knobs, cell phone, remotes)

Returning from travel
When you return to Canada, you are to:

- **Self-isolate for 14 days** and notify your Supervisor/Manager that you have returned to Canada
- **Self-isolating is the act of isolating or separating oneself from others**
- If you **had or have symptoms** (fever, cough or shortness of breath), it is imperative that you immediately:
 - notify your Supervisor/Manager **AND**
 - notify OneHealth Public Health at (519) 445-2672

Please be diligent to follow the daily preventative measures listed above to limit your exposure to this virus.

Source: <http://www.sixnations.ca/Notice-TravelAdvisoryMarch142020.pdf>

 For Immediate Release: March 29, 2020

New Timeline to Begin Restricting Access to the Six Nations Community

Six Nations of the Grand River Elected Council and the Emergency Control Group has moved up the timeline to begin restricting access to the community due to the large amount of non-residents entering the territory to buy cigarettes and gas. **This is effective immediately.** We are doing this action to support the business that are experiencing this overcrowding at their business. Also, effective immediately, we are asking all non-essential businesses to shut down operations. Please keep in mind, we are taking such action to reduce community transmission which happens when people come in close contact with one another.

Public Works is working quickly to install safety barriers at all access points in the territory.

Please see attached map.

The red dots labelled "Stop Points" are unmanned points and will be closed to the public. Do not attempt to enter or leave the community at these points.

The green dots labelled "Entry Points" are manned points where community members will have access and be asked to use if leaving the territory for essential services. Visitors attempting to enter the community will be asked "If your sole purpose is for recreational or shopping purposes on the Territory - we ask that you respect our community's decision by peacefully leaving at this time."

We are asking everyone to remain calm, take all necessary health precautions and most of all, STAY HOME


Six Nations members who are experiencing symptoms of COVID-19 are asked call the [Six Nations COVID-19 Information and Assessment Centre at 1-855-977-7737 or 226-446-9909](tel:1-855-977-7737).

Those requiring urgent medical attention should call 911.

-30-

Media: most feet are on the ground, but we will try our best to accommodate requests. Please direct them to: Communications Officer at clickers@sixnations.ca

Source: http://www.sixnations.ca/PressRelease_NewTimelinetoBeginRestrictingAccessstotheSixNationsCommunity.pdf

 <p>For Immediate Release: June 15, 2020</p> <h3>Six Nations of the Grand River Elected Council Moving to the Second Phase of Reopening</h3> <p>On June 15, 2020, Six Nations of the Grand River is entering the second phase of its reopening. In this stage, border checkpoints have been removed; non-residents will be allowed to enter the SNGR Territory, based on the health and safety guidelines established for this phase. The checkpoints were removed at midnight on June 15, 2020 to ensure the safety and wellbeing of everyone. The Guidelines include gatherings of groups of 10 or less, wearing a mask and physical distancing. The following non-essential businesses will be permitted to reopen:</p> <ul style="list-style-type: none"> • Health and medical services that have been closed such as optometrists, and dentists. Their openings will have to align with the rules of their respective professional associations or colleges' guidelines; • Personal care businesses such as hair and nail salons, tattoo services, day spas, etc.; • Retail Operations, including tobacco shops and arts and crafts stores; • Office based businesses; • Wholesale and warehousing operations; • Libraries, Museums, Art Galleries; • Rideshare/Taxis; • Chiefswood Park, and other parks (Note: use of playground equipment remains prohibited during stage 2); • Sports Fields for groups of 10 or less (i.e. softball diamonds, soccer fields and running tracks) other than those located in the vicinity of the Community Hall; and • Horse barns. <p>Chief and Council moved to stage 2 including the decommissioning of the check points with the support and recommendation of the Emergency Control Group in collaboration with our health professionals. As a community, we have to start balancing the health and safety with sustaining our livelihoods as a whole. Through these new measures, we are creating a situation where all families can prepare for the fall and winter, should a second wave hit us.</p> <p>As the province of Ontario and surrounding jurisdictions continue to reduce the restrictions, Elected Council will monitor their success. The Province has opened up these same businesses last Friday and most towns have moved to phase 2 of the province's plan. Many of our residents will now be shopping in malls, restaurants, patios, hair salons, etc. and then coming back to the territory. It is important to note, should we see an increase in their cases, we will adjust our plans to ensure the safety of all.</p>	<p>With the efforts of the Emergency Control Group over the past three months, we know the community has all the tools and have taken all the necessary precautions to tackle COVID-19 and protect their families. We as a Council trust and believe - that every community member will take all the necessary precautions to keep themselves and their loved ones safe.</p> <p>We have to remain diligent in our own safety and not let our guard down. Regardless of the check points coming down, we are asking everyone to remain vigilant in maintaining the health and safety guidelines we have put in place over the past three months. As a reminder, all the tools, guidance and support to deal with COVID-19 is available for you on our website at www.sixnations.ca/COVID19.ca</p> <p>Elected Council thanks the community for continuing to practice all necessary health and safety measures.</p> <p>Public Health Officials are reminding people to:</p> <ul style="list-style-type: none"> - Take every measure to stay at home, especially if you feel ill; - Practice physical distancing if you do have to go out in public; - Keep your bodies and surroundings clean and disinfected, especially your hands by washing them often and for at least 20 seconds; - Monitor themselves for symptoms that include coughing, fever, and difficulty breathing, reporting any signs immediately to the Six Nations COVID-19 Information and Assessment Centre at 1-855-977-7737 or 226-446-9909 <p>-30-</p> <p>Media Contact: Six Nations of the Grand River Communications Officer clickera@sixnations.ca 519-445-2205 extension 3238 1695 Chiefswood Road, P.O. Box 5000, Ohsweken Ontario N0A1M0</p>
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Source: http://www.sixnations.ca/PressRelease_SNGRECMoveToReopenSecondPhaseJune15.pdf

Appendix 3 – Tobacco Tax Rates

Federal excise duty

\$0.62104/5 cigarettes = \$3.1052/pack

https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/edrates/excise-duty-rates.html#_Toc527013627

British Columbia tobacco tax

\$0.295/cigarette = \$7.375/pack

<https://www2.gov.bc.ca/gov/content/taxes/sales-taxes/tobacco-tax>

Alberta tobacco tax

\$0.275/cigarette = \$6.875/pack

<https://open.alberta.ca/dataset/1c4f5206-2c25-415a-a805-15d563516f0b/resource/b6f04cf8-5b6d-4466-af2d-232d2a0e8633/download/special-notice-tta-vol-3-no-17-tobacco-tax-rate-increase.pdf>

Saskatchewan

\$0.27/cigarette = \$6.75/pack

<https://www.saskatchewan.ca/business/taxes-licensing-and-reporting/provincial-taxes-policies-and-bulletins/tobacco-tax#:~:text=Licensed%20importers%2C%20primarily%20tobacco%20wholesale,taxable%20value%20of%20a%20cigar.>

Manitoba

\$0.30/cigarette = \$7.50/pack

<https://www.gov.mb.ca/finance/taxation/taxes/tobacco.html>

Ontario tobacco tax

\$0.18475/cigarette = \$4.6187/pack

<https://www.fin.gov.on.ca/en/tax/tt/>

Quebec tobacco tax

\$0.149/cigarette = \$3.725/pack

<https://www.revenuquebec.ca/documents/en/formulaires/ta/TA-1-V%282014-06%29.pdf>

New Brunswick

\$0.2552/cigarette = \$6.38/pack

<https://www2.gnb.ca/content/gnb/en/departments/finance/taxes/wholesalers.html>

Nova Scotia tobacco tax

\$0.2952/cigarette = \$7.38/pack

<https://beta.novascotia.ca/sites/default/files/documents/1-1191/tobacco-tax-program-overview-en.pdf>

Prince Edward Island

\$0.2752/cigarette = \$6.88/pack

<https://www.princeedwardisland.ca/en/information/finance/tobacco-tax-rates>

Newfoundland and Labrador

\$0.295/cigarette = \$7.375/pack

<https://www.gov.nl.ca/fin/tax-programs-incentives/personal/tobacco/>

Endnotes:

¹ World Health Organization, WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020. <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

² It has been estimated that the price differential between legal and contraband cigarettes sold in Ontario was \$66/carton of 200 in 2017, for example. That price gap has probably widened since then. See EY, *Tobacco Tax Policy in Ontario: Market implications of the Ontario government's increases in tobacco taxes*, March 2018.

³ An indication of the methods involved and the scope of these operations is provided in a Canada Border Services Agency (CBSA) news release dated September 29, 2020 concerning charges laid in two seizures that took place on May 10, 2018 and May 27, 2019 at the St-Bernard-de-Lacolle and Herdman in Montérégie border crossings, *Project Butane: charges laid against the leaders and truckers of a criminal contraband tobacco network for fraud estimated at more than \$450 million*, <https://www.canada.ca/en/border-services-agency/news/2020/09/project-butane-charges-laid-against-the-leaders-and-truckers-of-a-criminal-contraband-tobacco-network-for-fraud-estimated-at-more-than-450-million.html>

⁴ As an example, the RCMP seized 310,000 illegal cigarettes in Saint John, N.B. in September 2020. They were "Rolled Gold" brand manufactured on the Kahnawake Mohawk Reserve in Quebec. <https://atlantic.ctvnews.ca/moncton-man-arrested-following-seizure-of-310-000-illegal-cigarettes-1.5103716>
<https://depquebec.net/en/quality-contraband-tobacco-makes-its-first-market-entry/#:~:text=According%20to%20him%2C%20the%20Rolled%20Golds%20are%20indeed,underground%20reseller%2C%20he%20would%20definitely%20opt%20for%20them>.

It has been reported that this same brand of cigarette is being sold in the streets of Vancouver, B.C.: <https://www.vancouverisawesome.com/opinion/contraband-cigarettes-vancouver-1945296>

⁵ For a good, if now somewhat dated, overview, see Nachum Gabler and Diane Katz, *Contraband Tobacco in Canada: Tax Policies and Black Market Incentives*, The Frazer Institute, Studies in Risk and Regulation, July 2010.

<https://www.fraserinstitute.org/sites/default/files/contraband-tobacco-in-canada.pdf>

Some of the specific findings and conclusions of this report were subsequently challenged by the Ontario Tobacco Research Unit (OTRU), established in 1993 as the research and evaluation component of the Ontario Tobacco Strategy with initial funding from the province and in-kind contributions from the academic community. See Bo Zhang and Robert Schwartz, *What Effect Does Tobacco Taxation Have on Contraband? Debunking the Taxation - Contraband Tobacco Myth*, OTRU, February 2015 https://otru.org/wp-content/uploads/2015/02/special_tax_contraband_final.pdf

The report asserts that “the magnitude of the contraband tobacco problem is generally overstated”, but the “Key Findings” it cites to support that viewpoint are not persuasive (pages 1-2 and 23). This exchange illustrates the controversial and contentious nature of tobacco tax policy. The overall conclusion in the Fraser Institute study that a substantial tax-related difference in price between legal and contraband tobacco is the main reason for the growth and persistence of the contraband market remain highly persuasive.

⁶ See EY study, *Tobacco tax policy in Ontario: Market implications of the Ontario government’s increases in tobacco tax rates*, March 2018, page 9.
https://www.ey.com/en_ca/news/2018/03/2018-ontario-tobacco-taxation-is-contributing-to-a-growing-contraband-market

⁷ See EY Study, *The tobacco market in Quebec*, February 2019, page 5 and Quebec Ministry of Finance.

⁸ Due to its sensitivity, much of the information contained in this section is obtained from confidential sources. Where available, public information is also used and duly footnoted.

⁹ CTV News Kitchener <https://kitchener.ctvnews.ca/chief-calls-for-closure-of-smoke-shops-after-two-covid-19-cases-reported-in-six-nations-1.4873315>

¹⁰ Matt Brand, *Cigarette sales in Nova Scotia increasing: Atlantic Convenience Stores Association*, Halifax Today, October 15, 2020 <https://www.halifaxtoday.ca/local-news/cigarette-sales-in-nova-scotia-increasing-atlantic-convenience-stores-association-2792516>

¹¹ That said, there is somewhat more price sensitivity for legal tobacco demand in Canada because of the widespread availability of contraband tobacco products that serve as a low-cost substitute for legal products. Hence the concern that tax increases reduce the demand for legal (taxed) product, but also contribute to the growth in contraband (untaxed) sales and overly optimistic and inaccurate forecasts of revenue increases for a given rate increase. For example, in Ontario tax revenues from legal cigarettes consistently fell short of government budget forecasts from 2013/14 to 2017/18, for a cumulative shortfall of \$240 million. See EY study, *Tobacco tax policy in Ontario: Market implications of the Ontario government’s increases in tobacco tax rates*, March 2018
https://www.ey.com/en_ca/news/2018/03/2018-ontario-tobacco-taxation-is-contributing-to-a-growing-contraband-market

¹² In fact, there were retail price increases (as is reflected in the consolidated CICC revenue chart) that passed on increases in rates of federal excise duty and some provincial tobacco taxes. On February 27, 2018, the federal Minister of Finance tabled Budget 2018 and an accompanying Notice

of Ways and Means Motion proposing amendments to the *Excise Act, 2001* to increase the rates of excise duty on tobacco products. The Notice also proposed amending the *Act* to adjust the excise duty rates on tobacco products annually. Accordingly, the rates are now indexed to the Consumer Price Index. The first inflationary adjustment took place effective April 1, 2019 and another increase became effective during the period of analysis here on April 1, 2020. Increases in 2020 provincial tobacco tax rates were also announced in British Columbia, Manitoba, Prince Edward Island and Nova Scotia.

¹³ This calculation is based on Canada Revenue Agency data: monthly returns, Excise Duty Form B261, January 2019 to August 2020.

¹⁴ See endnotes 6 and 7, EY studies for Ontario and for Quebec.

¹⁵ See Robert Jones, CBC, *New Brunswick smokers, drinkers spending record amounts at home*, November 17, 2020, <https://www.cbc.ca/news/canada/new-brunswick/nb-smokers-drinkers-spending-1.5804468>

¹⁶ See Statistics Canada <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3610022901>. Household income per capita in Newfoundland was higher than the Canadian average before the global oil price shock.

¹⁷ New Brunswick, Finance and Treasury Board News Release, *Second-quarter results released*. https://www2.gnb.ca/content/gnb/en/departments/finance/news/news_release.2020.11.0594.html

¹⁸ New Brunswick, Finance and Treasury Board, Fiscal and Economic Update: Second Quarter 2020–2021, Table 4, Ordinary Account Revenue by source. <https://www2.gnb.ca/content/dam/gnb/Departments/fin/pdf/Publications/2020-2021SecondQuarterReport.pdf>

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