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Session 7: The booming black market

During the GTNF breakout session on the afternoon of Sept. 29, “The booming black market,” participants were shown a video of part of a raid on a factory producing illicit cigarettes somewhere in Poland. The armed law enforcement officers assembled outside before bursting into the factory, quickly rounding up the machine operators and other workers and, in the process, securing the machinery and materials, the presence of which would presumably form part of the evidence presented in court. It was clearly a successful raid, but it bore the hallmark of failure.

Of course, it wasn't a failure on the part of those who had discovered the factory and organized the raid; participants were told that the raid would probably have been the culmination of an investigation lasting between nine and 12 months. And it wasn't a failure on the part of those who conducted the raid; they were clearly well-trained, courageous and dedicated. But it was a failure because in a rational society there shouldn't have been any need for it. The business being carried out at the factory was the result of governments in some countries imposing eye-watering levels of cigarette excise tax, distorting the market for these products and incentivizing the criminals who mastermind such criminal activities.

If participants looked beyond the video they would have seen the enormous, hugely costly law-enforcement effort, mostly paid for out of taxation, that is required to try to counter the production of illicit products and their delivery into the illegal trade; the way that the illegal trade forces many normally law-abiding people of limited financial means who simply want to enjoy a cigarette to rub shoulders with criminals; and the way that all of this man-made mess works to fill up already overcrowded jails that, in many cases, are simply the recruiting grounds for organized crime.

If, as participants were told, a pack of cigarettes costs €9–10 in Ireland and the U.K., and €0.50 in Belarus, it doesn't take a genius to know what is going to happen. And it does happen. Ten percent of the illicit cigarettes sold in the EU are from Belarus, according to empty-pack surveys.

On the basis of buying cigarettes in Belarus and selling them in Ireland, a criminal can apparently make €1,500 from a case of cigarettes, €10,000 from a car-load and €1.3 million from a container-load. No wonder that the international law-enforcement authorities who cooperated in making the Polish factory raid had apparently discovered so far this year 16 factories producing illicit cigarettes.

The profits are such that criminals can afford to set up reasonably sophisticated factories and distribution networks. The video seemed to show a well-organized, orderly factory, and the session was told that criminals used a host of interesting ways of moving their products internationally. In one instance, a tunnel had been found linking Ukraine and Slovakia, through which cigarettes and other illicit items were being moved on a conveyor belt.

Whereas the discovery of 16 factories might be seen as a success of sorts, such a high number of active cases must create a great deal of pressure on law enforcement agencies that have to try to sift through the evidence presented by the seized machinery and manufacturing

supplies to try to discover the sources of these items and, therefore, how perhaps to inhibit planned future criminal activities. And they need, through cooperation with licit tobacco manufacturers, to use forensic techniques to try to discover for how long individual pieces of equipment have been used to produce illicit products. Sentences for the criminals involved might be increased by proving that they had been using pieces of machinery over a number of years, perhaps in different factories.

Cooperation between law enforcement agencies and tobacco manufacturers is clearly valued by both, and it seems to make little sense that a decision was made earlier this year by the European Commission not to renew a formal agreement with Philip Morris International under which that company provided funds for countering the illegal trade and cooperated with law enforcement. It is generally accepted that under the agreement the quantity of genuine PMI products being diverted into the illegal trade fell dramatically.

The decision makes little sense particularly because participants were told that EU governments last year lost out on €11.3 billion in revenue due to the illegal trade in tobacco products, though this is misleading to a certain extent. It is surely more accurate to say that governments surrendered €11.3 billion by simply pricing themselves and licit manufacturers out of part of the cigarette market.

One debate that occurred during the session centered on why it was that, according to a Eurobarometer survey of 27,000 EU citizens across 28 member states, 70 percent of people accepted that there was a link between the illegal trade in illicit drugs and organized crime, but only 14 percent made a link between the illegal trade in cigarettes and organized crime. But is this so surprising? After all, in the first case, the product is illicit no matter its source, whereas in the second case the product is generally licit, though it is often traded illegally.

Another debate asked why tobacco consumers were more likely than were the consumers of other products to buy illegally traded products, but again the answer seemed to be obvious. As one participant pointed out, illicit alcohol is likely to turn you blind or even kill you. This was a refreshing retort because it made the point that consumers tend to be rational in what they do, something that seems to get lost sometimes. Indeed, the black market session was refreshing because of the willingness of some participants not to treat smokers as fools and criminals but to ascribe to governments most of the blame for the chaotic situation that is the illegal trade in tobacco products. One participant said specifically that people in Western Europe shouldn't be blamed for buying illicit cigarettes; the problem lay with governments.