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True North in
Canadian public policy

TAKEN TO THE CLEANERS:

How Canada Can Start to Fix its Money Laundering Problem

Christian Leuprecht



DECEMBER 2019

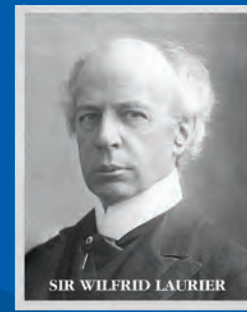
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True North in
Canadian public policy



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Executive Summary

Canadians and their political leaders are beginning to realize that financial crime is a serious and growing problem. It is causing real social harms, from gun violence to escalating property prices to the corruption of Canadian institutions. A recent flurry of attention to the issue by Ottawa and the provinces notwithstanding, Canada lags in taking concrete action.

Led by the Department of Finance, Canada first established an Anti-Money Laundering regime in 1991 which was amended to include Anti-Terrorist Financing (AML/ATF) a decade later. It is supported by other federal departments, provincial financial sector and other regulators, and provincial and municipal law enforcement agencies.

“ Despite its demonstrable involvement in money laundering, little effort has been made to follow the proceeds of contraband tobacco.

In 2015, the federal government undertook a whole-of-government initiative to assess the risks posed by both money laundering and terrorist financing. The report identified nine criminal activities that were considered very high risk: capital markets fraud, commercial (trade) fraud, corruption and bribery, counterfeiting and piracy, illicit drug trafficking, mass marketing fraud, mortgage fraud, third-party money laundering, and tobacco smuggling and trafficking. Organized crime groups and professional money launderers are the key actors associated with money laundering in Canada.

The most recent outside evaluation of Canada's framework was conducted in 2016 by the International Monetary Fund and adopted by the interna-

tional Financial Action Task Force. The FATF evaluation indicated that, other than in Quebec, Canada's recovery of the proceeds of crime was lacking and it found the national rate of convictions for financial crimes to be low. It concluded that law enforcement agencies, particularly the RCMP, had other operational priorities and few resources to devote even to high-priority threats.

The FATF recommended increasing efforts to detect, pursue, and prosecute cases of money laundering related to high-risk offences other than drugs and fraud, notably, corruption and tobacco smuggling.

Despite its demonstrable involvement in money laundering, little effort has been made to follow the proceeds of contraband tobacco. Major law enforcement initiatives in Ontario and Quebec have dismantled tobacco smuggling rings - several major busts involving hundreds of millions of dollars are enumerated in this study - but have not followed the money trail to investigate where the profits go. With both federal and provincial governments in Canada losing vast sums in potential tax revenue, coupled with national and international efforts to reduce smoking rates, and given that illicit tobacco ranks among the highest threat risks for money laundering, there is considerable potential for Canada to be far more aggressive in controlling and combatting the illicit cigarette trade.

To curb the laundering of proceeds from such criminal activity, this study recommends that the federal government:

- emulate the United States in creating a Canadian Tobacco Ombudsman to coordinate efforts among relevant agencies and regulatory bodies; and
- introduce legislation similar to the *Combating the Illicit Trade in Tobacco Products Act* (CITTPA) currently being considered in the US, which would allow Canada's federal government to impose sanctions on foreign players that are involved in the illicit tobacco trade.

Money laundering poses a considerable risk to Canada's financial and economic stability and prosperity. It is thus in the national interest for law enforcement agencies in Canada to redouble their efforts to combat financial crime. The most effective way to dismantle criminal organizations is to target their infrastructure and forfeit their assets. Most serious criminal organizations are motivated by profit; removing that incentive is the ultimate deterrent. This study documents the extent to which Canada could be far more effective in deterring financial crime in general, and money laundering in particular.

Sommaire

Les Canadiens et leurs dirigeants politiques commencent à prendre conscience du problème grave et croissant que pose la criminalité financière. Celle-ci a des conséquences sociales bien réelles qui vont de la violence armée à l'escalade des prix immobiliers en passant par la corruption des institutions. Malgré toute l'attention suscitée récemment par cet enjeu dans la capitale fédérale et les provinces, le Canada tarde à agir concrètement.

En 1991, le gouvernement fédéral a mis sur pied, par l'intermédiaire du ministère des Finances, le Régime canadien de lutte contre le recyclage des produits de la criminalité (blanchiment d'argent), qui a été élargi au financement des activités terroristes (RPC/FAT) une décennie plus tard. Le régime bénéficie de l'appui d'autres ministères fédéraux, d'organismes provinciaux du secteur financier et d'autres organismes de réglementation, ainsi que des agences provinciales et municipales de maintien de l'ordre.

En 2015, il a lancé une initiative pangouvernementale visant à évaluer les risques posés à la fois par le recyclage des produits de la criminalité et le financement des activités terroristes. Dans le rapport de projet, neuf activités à très haut risque sont répertoriées : fraude sur les marchés financiers, fraude commerciale, corruption, contrefaçon et piratage, commerce de drogues illicites, fraude par marketing de masse, fraudes hypothécaires, blanchiment traitant des fonds de tierces parties et contrebande de tabac. Les groupes criminels organisés et les blanchisseurs d'argent professionnels sont les acteurs clés dans le blanchiment d'argent au Canada.

La plus récente évaluation externe du cadre canadien, menée par le Fonds monétaire international et adoptée par le Groupe d'action financière internationale (GAFI), remonte à 2016. Elle a souligné l'insuffisance de la récupération des produits de la criminalité sur le territoire canadien, sauf au Québec, et le faible taux de condamnation pour délits financiers dans l'ensemble du pays. Selon les conclu-

sions présentées, les agences de maintien de l'ordre, en particulier la GRC, avaient d'autres priorités opérationnelles et peu de ressources à consacrer même aux menaces hautement prioritaires.

Le GAFI a recommandé que plus d'efforts soient déployés pour identifier les cas et tenter des poursuites relativement aux infractions à haut risque sans lien avec les drogues, et plus particulièrement en ce qui concerne la corruption et la contrebande de tabac.

Malgré les efforts consentis pour lutter contre le blanchiment, on a peu cherché à retracer les produits du trafic de tabac. D'importantes opérations policières en Ontario et au Québec ont permis de démanteler certains réseaux – et cette étude relève plusieurs importantes saisies représentant des

centaines de millions de dollars –, mais elles n'ont pas pu mettre au jour la piste de l'argent afin de comprendre où vont les profits.

“ Compte tenu de la possibilité de lourdes pertes en recettes fiscales pour les gouvernements – tant au palier fédéral que provincial – sur fond de lutte contre le tabagisme à l'échelle nationale et internationale et du rang élevé qu'occupe le tabac de contrebande dans la hiérarchie des risques de blanchiment, le Canada doit contrôler et combattre plus efficacement le commerce illicite de cigarettes.

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Dans le but de freiner le blanchiment, cette étude recommande que le gouvernement fédéral :

- 1) désigne, à l'exemple des États-Unis, un ombudsman canadien du tabac pour coordonner les efforts des agences et des organismes de réglementation pertinents; et
- 2) introduise une loi semblable au projet de loi « *Combating the Illicit Trade in Tobacco Products Act* (CITTPA) » à l'étude aux États-Unis, ce qui lui permettrait d'imposer des sanctions aux participants étrangers dans le commerce illicite de tabac.

Le blanchiment d'argent pose un risque considérable pour la stabilité et la prospérité financières et économiques du Canada. L'intérêt

national dicte donc aux agences de maintien de l'ordre d'intensifier leurs efforts de lutte contre la criminalité financière. Le moyen le plus efficace de démanteler les organisations criminelles est de cibler leurs infrastructures et de confisquer leurs actifs. Comme les organisations les plus menaçantes sont motivées par le profit, la suppression de cet incitatif est le meilleur outil de dissuasion possible. Cette étude examine comment le Canada pourrait être beaucoup plus efficace pour contrer la criminalité financière en général et le blanchiment d'argent en particulier.

Introduction

The extent to which money is being laundered in and through Canada is increasingly capturing the attention of governments in Canada. They have begun to realize that such crimes have the potential to inflict serious social harms: from gun violence to escalating property prices – crimes that leave victims in their wake.

Over the past two years, the government of British Columbia commissioned four reports that detailed the extent and sophistication of money laundering activity in BC’s real estate market, casinos, and other sectors (German 2018; German 2019; Maloney, Somerville, and Unger 2019; Perrin 2018). The reports prompted the provincial government to set up the “Cullen Commission,” a commission of inquiry into money laundering in the province.

The federal government has also started to pay attention: In *Budget 2019*, the government of Canada made several commitments to combat financial crimes, including money laundering and terrorist financing. In June 2019, federal ministers met with their provincial and territorial counterparts to discuss approaches to preventing financial crime. Following the meeting, a news release published by the Department of Finance Canada emphasized four initiatives on which there was consensus, including an “intention” to provide \$10 million to the RCMP, in addition to current budget commitments, for the force to invest in the infrastructure and tools needed to pursue complex financial crimes in Canada (Canada, Department of Finance 2019a). The Ontario government has since committed to tackling the issue in its November 2019 *Economic Outlook and Fiscal Review* (Ontario, Ministry of Finance 2019a, 123).

Inspired by this flurry of activity from federal and provincial agencies, this study takes stock of current Canadian efforts to address money laundering and compares them with the efforts that are being undertaken globally. Money laundering transcends provincial and national boundaries; so do its insidious effects. Digital cash transactions flow across international borders with ease in the streams of bits and bytes of global finance. Hard currency and goods are exchanged in complex interactions known as trade-based money laundering (TBML) that are extremely sophisticated and difficult to detect within any one jurisdiction (Cassara 2016).

Canada is compensating for its limited anti-money laundering capacities by cooperating with its major trading partners and allies to develop and expand multilateral frameworks such as the Financial Action Task Force (FATF). This study starts by surveying those global efforts and standards, then looks at Canada’s anti-money laundering (AML) initiatives, which includes Canada’s overall AML regime, Canada’s most recent National Risk Assessment, the global FATF evaluation of Canada’s efforts, Canada’s response to shortcomings identified in that evaluation, and new initiatives the federal government has launched in the meantime.

“Canada is compensating for its limited anti-money laundering capacities by cooperating with its major trading partners and allies to develop and expand multilateral frameworks such as the Financial Action Task Force (FATF).”

The study then lays out the implications of money laundering in Canada. It uses federal and provincial enforcement measures against contraband tobacco and cigarettes as a critical case study because of the vast sums of money that illicit trade generates that need to be laundered. In particular, it compares enforcement efforts among selected provinces. It then contrasts Canadian efforts with those in the United States before offering an international assessment of the incentives that drive the illicit trade in contraband and associated money laundering.

The overall conclusions this study draws are mixed: in theory there is some good will by federal and provincial governments to address the problem. In practice, lacklustre results are a function of meagre resources and insufficient policy attention devoted to the issue. There is good reason to doubt the federal government's commitment to ensuring that law enforcement can effectively investigate, arrest, and convict suspects involved in financial crime.

Money Laundering

Money laundering is driven by organized crime. Criminals manage the proceeds of their crimes in such a way that the money can be spent legitimately without raising suspicions. Criminals rely on different economic sectors, financial procedures, and methods to mask illegally acquired funds. Organized crime makes use of sophisticated schemes to avoid national law enforcement, intelligence, and regulatory agencies from detecting transnational money laundering. These schemes are designed to make transactions in any one jurisdiction appear perfectly legal.

As government entities do not have the full picture across borders, they are at an asymmetric disadvantage in uncovering the illicit nature of these funds. The complex nature of the transactions often only comes to light when law enforcement and regulatory agencies conduct exhaustive investigations of diverse financial records that identify and expose illegal activity. Despite improvements in financial intelligence, few government resources and capacities are dedicated to domestic and transnational money laundering, and these are no match for the complexity of the money trail.

GLOBAL STANDARD: FINANCIAL ACTION TASK FORCE

In 1989, the Group of Seven Nations (G7) initiated the Financial Action Task Force (FATF) of which Canada is a founding member. With Finance as the lead department, Canada contributes both expertise and funding to the FATF.

The initial focus of the FATF was to develop policies and establish best practices to combat money laundering; eventually its mandate grew to encompass terrorism financing. The FATF monitors progress of member countries in implementing its recommendations. A key requirement is for countries to identify and assess money laundering and terrorist financing risks within their own jurisdiction. This information can be used to develop mitigation strategies and to assess each country's capacity against the global standards set by the FATF. A brief summary of the two sets of guidelines will outline how Canada is developing and implementing its own risk assessments in line with FATF recommendations.

FATF money laundering guidelines

A national risk assessment that is timely and relevant requires intelligence to be coordinated across the public and private sectors. Policy-making bodies, law enforcement, intelligence services, financial institutions, and regulatory authorities hold relevant information from the public sector. Since most illicit transactions leverage the financial services sector, the public sector also holds proprietary data that identifies and prevents money laundering schemes. Commercial interests, on the other hand, make less impartial contributions: their incentive is to avoid financial losses due to fraud or running afoul of regulations. Commercial interests seek to avoid financial or reputational consequences along with second-order effects on share-price valuation. At the same time, in some cases criminals can provide privileged information that can generate valuable insights that no other contributor could provide (FATF 2013).

The FATF provides detailed guidelines for undertaking a risk assessment. These include: producing a matrix to break down criminal activity into levels of threat; developing strategies to address the identified risks; and conducting an environmental scan to examine potential vulnerabilities in the

political, economic, social, legislative, and technological sectors. Since criminals will exploit any and all available vulnerabilities, an honest examination of the different arenas within each country will provide intelligence as to where the country should focus its resources and/or develop initiatives to mitigate adverse outcomes, such as the loss of tax revenue.

“The FATF provides detailed guidelines for undertaking a risk assessment.”

FATF terrorism financing guidelines

The FATF also publishes guidelines to help countries conduct national risk assessments for terrorism financing. Countries are expected to monitor risks of terrorism finance continually. The risk assessment should cover all aspects of acquiring, moving, storing, and using funds or other assets to further terrorist objectives. Countries with no or few known terrorists or terrorist financing cases are nonetheless expected to establish mechanisms to collect relevant information since they may still face significant terrorist financing risks, notwithstanding a low threat of domestic terrorism (FATF 2019).

FATF guidelines indicate that “some terrorist organizations and their facilitators are known to have collaborated with local and regional criminal networks (including smuggling networks) to raise and move funds and other assets in some regions” (FATF 2019). Highly profitable criminal activities that require sophisticated cross-border coordination – such as illicit drugs or the illicit trade in tobacco – are attractive to terrorist organizations as they provide a means of self-funding (Leuprecht, Cockfield, Simpson, and Haseeb 2019; Anand 2018). Conversely, organized crime groups such as Mexican cartels have the potential to inflict not only social and financial harms, but also to wittingly or unwittingly use terrorist methods to jeopardize national and international security (Miklaucic and Brewer 2013; Matfess and Miklaucic 2016).

Canadian Anti-Money Laundering Initiatives

CANADA'S AML/ATF REGIME

For over a decade, Canada's federal government has had an Anti-Money Laundering and Anti-Terrorist Financing (AML/ATF) regime, led by the Department of Finance. The regime consists of both funded and non-funded federal partners.¹ It is supported by other federal departments, provincial financial sectors and other regulators, and provincial and municipal law enforcement agencies.

From the private sector, 31,000 Canadian financial institutions and designated non-financial businesses and professions (DNFBPs) have reporting obligations to the regime under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) to support its initiatives. Since its inception in June 2000 to the end of fiscal year 2018/2019, almost \$1.1 billion in federal funding had been allocated to the AML/ATF regime. The eight funded regime participants received a total of \$72 million in the last fiscal year (Canada, Department of Finance 2018). Box 1 contains a summary and breakdown of the recent performance and annual commitments of select AML/ATF regime members.

The objective of the AML/ATF regime is “[t]o detect and deter money laundering and the financing of terrorist activities and to facilitate the investigation and prosecution of money laundering and terrorist financing offences” (Canada, Department of Finance 2018). The FATF methodology aside, the regime is also regularly reviewed, according to Canadian standards, to ensure that it remains effective, addresses emerging risks, and maintains Canada's international leadership in the fight against money laundering and terrorist financing. Reviews are informed by various evaluations, consultations, assessments of money laundering and terrorist financing risks, as well as international considerations, including the activities of the FATF and the actions of G7 partners (Canada, Department of Finance 2018).

BOX 1: SELECTED MEMBERS OF CANADA'S AML/ATF REGIME REPORTED ON THEIR PERFORMANCE IN THE GOVERNMENT OF CANADA'S DEPARTMENTAL PERFORMANCE REPORTS 2018/2019:

- Department of Finance Canada received \$244,000 in 2018/2019 and uses the funds to participate as a member of the FATF and other groups. This year it will update the 2015 money laundering and finance terrorism risk assessment. Overall, its performance is based on its participation in various meetings.
- Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is Canada's Financial Intelligence Unit. It received over \$45 million in 2018/2019. The centre's overall performance is based on the number of investigations that are supported by FINTRAC disclosures.
- Royal Canadian Mounted Police (RCMP) received over \$11 million in 2018/2019. Its overall performance is based on the percentage of criminal operations completed that have a money laundering component, the number of training sessions it provides, and the meetings it attends.
- Canada Revenue Agency (CRA) received about \$8 million in 2018/2019. It reviews all disclosures received from FINTRAC and identifies targets with identifiable tax and collection potential. It reports that by March 2019 it will strengthen operational relationships with AML/ATF regime partners. Its performance is based on the number of Joint Force Operations (JFO) completed.
- Canada Border Services Agency (CBSA) received about \$3.7 million in 2018/2019. Its performance is based on the number of intelligence products produced and the number of JFOs it conducts with the RCMP and other federal departments.

Note: All figures are in Canadian dollars.

2015 AML/ATF NATIONAL RISK ASSESSMENT

In 2015, the federal government undertook a whole-of-government initiative to develop and publish a combined national risk assessment for both money laundering and terrorist financing, in part to address the requirements in the FATF guidelines. The report, *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* (Canada, Department of Finance 2015), categorized various money laundering threats, identified key participants in such activities, and pinpointed 10 groups posing the highest risk for terrorist activities in the country.

The money laundering threat was assessed by evaluating 21 different criminal activities most associated with generating proceeds of crime that may be laundered in Canada. Of these, nine activities were considered very high risk: capital markets fraud, commercial (trade) fraud, corruption and bribery, counterfeiting and piracy, illicit drug trafficking, mass marketing fraud, mortgage fraud, third-party money laundering, and tobacco smuggling and trafficking. Organized crime groups and professional money launderers are the key actors associated with money laundering in Canada. Professional money launderers are rarely involved in the activity that generates the proceeds of crime, but are sought out by organized crime due to the sizeable profits that the illicit trade in drugs and tobacco generates.

“The FATF evaluation showed that Canada is exposed to significant money laundering risks both domestically and abroad.”

To determine the terrorist financing threat, the AML/ATF regime assessed 10 terrorist groups as well as foreign fighters (e.g., those who travel abroad to support terrorist groups).² Although the threat of terrorist financing may not figure as prominently in Canada as elsewhere in the world, the most recent *Public Report on the Terrorism Threat to Canada* cautions: “Internationally, Canada continues to face exposure to terrorism financing risks” (Public Safety Canada 2019a, 19). Connections to conflict zones such as Syria and Iraq “present a high risk for the Canadian financial system’s exposure to terrorist financing activity” (Public Safety Canada 2019a, 19), which includes raising, collecting, and transmitting funds to listed terrorist entities. Specifically, “Daesh, AQ [al-Qaeda] and Hizballah continue to be the main concern. [...] Hizballah has a diversified funding structure and global reach that allows it to obtain funds from sympathetic individuals, businesses and charities, including via domestic support from Canada” (Public Safety Canada 2019a, 19). Criminal convictions related to terrorist financing in Canada include Hizballah and the Tamil Tigers (Leuprecht, Walther, Skillicorn, and Ryde-Collins 2017).

GLOBAL REPORT CARD ON CANADA’S AML/ATF REGIME

Around the same time that Canada published its 2015 *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada*, the International Monetary Fund supported the FATF in conducting an evaluation of the effectiveness of Canada’s AML/ATF regime and its compliance with the FATF’s 40 recommendations. The final report offered multiple recommendations on strengthening Canada’s AML/ATF regime.³

The FATF evaluation showed that Canada is exposed to significant money laundering risks both domestically and abroad. Canada's AML/ATF regime achieved good grades in some areas, but others required improvements to be more effective (FATF 2016). The evaluation revealed a lack of consistent data in Canada about the amount of the proceeds of crime that are being generated or laundered annually. There is agreement that it is in the billions of dollars but, depending on the source, estimates ranged from US\$5 billion to US\$47 billion. In other words, Canada lacks a good estimate of the scale of the problem. It needs a more robust method to estimate risk, which would make it possible to establish a baseline against which to measure progress in dealing with the problem.

The FATF evaluation indicated that Canada's recovery of the proceeds of crime was relatively low and inadequate relative to Canada's main money laundering risks. Quebec was credited with being significantly more effective at confiscating the proceeds of crime than were other jurisdictions in Canada. The FATF recognized provincial and municipal governments in Quebec for having clear priorities that identify assets for confiscation, especially in cases involving organized crime groups; this approach resulted in greater asset forfeiture in Quebec than in other jurisdictions in Canada (see the Quebec section below). The FATF recommended that Canada review the priorities of law enforcement agencies to align them better with the findings of its own 2015 assessment.

The FATF evaluation also highlighted the apparent disconnect between money laundering risks identified in the 2015 assessment and actual law enforcement activity. The FATF assessors determined that although law enforcement agencies in Canada generally agreed with the findings in the 2015 assessment, their prioritization processes, particularly those of the RCMP, were not compliant with the findings of the 2015 assessment. While resources were directed at illicit drug offences, "[o]ther instances of high threat predicate offences [i.e., those offences that give rise to money-laundering activities], especially fraud, corruption, counterfeiting, tobacco smuggling, and related ML [money laundering] ... are not adequately ranked in the prioritization process and, consequently, are not pursued to the extent that they should" (FATF 2016).

“ On the topic of prosecutorial effectiveness, the FATF evaluation found Canada's rate of conviction for money laundering to be low.

assessment, their prioritization processes, particularly those of the RCMP, were not compliant with the findings of the 2015 assessment. While resources were directed at illicit drug offences, “[o]ther instances of high threat predicate offences [i.e., those offences that give rise to money-laundering activities], especially fraud, corruption, counterfeiting, tobacco smuggling, and related ML [money laundering] ... are not adequately ranked in the prioritization process and, consequently, are not pursued to the extent that they should” (FATF 2016).

The federal government at the time had committed to providing law enforcement with funding to address money laundering threats. However, the agencies that the FATF assessors studied pointed out competing priorities that prevented them

from targeting other aforementioned money laundering risks. As a result, the FATF recommended increasing efforts to detect, pursue, and prosecute cases of money laundering related to high-risk predicate offences other than drugs and fraud, notably, corruption and tobacco smuggling.

On the topic of prosecutorial effectiveness, the FATF evaluation found Canada's rate of conviction for money laundering to be low. This deficiency was also noted in a March 2018 annual report submitted by the US Department of State's Bureau of International Narcotics and Law Enforcement Affairs. The document largely echoed the FATF's findings and recommended that Canada step up enforcement and prosecution (Bureau of International Narcotics and Law Enforcement Affairs 2018).

Among other recommendations, the FATF evaluation repeatedly pointed out that FINTRAC should be afforded more authority, and that it is insufficient for law enforcement to submit information to FINTRAC only on a voluntary basis. It suggested that challenges around developing actionable intelligences, that is, intelligence that other agencies such as the RCMP can parlay into actual investigations, were due to FINTRAC's lack of rigorous information sharing practices. This comment by the FATF is particularly interesting because the Voluntary Information Record – whereby individuals, law enforcement, government agencies and intelligence partners may voluntarily report their suspicions about money laundering or terrorist financing activities to FINTRAC – has become the most effective way for law enforcement to gain access to FINTRAC data. Heretofore law enforcement had viewed most disclosures as inactionable intelligence.

CANADA'S 2018/2019 COMMITMENTS

Canada's weak performance in the 2016 FATF evaluation prompted legislative amendments to Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), most recently in July 2019 (Justice Laws Website 2019). The regulations are now more aligned with international standards and FATF's recommendations. The PCMLTFA is now more relevant to the sectors that are most vulnerable to money laundering and terrorist financing. These changes are intended to strengthen Canada's AML/ATF regime and close the gaps identified in the 2016 FATF evaluation.

The federal Department of Finance has stated its intention of updating Canada's 2015 AML/ATF assessment in consultation with the public and private sectors and addressing the operational challenges that AML/ATF regime partners face, particularly those that are responsible for investigating and prosecuting threats of money laundering. The federal government also announced its commitment to the international AML/ATF standards and to advancing an integrated domestic response to combat money laundering and terrorist financing (Canada, Department of Finance 2019b; Canada, Department of Finance 2018; Canada, Department of Finance 2019a).

“The regulations are now more aligned with international standards and FATF's recommendations.”

Canada's updated AML/ATF assessment was expected to be released in 2019, but so far there has been no sign of it. Whether it will introduce significant changes from Canada's 2015 assessment, modify the criminal activities that will be prioritized, and whether law enforcement authorities will shift their priorities to include the threats identified as “very high” risk remains to be seen. Methods and criteria used to support the assessment will be subject to scrutiny to ensure that they have not been modified in such a way as to do nothing more than support the status quo of existing operational priorities as a way of avoiding further scrutiny by the international community.

NEW INITIATIVES

On paper, the amendments to the PCMLTFA regulations and the 2018/2019 priorities of the AML/ATF regime are aligned with FATF guidelines and recommendations. Yet in practice, it is unclear how the shortcomings identified in the 2016 FATF evaluation will be addressed.

For example, the FATF evaluation made specific mention of tobacco smuggling and the need to prioritize “very high” threats other than illicit drugs. FATF assessors indicated that “confiscation results do not adequately reflect Canada’s main ML risks, neither by nature nor by scale” (FATF 2016, 36). They also noted that prosecutions related to tobacco smuggling were not currently being calculated separately (they are embedded in a catch-all “others” category). This exemplifies how the failure to define scope, which makes it difficult to gauge how effective they really are.

Performance reports to date have made little specific mention of how AML/ATF regime members approached the “very high” risks identified in the 2015 assessment. A scan of criminal operations completed by FINTRAC yields only one operation that involved the illicit trade in tobacco: Project OTremens, which concluded on November 9, 2017, was a high-level project led by the RCMP

“The AML/ATF calls for improved integration to develop and execute meaningful action plans to mitigate the threats and harms associated with money laundering in Canada.”

in which FINTRAC was a partner: an Italian organized crime file that saw the arrest of several high-profile targets with several offences, including drugs, illicit tobacco, and about three million contraband cigarettes (FINTRAC 2018, 7). Annual departmental performance reports appear to pay lip-service in accounting for their activities and use of their funding allocations. In addition, the AML/ATF calls for improved integration to develop and execute meaningful action plans to mitigate the threats and harms associated with money laundering in Canada.

When federal and provincial officials met in June 2019 to address money laundering and terrorist financing, the federal government issued a press release that focused on efforts to combat financial crimes in Canada (Canada, Department of Finance 2019a). In a separate joint statement, delegates “agreed that governments should intensify efforts to investigate and prosecute financial criminals,

and recover proceeds of crime using criminal and civil processes” (Canada, Department of Finance 2019b). It identified vulnerable sectors as “including real estate, casinos, money services, businesses and the legal profession.” The joint statement also referred to the “integrated plan to combat money laundering and terrorist financing” in the federal budget for 2019, which includes:

- Strengthening federal policing operational and investigative capacity by providing up to \$68.9 million over five years, beginning in 2019-20, and \$20.0 million per year ongoing, to the Royal Canadian Mounted Police.
- Creating four new dedicated real estate audit teams through \$50 million over five years to the Canada Revenue Agency.
- Strengthening operational capacity, including increased compliance examinations and enforcement in the real estate sector, through \$16.9 million over five years, and \$1.9 million per year ongoing, for the Financial Transactions and Reports Analysis Centre of Canada. (Canada, Department of Finance 2019b. See also Canada, Department of Finance 2019c)

CASE STUDY: Money Laundering and Contraband Tobacco

The 2015 AML/ATF assessment identified tobacco smuggling and trafficking as one of nine activities rated as a “very high threat” based on sophistication, capability, scope of use of financial institutions, and estimated dollar value of the proceeds of crime. Tobacco smuggling and trafficking ranked ahead of identity theft and fraud, robbery and theft, human smuggling, and firearms smuggling and trafficking, as money laundering threats in Canada. Although tobacco smuggling is lucrative precisely because it evades federal and/or provincial tax payments, tax evasion and tax fraud curiously rated as “medium” money laundering threats.

The 2015 assessment identifies four key areas that generate the proceeds of crime from the illicit tobacco trade in Canada:

- manufacturing operations based on Aboriginal reserves (identified as the largest source of the illicit tobacco trade in Canada);
- counterfeit cigarettes imported from overseas (primarily China);
- cigarettes produced legally and sold tax-free; and,
- “fine cut” tobacco imported illegally, mostly by Canadian-based manufacturers.

The 2015 assessment further notes significant involvement by organized crime in smuggling and trafficking illicit tobacco across the Canada-US border. It identifies these groups as among the most “sophisticated and threatening in Canada” (Canada, Department of Finance 2015).

Given the substantial proceeds of crime associated with the illicit trade in tobacco in Canada, criminals use economic sectors, financial products, and other methods to launder their money. The 2015 assessment draws particular attention to structuring, refining, and commingling.

MONEY LAUNDERING METHODS

STRUCTURING AND SMURFING

- Cash purchases by one or many individuals of Electronic Fund Transfers (EFTs) that fall under the reporting threshold
- Currency exchanges under \$10,000 from CAD to USD or vice versa
- Cash purchase of money orders or bank drafts under \$1,000 (which does not require identification) that are payable to third parties
- Depositing a large number of \$20 bills totaling under \$10,000

REFINING

- Exchanging small-denomination bills for larger ones (e.g., \$20 bills for \$100 bills)

COMMINGLING

- Financial transactions suspected to be a mix of legitimate business revenue and criminal proceeds
- Businesses acting as fronts to make financial transactions appear more legitimate, often indicated by multiple entities sharing a common address
- Holding numerous business bank accounts and conducting various transfers between accounts; funds are then moved to one account and bank drafts are purchased

Source: FINTRAC 2019.

The report provides an example of a group involved in drug trafficking, counterfeiting, tobacco smuggling, and human trafficking, which used deposit-taking financial institutions to launder money. This type of money laundering involves using ATMs to deposit cash amounts under the \$10,000 reporting threshold into various personal and business accounts held at these types of financial institutions. The money is moved through bank drafts or cheques to individual businesses, then transferred to other individuals or businesses through domestic wire transfers or international electronic fund transfers.

Despite the very high level of threat identified in 2015, tobacco smuggling is conspicuously absent from recent communiqués and reports on anti-money laundering initiatives. Over the past four years, the federal government partners tasked with detecting and deterring money laundering activities have not published any significant results of steps taken to mitigate this risk.

“Despite the very high level of threat identified in 2015, tobacco smuggling is conspicuously absent from recent communiqués and reports on anti-money laundering initiatives.”

Bilaterally, the United States has called on Canada to be more proactive in combatting the illicit trade in tobacco, as has the international community multilaterally through the FATF. Yet Canada’s poor performance does not appear to be associated with its 2015 assessment, but rather in its overall implementation. The “very high” threat of money laundering in the 2015 assessment notwithstanding, Canadian law enforcement authorities have not responded in kind. According to the 2016 FATF evaluation, law enforcement agencies, specifically the RCMP, had other operational priorities and few resources available to devote to threats listed by the AML/ATF regime.

The federal and British Columbia governments have focused on AML initiatives related to real estate, casinos, luxury cars, and other sectors identified in the recent BC reports. The manufacture and distribution of contraband tobacco in Canada is notably absent from this list. Despite its demonstrable involvement in money laundering, little effort has been made thus far to follow the proceeds of this crime. Major law enforcement initiatives in Ontario and Quebec (see the “law enforcement actions” listed below) have dismantled tobacco smuggling rings, but have not followed the money trail to investigate where the profits go.

ENFORCEMENT

Efforts to renew Canada’s Federal Tobacco Control Strategy (FTCS) and the *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada* notwithstanding, Canada’s federal government has taken very little concrete action to address the country’s role in the illicit tobacco trade, its international impact, and laundering associated proceeds of crime.

Canada Revenue Agency

The Canada Revenue Agency’s Criminal Investigations Program (CIP) has investigators who are responsible for looking into suspected cases of tax evasion, fraud, and other serious violations of tax laws. According to the CRA website, the CIP prioritizes significant cases of tax evasion with an international element. The CIP also looks at sophisticated and organized tax schemes aimed at defrauding

the government and significant cases involving income tax and/or GST/HST tax evasion, including the underground economy. All of these criteria are aligned with the trafficking and smuggling of contraband tobacco. However, the key results for the CRA's criminal investigations provide no breakdown of criminal markets or any indication that the illicit trade in tobacco is a priority for the CIP.

RCMP

When the old Federal Tobacco Control Strategy expired in 2018, the RCMP removed all traces of it from its website. It has not been replaced with a new strategy, nor do the RCMP's 2018/2019 and 2019/2020 departmental performance plans make any substantive mention of the FTCS or tobacco smuggling. Despite RCMP funding dedicated to combatting contraband tobacco (via the FTCS or the AML/ATF regime), the force lacks a strategy to deal with the illicit trade in tobacco.

Law enforcement actions

Owing to the many variables involved and conflicting public reporting, the potential money-laundering value of assets forfeited during seizures is difficult to determine. By way of example, should the value be calculated strictly as a function of goods seized during a raid, or should a value be extrapolated for the time the ring was in operation?

Police sometimes estimate values, but how robust these are is difficult to gauge because sources and methods are not disclosed and thus impossible to triangulate. Nonetheless, the sample of cases below is meant to convey an impression of the staggering sums that criminal operations end up needing to launder.

Projects Olios and Median

On June 26, 2019, the Sûreté du Québec (SQ) issued a communiqué with an update on the contraband tobacco network that was dismantled in 2018 as part of projects Olios and Median (Sûreté du Québec 2019). These two investigations mobilized about 50 police officers from different organizations that led to the arrest of 16 individuals. Project Olios was led by the SQ and resulted in the seizure of 15,535 kg of contraband tobacco. The SQ collected evidence that showed an estimated 632,000 kg of tobacco was imported into Canada in 48 shipments between June 24, 2016 and December 22, 2017, defrauding the federal and provincial governments of an estimated \$178 million in unpaid taxes.

Project Median was led by the Service de police de la Ville de Montréal (SPVM) and collected intelligence that showed individuals smuggled approximately 446,500 kg of tobacco between January 2017 and March 2018 in about 30 shipments, which amounts to an estimated \$110 million tax fraud. The 16 people who were arrested as part of projects Olios and Median appeared before the courts; all have been released under conditions pending further proceedings.

Project Cendrier

A 2017 investigation, Project Cendrier (RCMP 2017) targeted individuals involved in contraband tobacco, the production and trafficking of cannabis, and the trafficking of cocaine in Quebec's Valleyfield region. Cendrier resulted in the arrest of over 30 individuals involved in various smuggling activities. Over 230 kg of cocaine destined for the Montreal market and nearly \$320,000 were seized. In conjunction with Cendrier operations, an investigation targeting the trafficking of tobacco through the Port of Valleyfield and using the Lac Saint-François waterway led to the arrest of seven individuals in March 2017.

Project Mygale

In 2016, a nearly two-year investigation led by the SQ, dubbed Project Mygale, identified 158 truckloads of raw tobacco smuggled into Canada (Lau 2016). More than 60 arrests were made and police seized more than 52,800 kg of tobacco valued at \$13.5 million, \$15 million in cash as well as US\$3 million in cash, and more than 800 kilograms of cocaine. Police allege that between August 2014 and March 2016, more than 2 million kg of tobacco was illegally imported into Canada, worth about \$530 million.

Project Lycose

In November 2014, Project Lycos (Public Safety Canada 2019b; Gonthier 2014), an 18-month tobacco smuggling investigation led by the SQ, resulted in the arrests of 28 people, including Montreal's Italian Mafia and Indigenous organized crime. Police said the tobacco was imported into Canada through the Lacolle border crossing or through the Akwesasne Mohawk reserve. At the time, the SQ claimed that it was one of the largest operations ever to target the underground tobacco trade in North America, ending a tax evasion scheme worth upwards of \$30 million. Lycose resulted in the seizure of approximately 40,000 kg in tobacco, which would have produced an estimated \$10 million tax loss.

PROVINCIAL GOVERNMENT ACTIONS

Quebec

International and domestic organizations have commended Quebec's approach to combatting the illicit trade in tobacco. The Quebec strategy, known as ACCES Tabac (Sécurité publique Québec 2013), brings together the Sûreté du Québec, the Service de police de la Ville de Montréal, other Quebec police forces, and provincial departments and agencies, as well as the RCMP, the CRA, and the CBSA.

Quebec's cooperative enforcement measures were introduced in Bill 59, which empowers local police to launch and prosecute contraband investigations (Leuprecht 2016). In Ontario, by contrast, only officials from the Ministry of Finance, members of the Ontario Provincial Police (OPP) Contraband Tobacco Enforcement Team (CTET), which has been authorized by the Minister of Finance (or delegate) to exercise the same powers Ministry of Finance investigators exercise under Ontario's *Tobacco Tax Act*, or the RCMP have the authority to conduct full contraband tobacco investigations.

Bill 59 also ensures that in Quebec, sufficient resources are dedicated to contraband tobacco and that ACCES Tabac continues to receive annual funding. In 2016-2017, the Ministère des Finances du Québec allocated \$50.4 million to fight tax evasion – \$13.2 million of which went to ACCES Tabac. For 2017-2018, the budget to fight tax evasion was reportedly \$51.7 million, of which \$13.7 million went to ACCES Tabac. According to Quebec's economic action plan, the return per dollar invested in the strategy was \$9.90 (Quebec 2018a).

The FATF and other groups credit the Quebec government for providing enough funding to allow its agencies to target sectors where the risk of tax evasion is highest. According to Quebec's latest *Economic Plan*, its focus on tax evasion has helped reduce tax losses. The province gives credit to its intensified efforts to fight tobacco smuggling, "which has reduced the underground economy in this sector by one half since 2009" (Quebec 2018a). In 2015-2016, the province received \$180 million from legal tobacco revenues, and in 2016-2017 that amount increased to \$186.5 million.

ACCES Tabac targets all activities related to tobacco smuggling, from the supply of raw materials to the sale of tobacco products to consumers. Between April 1, 2017 and January 31, 2018, this team made 53 arrests and conducted 45 searches, which resulted in the seizure of 36,143 kg of loose tobacco, 6,250 baggies containing 200 cigarettes each, 32 vehicles, and one boat. These seizures represent the equivalent of more than 37.4 million cigarettes.

Ontario

The Ontario Ministry of Finance is the lead agency for regulating and enforcing tobacco regulations in the province. The OPP's aforementioned CTET, established in 2016, is currently composed of 10 officers and one analyst. Compared to Quebec, however, that is a disproportionately meagre investment in absolute terms, let alone for a province and economy almost twice Quebec's size. Despite the limitations of financial and human resources, CTET has had some success, but that pales in comparison with the aforementioned achievements of the JFOs in Quebec under ACCES Tabac.

The provincial government's *2018 Ontario Economic Outlook and Fiscal Review*, titled *A Plan for the People*, announced a commitment to compliance measures to address illegal tobacco (Ontario, Ministry of Finance 2018). These measures included adding penalty and offence provisions for failing to notify the Ministry of Finance of the destruction of raw leaf tobacco; exploring the implementation of automated "track and trace" technology to monitor the movement of raw leaf tobacco; expanding the size of the OPP CTET; and establishing a grants pilot project that would make funding available to law enforcement in support of tobacco investigations. While these promises appeared positive on paper, they lacked timelines for implementation. Early in 2019 the Ontario government announced that it would increase funding to CTET from \$2 million to \$10 million, but this promise has yet to materialize.

In fact, half a year later, the 2019 Ontario Budget (Ontario, Ministry of Finance 2019b) made no mention of contraband and no provision for the commitments made in the 2018 *Economic Outlook*. Some articles speculated that the Ford government is backing off because it is too politically sensitive a topic to tackle with Indigenous communities (Bonokoski 2019). The 2019 *Economic Outlook and Fiscal Review* (Ontario, Ministry of Finance 2019c) issued in November revealed the province's new nomenclature for contraband; it dropped the phrase "illegal tobacco" in favour of the (rather telling) term "unregulated tobacco," and made vague allusions to "consult public health stakeholders, industry and retail associations, as well as First Nation partners" on the issue.

Other provinces

Manitoba has achieved a number of successes through its Ministry of Finance Special Investigations Unit (MoF SIU). It has reported multiple seizures of large volumes of contraband moving west from Ontario. The significance of the Ministry of Finance's success is directly attributable to its illicit tobacco strategy being intelligence-led. The ministry has refined the art of combining intelligence-gathering with solid senior leadership within the SIU. The province's law enforcement outreach program is pan-Canadian, as it participates in many JFOs. The SIU's seizure successes have been complemented by a program for retail compliance inspections that are meant to ensure that the black market is blocked out of areas that were once dominated by contraband tobacco sales. By protecting its eastern border, Manitoban authorities are preventing the flow of tobacco into other western provinces.

New Brunswick briefly had a nine-member task force which was proving effective at protecting the province and the rest of Atlantic Canada from an influx of illicit tobacco, but it was shut down in 2019 by the newly elected government.

United States Initiatives

In recent years the United States has paid more attention to illicit tobacco and made concerted efforts to diminish the illegitimate market and those who participate in it. In July 2017, the United States Helsinki Commission,⁴ whose role is to discuss and debate important challenges facing members of the Organization for Security and Co-operation in Europe (OSCE), held a hearing on illicit cigarette smuggling in the OSCE region. Three panelists with long-standing experience in the illicit tobacco trade emphasized that this trade represents a serious economic and national security threat, exacerbated by the low operational enforcement priority and relatively insignificant penalties for the few participants who are actually caught and charged with participating in the trade. The panelists noted that organized crime groups, terrorists, high-level officials and, in some cases, the heads of national governments benefit from the proceeds of crime from the contraband tobacco trade associated with money laundering (Commission on Security and Cooperation in Europe 2017).

NEW LEGISLATION: CITTPA

US Congresswoman Sheila Jackson Lee has served as a delegate on the Helsinki Commission. She is now spearheading a legislative effort to fight the illicit trade in tobacco in the United States. In March 2019, she introduced the *Combating the Illicit Trade in Tobacco Products Act* (CITTPA) in the House of Representatives (Commission on Security and Cooperation in Europe 2019). If passed, the bill would enable the United States to deter countries involved in the illicit trade in tobacco and better assist its allies.

The bill would grant the US State Department authority to withhold US foreign assistance from those countries that knowingly profit from the illicit trade in tobacco and assist countries whose governments are working to curtail tobacco trafficking. It would authorize the US to impose economic sanctions and travel restrictions on any foreign individual engaged in the illicit tobacco trade. If passed, the legislation would also commit the government to provide information on countries involved in the illicit tobacco trade, and would require the State Department to report annually on countries that have been identified as major sources of illicit tobacco products. Given its aforementioned track record, this does not bode well for Canada.

NEW YORK CONGRESSIONAL REPRESENTATIVES

In March 2018, eight members of Congress from New York State wrote to the Secretary of the Department of Homeland Security (DHS), calling on DHS to make efforts against tobacco smuggling a top priority for the US administration. A copy of the letter was sent to authorities in Canada. It highlights New York's northern border as a major transit route for illegal tobacco. The letter expresses concern about the serious global security implications posed by this illicit trade, including designating it as an Item of Special Interest (ISI) in a Senate committee report, the *National Defense Authorization Act* (NDAA) for Fiscal Year 2018.

The NDAA report directs the Secretary of the Department of Defense (DoD), in consultation with DHS, the Department of State, and other relevant departments and agencies, to provide a written update to the committee on the status of the DoD's support for efforts to combat trafficking in commodities, including tobacco (United States Congress 2017). The DoD update should describe the

impact of trafficking in commodities on the national security of the United States, including how the proceeds of crime are being laundered to finance transnational terrorism and criminal organizations. The NDAA report also instructs the DoD and its partners to report on efforts to combat such trafficking and describe their support for these initiatives.

Thus far there has been no public response from Canadian officials to the letter from the New York Congressional Representatives, which raises further doubts about the federal government's commitment to mitigating the concerns of its southern neighbour and the international community.

International Context for Money Laundering

Cigarettes and other tobacco products are a significant source of revenue for organized crime groups. The proceeds from these sales need to be laundered and the illicit tobacco trade results in significant tax losses for governments. High profits, low penalties, and minimal risk attract all sorts of criminals with varying degrees of innovation, sophistication, and capacity. This criminal market is often facilitated by corruption and necessitates significant money laundering (Terrorism, Transnational Crime and Corruption Center 2019).

The Organization for Economic Cooperation and Development (OECD)⁵ finds that the “global illicit trade in tobacco products presents a range of economic and social harms that should concern policy makers, ranging from adverse impacts on health to tax evasion and the financing of terrorist groups” (Melzer and Martin 2016).

The World Health Organization (WHO) reports that about one in every 10 cigarettes and tobacco products consumed globally is contraband (WHO 2019). This statistic is based on an often-cited 2009 research paper that attempted to estimate the global impact of the illicit tobacco trade on government revenue (Joosens, Merriman, Ross, and Raw 2009). It found that 11.6 percent of the global cigarette market is illicit, equivalent to 657 billion cigarettes a year, which represents approximately US\$40.5 billion in lost tax revenue.

The study speculated that “if the global illicit trade were eliminated, governments would gain at least US\$31 billion, and from 2030 onwards would save over 160,000 lives a year” (Joosens, Merriman, Ross, and Raw 2009). Absent illicit tobacco, lives can be extrapolated to be saved as a function of consumers of illicit product now having to pay more for regular tobacco, which would cause at least some of them to smoke less or quit altogether.

“The proceeds from these sales need to be laundered and the illicit tobacco trade results in significant tax losses for governments.”

Conclusions and Recommendations

Anti-money-laundering initiatives have been receiving significant attention from governments and regulatory bodies in Canada and around the world. With governments in Canada – both federal and provincial – losing vast amounts of potential tax revenue, coupled with national and international efforts to reduce smoking rates, and given that illicit tobacco ranks among the highest threat risks for money laundering, Canada could be far more aggressive in controlling and combatting the illicit cigarette trade.

Without comprehensive and cohesive policies across departmental and political jurisdictions, Canada perpetuates high smoking rates domestically and runs the risk of being labelled as a major international source of contraband tobacco.

Two federal initiatives would go a long way toward mitigating the impact of the illicit trade in tobacco in Canada and abroad, along with its associated money laundering threats, specifically:

- 1) to emulate the United States in creating a Canadian Tobacco Ombudsman to coordinate efforts among relevant agencies and regulatory bodies and ensure effective focus a common goal; and
- 2) to introduce legislation similar to the *Combating the Illicit Trade in Tobacco Products Act* (CITTPA) currently being considered in the United States, which would allow Canada's federal government to impose sanctions on foreign players that are involved in the illicit tobacco trade.

These steps would curtail the associated proceeds of crime from being laundered, support public health and safety initiatives, and reduce smoking rates.

Finally, to address the shortcomings identified by the FATF evaluation of the government's 2015 risk assessment, law enforcement agencies in Canada will have to bolster their efforts to combat money laundering or there will continue to be a considerable risk to Canada's financial and economic stability. The most effective way to dismantle criminal organizations is to target their infrastructure and pursue forfeiture of their assets. Most serious criminal organizations are motivated by profit; removing that incentive is the ultimate deterrent.

In the wake of media attention and heightened international scrutiny of money laundering and terrorist financing, Canadian federal and provincial governments have redoubled their efforts to strengthen the legal and enforcement regime. However laudable in theory, the actual resources and policy attention detailed in this study cast doubt on the federal government's commitment to ensuring that law enforcement can effectively investigate, arrest, and convict suspects involved in financial crime.

References

- Anand, Anita. 2018. "Examining the Efficacy of Canada's Anti-terrorist Financing Laws." In C. King, C. Walker, and J. Gurulé (eds.) *The Palgrave Handbook of Criminal and Terrorism Financing Law*. (Palgrave Macmillan): 835-854.
- Bonokoski, Mark. 2019. "Bonokoski: Will the Big Premiers' Meeting Stamp down on Illegal Smokes?" *Toronto Sun*, June 29. Available at <https://torontosun.com/opinion/columnists/bonokoski-will-the-big-premiers-meeting-stamp-down-on-illegal-smokes>.
- Bureau of International Narcotics and Law Enforcement Affairs. 2018. *2018 INCSR - Volume II: Money Laundering and Financial Crimes*. Government of the United States, Department of State, March 17. Available at <https://www.state.gov/2018-incsr-volume-ii-money-laundering-and-financial-crimes-as-submitted-to-congress/>.
- Canada, Department of Finance. 2015. *Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada*. Government of Canada. Available at <https://www.fin.gc.ca/pub/mltf-rpcfat/index-eng.asp>.
- Canada, Department of Finance. 2018. *Departmental Plan 2018-19: Supplementary Information Tables*. Government of Canada. Available at <https://www.fin.gc.ca/pub/dp-pm/2018-2019/st-ts03-eng.asp>.
- Canada, Department of Finance. 2019a. "Government of Canada Leads National Response to Money Laundering and Terrorist Financing." News Release. Government of Canada, June 13. Available at <https://www.canada.ca/en/departement-finance/news/2019/06/government-of-canada-leads-national-response-to-money-laundering-and-terrorist-financing.html>.
- Canada, Department of Finance. 2019b. *Joint Statement - Federal, Provincial and Territorial Governments Working Together to Combat Money Laundering and Terrorist Financing in Canada*. Government of Canada, June 14. Available at <https://www.fin.gc.ca/n19/19-065-eng.asp>.
- Canada, Department of Finance. 2019c. *Budget 2019: Investing in the Middle Class*. Government of Canada, March 19. Available at <https://www.budget.gc.ca/2019/docs/plan/toc-tdm-en.html>.
- Cassara, John A. 2016. *Trade-Based Money Laundering: The Next Frontier in International Money Laundering Enforcement*. John Wiley and Sons. Available at <https://onlinelibrary.wiley.com/doi/book/10.1002/9781119125389>.
- Commission on Security and Cooperation in Europe [CSCE]. 2017. "A Hazy Crisis: Illicit Cigarette Smuggling in the OSCE Region." News Release. Commission on Security and Cooperation in Europe, July. Available at <https://www.csce.gov/international-impact/events/hazy-crisis-illicit-cigarette-smuggling-osce-region>.

- Commission on Security and Cooperation in Europe [CSCE]. 2019. “Co-chairman Wicker, Sen. Sinema Introduce Legislation to Fight Illicit Tobacco Trade.” News Release. Commission on Security and Cooperation in Europe, June 25. Available at <https://www.csce.gov/international-impact/press-and-media/press-releases/co-chairman-wicker-sen-sinema-introduce>.
- Cullen Commission. 2019. *Commission of Inquiry into Money Laundering in British Columbia*. <https://cullencommission.ca/>.
- Financial Action Task Force [FATF]. 2013. *FATF Guidance: National Money Laundering and Terrorist Financing Risk Assessment*. FATF/OECD. Available at https://www.fatf-gafi.org/media/fatf/content/images/National_ML_TF_Risk_Assessment.pdf.
- Financial Action Task Force [FATF]. 2016. *Anti-Money Laundering and Counter-Terrorist Financing Measures – Canada, Fourth Round Mutual Evaluation Report*. FATF/OECD. Available at www.fatf-gafi.org/publications/mutualevaluations/documents/mer-canada-2016.html.
- Financial Action Task Force [FATF]. 2019. *Terrorist Financing Risk Assessment Guidance*. FATF/OECD. Available at <https://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-Risk-Assessment-Guidance.pdf>.
- Financial Transactions and Reports Analysis Centre of Canada [FINTRAC]. 2018. *Annual Report 2017-2018*. Government of Canada. Available at <https://www.fintrac-canafe.gc.ca/publications/ar/2018/ar2018-eng.pdf>.
- Financial Transactions and Reports Analysis Centre of Canada [FINTRAC]. 2019. “2.2: *Methods of Money Laundering*.” *Guideline 1: Backgrounder*. Government of Canada. Available at <https://www.fintrac-canafe.gc.ca/guidance-directives/overview-apercu/Guide1/1-eng#s2-2>.
- German, Peter M. 2018. *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos Conducted for the Attorney General of British Columbia*. Peter German & Associates Inc. Available at https://news.gov.bc.ca/files/Gaming_Final_Report.pdf.
- German, Peter M. 2019. *Dirty Money – Part 2: Turning the Tide – An Independent Review of Money Laundering in B.C. Real Estate, Luxury Vehicle Sales & Horse Racing*. Peter German & Associates Inc. Available at https://news.gov.bc.ca/files/Dirty_Money_Report_Part_2.pdf.
- Gonthier, Valérie. 2014. “Contrebande de tabac: 28 arrestations dans le cadre du projet Lycose.” *Journal de Montréal*, April 30. Available at <https://www.journaldemontreal.com/2014/04/30/vaste-operation-visant-la-contrebande-de-tabac-2>.
- Joosens, Luk, David Merriman, Hana Ross, and Martin Raw. 2009. *How Eliminating the Global Illicit Cigarette Trade would Increase Tax Revenue and Save Lives*. International Union against Tuberculosis and Lung Disease. Available at https://www.tobaccofreekids.org/assets/global/pdfs/en/ILL_global_cig_trade_full_en.pdf.
- Justice Laws Website. 2019. *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (S.C. 2000, c. 17)*. Government of Canada. Available at <https://laws-lois.justice.gc.ca/eng/acts/p-24.501/>.

- Lau, Rachel. 2016. "Quebec, U.S. Police, RCMP Bust Drug, Illegal Tobacco Ring with Ties to Bikers, Reserves." *Global News*, March 30. Available at <https://globalnews.ca/news/2607530/quebec-u-s-police-rcmp-bust-drug-illegal-tobacco-ring-with-ties-to-bikers-reserves/>.
- Leuprecht, Christian. 2016. *Smoking Gun: Strategic Containment of Contraband Tobacco and Cigarette Trafficking in Canada*. Macdonald-Laurier Institute. Available at <https://www.macdonaldlaurier.ca/files/pdf/MLILeuprechtContrabandPaper-03-16-WebReady.pdf>.
- Leuprecht, Christian, Olivier Walther, David B. Skillicorn, and Hillary Ryde-Collins. 2017. "Hezbollah's Global Tentacles: A Relational Approach to Convergence with Transnational Organized Crime." *Terrorism and Political Violence* 29, 5: 902-921.
- Leuprecht, Christian, Arthur Cockfield, Pamela Simpson, and Maseh Haseeb. 2019. "Tackling Transnational Terrorist Resourcing Nodes and Networks," *Florida State University Law Review* 46, 2: 290-344.
- Maloney, Maureen, Tsur Somerville, and Brigitte Unger. 2019. *Combatting Money Laundering in BC Real Estate*. Expert Panel on Money Laundering in BC Real Estate. Available at https://news.gov.bc.ca/files/Combatting_Money_Laundering_Report.pdf.
- Matfess, Hilary, and Michael Miklaucic. 2016. *Beyond Convergence: World Without Order*. Institute for National Strategic Studies.
- Melzer, Sharon, and Chris Martin. 2016. "Chapter 5: A Brief Overview of Illicit Trade in Tobacco Products." *Illicit Trade: Converging Criminal Networks*. OECD Reviews of Risk Management Policies. Available at https://read.oecd-ilibrary.org/governance/charting-illicit-trade_9789264251847-en#page125.
- Miklaucic, Michael, and Jacqueline Brewer (eds.). 2013. *Convergence: Illicit Networks and National Security in the Age of Globalization*. Institute for National Strategic Studies.
- Ontario, Ministry of Finance. 2018. *A Plan for the People: Ontario Economic Outlook and Fiscal Review. 2018 Background Papers*. Government of Ontario. Available at <https://www.fin.gov.on.ca/fallstatement/2018/fes2018-en.pdf>.
- Ontario, Ministry of Finance. 2019a. *A Plan to Build Ontario Together: 2019 Ontario Economic Outlook and Fiscal Review*. Government of Ontario. Available at <http://budget.ontario.ca/2019/fallstatement/pdf/2019-fallstatement.pdf>.
- Ontario, Ministry of Finance. 2019b. *2019 Ontario Budget: Ontario's Plan to Protect What Matters Most*. Government of Ontario. Available at <http://budget.ontario.ca/2019/index.html>.
- Ontario, Ministry of Finance. 2019c. *A Plan to Build Ontario Together: 2019 Ontario Economic Outlook and Fiscal Review*. Government of Ontario. Available at <http://budget.ontario.ca/2019/fallstatement/pdf/2019-fallstatement.pdf>.
- Perrin, Dan. 2018. *Real Estate Regulatory Structure Review*. Perrin, Thorau and Associates Ltd. for B.C. Ministry of Finance. Available at https://news.gov.bc.ca/files/Real_Estate_Regulatory_Structure_Review_Report_2018.pdf.

- Public Safety Canada. 2019a. *2018 Public Report on the Terrorism Threat to Canada*. Government of Canada. Available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/pblc-rprt-trrrsm-thrt-cnd-2018/index-en.aspx>.
- Public Safety Canada. 2019b. *Evaluation of the Akwesasne Organized Crime Initiative*. Government of Canada. Available at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2018-19-kwssn-rgnzd-crm-vltn/index-en.aspx>.
- Quebec. 2018a. *The Québec Economic Plan: Additional Information 2018-2019*. Gouvernement du Québec, March. Available at http://www.budget.finances.gouv.qc.ca/budget/2018-2019/en/documents/AdditionalInfo_18-19.pdf.
- Royal Canadian Mounted Police [RCMP]. 2017. "Investigation Cendrier: Several Arrests for Trafficking Illegal Tobacco." News Release, December 12. RCMP. Available at <http://www.rcmp-grc.gc.ca/en/news/2017/investigation-cendrier-arrests-trafficking-illegal-tobacco>.
- Sécurité publique Québec. 2013. *Lutte contre le commerce illégal du tabac: Actions concertées pour contrer les économies souterraines - Tabac*. Government of Québec. Available at <https://www.securitepublique.gouv.qc.ca/police/phenomenes-criminels/fraude/acces-tabac.html>.
- Sûreté du Québec [SQ]. 2019. "Démantèlement d'un réseau de contrebande de tabac." Press Release, June 26. Sûreté du Québec. Available at <https://www.sq.gouv.qc.ca/communiqués/demantèlement-dun-reseau-de-contrebande-de-tabac/>.
- Terrorism, Transnational Crime and Corruption Center [TraCCC]. 2019. *Research Findings: Illicit Hubs, Tobacco Trade and Convergence with Illicit Commodities*. George Mason University, Schar School of Policy and Government, April. Available at <https://traccc.gmu.edu/sites/default/files/TraCCC/Research-Findings-Illicit-Hubs-Tobacco-Trade-and-Convergence-with-Illicit-Commodities.pdf>.
- United States Congress. 2017. *S. Rept. 115-125 - National Defense Authorization Act for Fiscal Year 2018*. United States Congress, Committee on Armed Services, July 10. Available at <https://www.congress.gov/congressional-report/115th-congress/senate-report/125/1>.
- World Health Organization [WHO]. 2019. *Tobacco*. World Health Organization, July 26. Available at <https://www.who.int/news-room/fact-sheets/detail/tobacco>.

About the Author



Christian Leuprecht is Class of 1965 Professor in Leadership, Department of Political Science and Economics, Royal Military College and Eisenhower Fellow at the NATO Defence College in Rome. He is cross-appointed, Department of Political Studies and the School of Policy Studies, Queen's University, where he is affiliated with both, the Queen's Centre for International and Defence Policy and the Institute of Intergovernmental Relations, and Adjunct Research Professor, Australian Graduate School of Policing and Security, Charles Sturt University as well as the Centre for Crime Policy and Research, Flinders University.

A recipient of RMC's Cowan Prize for Excellence in Research and an elected member of the College of New Scholars of the Royal Society of Canada, he is also Munk Senior Fellow in Security and Defence at the Macdonald-Laurier Institute. An expert in security and defence, political demography, and comparative federalism and multi-level governance, he has held visiting positions in North America, Europe, and Australia, and is regularly called as an expert witness to testify before committees of Parliament. He holds appointments to the board of two new research institutes funded by the German government, including the German Institute for Defence and Strategic Studies.

Endnotes

- 1 The funded partners are the Department of Finance Canada, the Department of Justice Canada, the Public Prosecution Service of Canada (PPSC), the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), the Canada Border Services Agency (CBSA), the Canada Revenue Agency (CRA), the Canadian Security Intelligence Service (CSIS), and the Royal Canadian Mounted Police (RCMP). The non-funded partners are Public Safety Canada, the Office of the Superintendent of Financial Institutions Canada, and Global Affairs Canada.
- 2 The 10 assessed, in addition to the foreign fighters, include: Al Qaeda in the Arabian Peninsula, Al Qaeda Core, Al Qaeda in the Islamic Maghreb, Al Shabaab, Hamas, Hizballah, Islamic State of Iraq and Syria, Jabhat Al-Nusra, Khalistani extremist groups, and remnants of the Liberation Tigers of Tamil Eelam.
- 3 The FATF assessment was conducted for the International Monetary Fund and was adopted by the FATF at its June 2016 plenary meeting.
- 4 The US Helsinki Commission is more formally known as the Commission on Security and Cooperation in Europe (CSCE). It is an independent US government agency created by Congress and contributes to the formulation of US policy.
- 5 Canada is one of the 20 founding members and ranks seventh in terms of financial contributions to the OECD, which brings together 34 countries in Europe, North America, Latin America, and the Pacific to promote economic growth, prosperity, and sustainable development.



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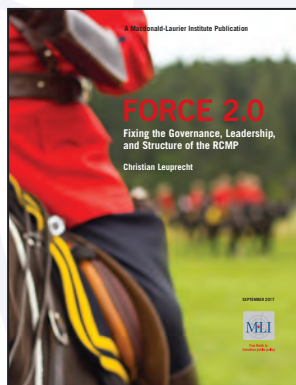
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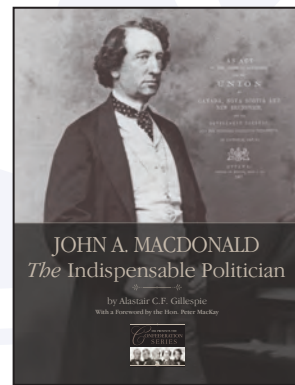
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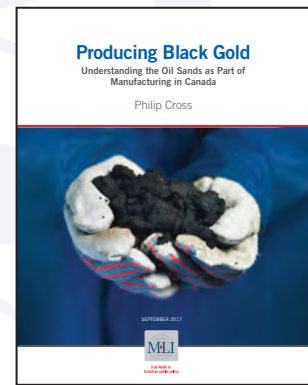
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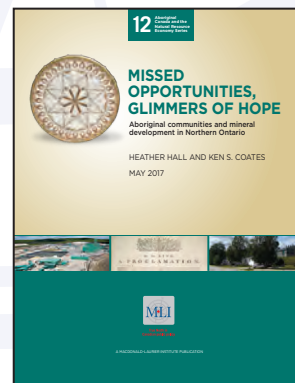
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