

AUSTRALIAN BORDER FORCE

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Joint Public Accounts and Audit

1 February 2024

QoN Number: 1

Subject: Illegal tobacco - measure of progress

Asked by: Julian Hill

Question:

Senator Reynolds: But even here today in this hearing there is still nothing that you have told me—even though in the process it wasn't clear how to report it, I'm still none the clearer about this. There have been some activities, but there's no evidence that it's made any difference to the black market in illicit tobacco. You can't tell me that it's raised any more excise and you can't tell me if it's reduced the amount of illegal tobacco coming through the borders.

Mr Smith: We can say that it has reduced the volume of illicit tobacco coming through the borders, because that's based on our detection seizures that come through. The difficulties exist with setting performance targets against performance measures. You set a target. Obviously we are trying to achieve a target, but we want to exceed that so we don't get a boundary on it. Our measure of success around border interventions is really about making sure that our strike rate is effective so, when we are looking at where we send our resources and where the public's money is being used, it's being used to find realistic results. That's where we focus our performance measures.

Senator Reynolds: Thank you both. That's been quite instructive. Could I ask you to take it on notice? You didn't have the numbers available, but could you provide the committee the numbers in terms of the excise as we discussed. What has the increase or decrease been? Also, Mr Smith, could you take on notice a bit more information about performance measures. You talked about volumetrics in terms of the total amount. How do you measure that and then say it has made a tangible difference?

Mr Smith: Absolutely.

Chair: These are really good questions relevant to one of our key themes of program and policy design and implementation: how do you measure your progress of not just activity but success.

Answer:

The Illicit Tobacco Taskforce (ITTF) was established with the key objectives of:

- Protecting Commonwealth revenue
- Safeguarding the community from illicit tobacco
- Enhancing detection capability and disrupting illicit tobacco smuggling
- Working collaboratively across Government to dismantle organised crime

ITTF seizure statistics show that from 1 July 2018 to 30 June 2023, the ITTF seized over 1 billion cigarette sticks, over 210 tonnes of loose leaf and molasses tobacco. In addition, approximately 360 acres of domestic illicit tobacco crops were located and destroyed during ITTF operations.

Period	ITTF Seized Illicit Tobacco (FY2018-23)			Duty Evaded (excl. GST)
	Total Cigarettes (sticks)	Total Molasses (weight)	Total Loose Leaf (weight)	
2018-19	160,978,910	283.11 kg	62.77 tonnes	\$197,648,799.00
2019-20	171,093,047	3,655.97 kg	6.90 tonnes	\$177,305,457.00
2020-21	194,356,612	17,483.50 kg	44.08 tonnes	\$312,285,850.00
2021-22	462,640,00	18,556.00 kg	5.76 tonnes	\$561,071,017.00
2022-23	397,193,040	5.00 kg	20.2 tonnes	\$522,142,652.00

The ITTF has evolved considerably since its inception 2018. Whilst seizure and arrest data goes some way to measuring success, it does not enable a measurement of impact. For example, high arrest numbers of low-level members of criminal syndicates, such as delivery drivers of the illicit product, does not impact the criminal syndicate’s ability to operate as they are easily replaced and enable the syndicate to continue to operate.

In mid-2021, the ABF shifted its focus to employing a Counter Network Investigations Strategy. The Counter Network Investigations Strategy is aimed at identifying the greatest vulnerability in a criminal network and applying effort against it. Adopting this approach ensures ITTF efforts are applied where they are able to have the most significant impact against the criminal networks involved in the illicit tobacco market in Australia.

As part of applying the principles contained within the Counter Network Investigations Strategy, the ABF:

- Undertakes an assessment of each of the networks, specifically:
 - Operational effectiveness of ITTF activity
 - Strategic impact against organised crime and the illicit tobacco market
- Works with partner agencies through the National Illicit Tobacco Senior Management Group to identify and endorse Priority Illicit Tobacco Networks to direct operational efforts.

As identified through the ANAO audit, the setting of clear performance metrics and targets into the framework on the establishment of the ITTF would have been advantageous. This is a key learning that the ABF has considered in the context of:

- Redrafting of the ITTF Joint Agency Agreements from the 2024-25 financial year to include performance metrics and targets.
- New funding for the ABF to address illicit tobacco through the development of an end-to-end compliance and enforcement program across the Commonwealth and states and territories.

The Counter Network Investigations Strategy alone cannot provide a full appreciation of effectiveness and performance.

Establishing effective performance measures which capture an accurate impact assessment of ITTF activities is a key priority which requires the ITTF to extend its reach into state/territory law enforcement and regulatory administrations. While seizure and arrest data goes some way to measuring success it does not support a full measure of impact which takes into consideration the supply and demand equation.

Going forward, the ITTF performance metrics will complement the work to be undertaken by the ABF in building an end-to-end compliance and enforcement program to tackle illicit tobacco. This new program will adopt key performance indicators across all touch points in the illicit tobacco market from offshore disruption, at the border, domestic law enforcement and regulatory functions (including education) to accurately measure performance along the continuum.

Collection of excise

The Committee requested data on the collection of tobacco excise on importations of legitimate tobacco since the establishment of the ITTF.

The Australian Taxation Office (ATO) is responsible for providing data on excise collected and the tobacco tax gap. Details of the 2020-21 tobacco tax gap are located at www.ato.gov.au

The data demonstrates that there has been an increase in the yearly collection of tobacco excise on legitimate tobacco since 2018-19 (the period the ITTF was established) to 2021-22.

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QoN Number: 2

Subject: Lessons learned

Asked by: Julian Hill

Question:

Senator Reynolds: On notice following on from that: could you share with us some of your reflections more about the lessons learnt. As you're going through this to improve this project now, what are the things you are doing, but also, for future circumstances for a department like yours, how would you better establish and manage this? For the ATO and Home Affairs, what, from your perspective, are some of the lessons learnt about how that could work better? Perhaps this includes the cross-agency integration as well.

Answer:

Lessons learned for the ABF on the establishment of the ITTF include:

- Expanding the integration of partner agencies into the ITTF model, particularly state and territory law enforcement which would have had greater impact against the organised crime groups impacting the shadow economy. These agencies were not funded as part of the agreement, however, over time it has become evident that they are critical to addressing illicit tobacco.
- A focus on the criminal networks behind illicit tobacco rather than a single focus on the commodity alone. By focusing solely on the commodity, the ITTF struggled to gain traction from partner agencies who had higher commodity priorities such as illegal drugs. In mid-2022, the ITTF shifted its focus to the priority illicit tobacco networks. This enabled greater law enforcement agency support which is now delivering significant operational outcomes.
- This approach highlighted that the highly lucrative nature of the illicit tobacco market is funding other serious criminality including the importation of illegal drugs.

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QoN Number: 3

Subject: What can Treasury learn

Asked by: Julian Hill

Question:

Chair: I might be cheeky and put a similar follow-up to the ATO and Home Affairs. I ask you to take on notice what Treasury could learn from you if you were courageous enough to answer that question to a central agency!

Senator Reynolds: I'm sure there's no lack of courage in either agency!

Answer:

Managing large-scale projects across multiple agencies is a complex task and requires clear lines of accountability, roles and responsibilities and importantly key performance indicators to measure impact across the full project continuum.

The ABF understands the importance of developing strong establishment documents from project commencement to ensure all lines of effort are coordinated, informed and working toward a shared mission with a clear end state.

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QoN Number: 4

Subject: Consultants and contractors

Asked by: Julian Hill

Question:

Chair: To what extent, maybe all three of you take this on notice... to what extent do consultants and contractors be used as a part of this work? And take it in the spirit as intended, if there were some views, if you could say what they were, how much they cost?

Answer:

In the 2021-22 financial year, the ABF utilised a contractor to the value of \$54,000 to provide expertise on counter threat networks to support the development of an operating model based on contemporary law enforcement and military experience, including the delivery of training.

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PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

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QoN Number: 5

Subject: Establishing performance targets

Asked by: Julian Hill

Question:

Has Home Affairs given thought to establishing performance targets for the illicit Tobacco Taskforce?

Answer:

The Illicit Tobacco Taskforce (ITTF) was established in July 2018 with key objectives relating to:

- Protecting Commonwealth revenue
- Safeguarding the community of illicit tobacco
- Enhancing detection capability and disrupting illicit tobacco smuggling, and
- Working collaboratively across Government to dismantle organised crime.

The ITTF has evolved considerably since its inception in 2018 through greater connectivity with partner agencies and the application of a Counter Network Investigations Strategy. This Strategy identifies the vulnerabilities of criminal networks and applies a multi-jurisdictional effect to disrupt the activities of criminal enablers. Alongside this model, the ITTF delivers impact through greater prevention offshore, streamlined processes at the border, and continued engagement with domestic law enforcement with a prevention and deterrence focus.

The ITTF's Counter Network Investigations Strategy focusses on having the greatest impact in disrupting the illicit tobacco trade. However, this strategy alone cannot provide a full appreciation of effectiveness and performance.

Establishing effective performance measures which capture an accurate impact assessment of ITTF activities is a key priority which requires the ITTF to extend its reach into state/territory law enforcement and regulatory administrations. While seizure and arrest data goes some way to measuring success, it does not support a full measure of impact which takes into consideration the supply and demand equation.

Going forward, the ITTF's performance metrics will complement the work to be undertaken by the ABF in building an end-to-end compliance and enforcement program to tackle illicit tobacco. This new program will adopt key performance indicators across all touch points in the illicit tobacco market from offshore disruption, at the border, domestic law enforcement and regulatory functions (including education) to accurately measure performance along the continuum.

ITTF Joint Agency Agreements (JAAs) are also being renegotiated to extend the operating beyond the 2024-25 financial year; performance metrics will be set as part of the new ITTF JAAs. These will be considered in the context of the broader funding for the ABF and partner agencies to address illicit tobacco to ensure impact is able to be assessed in the context of harm reduction, availability of illicit tobacco in the market and revenue evasion.

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QoN Number: 6

Subject: Cross agency program governance

Asked by: Julian Hill

Question:

Do you think cross-agency program governance could have been strengthened? Why?

Answer:

A number of program governance structures were set up to capture cross-agency activities including the Black Economy Standing Taskforce (BEST), the BEST Operational Coordination Group and the Intelligence Working Group. The Illicit Tobacco Taskforce (ITTF) fed into the BEST

Feedback from these groups then fed into the ABF-led ITTF National Illicit Tobacco Senior Management Group and the National Illicit Tobacco Management Group to assist in setting the strategic and operational direction for the ITTF.

While several program governance structures were established, the breadth of work delivered under the Black Economy measures limited discussion to high-level broad matters only. Cross-agency program governance could have been strengthened to accommodate greater depth in priority setting and delivery.