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## European Commission and JT International (Japan Tobacco) sign 15-year Agreement to combat contraband and counterfeit cigarettes

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Brussels, 14 December 2007

## European Commission and JT International (Japan Tobacco) sign 15-year Agreement to combat contraband and counterfeit cigarettes

*The European Commission, together with 26 participating Member States of the European Union<sup>[1]</sup>, and JT International (JTI) today announced a multi-year agreement that includes an efficient system to fight against future cigarette smuggling and counterfeiting. Through the Agreement, JTI will work with the European Commission, its anti-fraud office OLAF, and law enforcement authorities of the Member States to help in the fight against contraband, including the problem of counterfeit cigarettes. The Agreement includes substantial payments by JTI, which total USD 400 million over fifteen years. "I welcome the conclusion of the negotiations of this important agreement. It is to the advantage of the EU because it protects its financial interests," said Commission President José Manuel Barroso. "This Agreement represents a further major step forward in the continuing battle against contraband and counterfeit cigarettes," said Vice-president Siim Kallas, responsible for the fight against fraud. "Contraband and counterfeit products cheat everyone: governments, consumers and legitimate businesses. This new agreement will further enhance the ability of the European Commission and of the Member States to combat the illegal trade in cigarettes, which results in the loss of substantial tax and customs revenues each year. It sends a strong signal to the world that agreements between authorities and industry to fight illegal trade work and bring substantial benefits," he added.*

### Fight against counterfeit

The Commission and the EU Member States point to several reasons why they view expanded anti-counterfeit and anti-contraband efforts as requiring significant priority. Among other reasons, the European Community and the Member States are losing hundreds of millions of Euros in unpaid taxes from counterfeit cigarettes. In addition, counterfeit and other forms of contraband create a parallel illegal supply chain that invades and compromises legitimate distribution channels and competes unfairly with genuine products distributed through legitimate channels.

Over the last few years, the incidence of contraband JTI cigarettes has been greatly reduced, but during the same time period, counterfeit cigarettes have become a growing threat to the European Community and the Member States. The Commission has therefore announced that it will build on existing efforts to combat the illegal trade in cigarettes which consist of: - vigorously investigating cigarette counterfeiting in close cooperation with the Member States and law enforcement officials in key locations worldwide; - targeting and interrupting the production of counterfeit cigarettes with the goal of preventing counterfeit cigarettes from being introduced into the European Community; and - recording and pursuing seizures of counterfeit cigarettes in the European Community to identify the source of the product and other relevant information.

### Fight against contraband and money laundering: Know your customers and tracking and tracing

The Agreement builds on the efforts of all parties and introduces innovative procedures to combat the diversion of JTI's products into contraband channels in Europe and around the world. Today's agreement reflects the reality that success in defeating the contraband and counterfeit cigarettes trade can be aided greatly through a joint agreement whereby major manufacturers like JTI and European law enforcement combine their resources and enhance their coordination in combating contraband and counterfeiting.

The Agreement contains strong provisions, approved by all parties, which provide them with a mechanism for the long-term prevention of any large-scale smuggling of genuine Japan Tobacco cigarettes in the European market. The Agreement requires JTI to build on its existing review process for selecting and monitoring customers, to enhance its capabilities to track and trace certain packaging, and to provide expanded support to European law enforcement in its battle against the illegal trade in cigarettes. Under the Agreement, JTI agrees to continue limiting its sales to volumes commensurate with legitimate market demand. The Agreement also incorporates and builds into a comprehensive contractual framework JTI's existing compliance programmes.

Historically, a key concern for the European Community has been the introduction of contraband cigarettes into the European Community. For that reason, the European Community has taken vigorous action to address cigarette smuggling. European law-enforcement efforts have resulted over the past several years in the reduction of the amount of cigarettes that enter the EU as contraband. The European Commission has determined that constructive and forward-looking agreements, such as this Agreement with JTI, are useful tools in addressing these issues.

The initiative includes far-reaching product-tracking procedures that will facilitate law enforcement efforts to determine the point at which any genuine product is diverted

from the authorised sales channel. Consistent with the Agreement, JTI will mark certain packaging with information indicating the intended market of retail sale, mark "master cases"<sup>[2]</sup> of cigarettes with machine-scannable barcode labels, and implement other procedures useful for the tracking and tracing of its products.

These obligations embody a far-reaching, joint tracking and tracing initiative which is consistent with the anti-contraband provisions of the WHO Framework Convention on Tobacco Control and which will underpin the efforts of the EU to promote a strong Protocol to that Convention on the Illicit Trade in Tobacco products.

#### **Obligations under the Agreement**

The European Community and the participating Member States will receive substantial payments over a number of years. The amount of JTI's payments under the Agreement totals USD 400 million over 15 years to the EC and participating Member States.

The Agreement also includes a guarantee by JTI to make payments in the event of future seizures in the European Community of its genuine products above defined quantities. These payments will be made without regard to fault or wrongdoing by JTI. These payments will be available to all participating Member States.

The Agreement excludes any future lawsuits against JTI for civil claims arising out of past conduct related to the manufacture, sale, distribution or storage of cigarettes. On April, 18 2007, JTI purchased the Gallaher group. The parties have therefore agreed on a framework and a timetable in which JTI will bring former Gallaher entities up to the standards of the Agreement, with a view to bringing them within the full scope of the Agreement.

#### **Other future Agreements**

The Commission is always prepared to have discussions with manufacturers who are willing to commit the necessary resources to improve ways to combat illegal trade in their products and associated criminal activity, such as money laundering. Producers also have a responsibility to fight illegal trade in their products, in full cooperation with relevant government authorities. This Agreement should therefore serve as a further model for those cigarette companies that have yet to assume fully such responsibilities.

#### **Background**

In the negotiations with JTI, the Commission represented the European Community and the Member States. The Legal Service and OLAF conducted the negotiations for the Commission. On July 9, 2004, the EC and ten Member States signed an anti-contraband and anti-counterfeit agreement with Philip Morris International ([IP/04/882](#)).

The agreement and its annexes are available on: [http://ec.europa.eu/anti\\_fraud/budget/cig\\_smug/2007\\_en.html](http://ec.europa.eu/anti_fraud/budget/cig_smug/2007_en.html)

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<sup>[1]</sup> The following Member States are participating Member States under the Agreement: Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, and Spain.

<sup>[2]</sup> "Master case" means packaging for approximately 10,000 cigarettes.