

**JOINT HMRC – NORTHERN IRELAND INDUSTRY OILS INTELLIGENCE
AND SECURITY FORUM**

HMRC OILS ACTIVITY REPORT

June 2008

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CUSTOMS CONFIDENTIAL

If you have information about illegal fuel misuse, illegal fuel supply or any other oils fraud, you can contact Customs Confidential and supply information anonymously:

Freephone: 0800 59 5000

Freefax: 0800 528 0506

**Freepost: Customs Confidential
Freepost SEA 939
PO Box 100
Gravesend
Kent
DA12 2BR**

1. Context

Purpose

The purpose of this document is to update industry partners on activity undertaken by HMRC as part of the fight against oils fraud. It aims to provide as much relevant information and context as possible within the restrictions of legal requirements and duty of confidentiality.

Updated versions of this document will be produced regularly to coincide with the meetings of the Joint HMRC-Industry Oils Intelligence and Security Forum.

UK Oils Strategy

Oils fraud is principally the misuse of oils which are either rebated or relieved of duty when used (mainly) off-road; red diesel, kerosene and a range of oils known as 'tied' oils, and the smuggling of road fuel.

In addition to revenue loss, oils fraud is a problem because it causes or leads to:

- Damage to legitimate business
- Damage to vehicle engines
- Danger to road users
- Damage to environment
- Threats and intimidation against retailers
- Encourages disrespect for the law

The UK Oils Strategy consists of a range of measures to crack down on fraud, aimed at making it harder for criminals to obtain rebated fuels and ensure those that do are caught and face tough penalties. The key measures of the strategy are:

- Stronger regulatory regimes to control the sale and distribution of rebated and duty-free fuels. This includes the Registered Dealers in Controlled Oils (RDCO) scheme that requires all distributors of red diesel and kerosene to be authorised by HMRC and to supply information on those buying red diesel and kerosene
- Extra HMRC officers assigned to oils fraud, including additional investigators to break up criminal gangs behind oils fraud, especially laundering plants, and new specialist testing officers to crack down on commercial fraud by businesses, particularly in the transport sector.
- A new central intelligence unit to drive all operational activity with the best information and intelligence available across Government
- New technological support to HMRC particularly in the new intelligence unit and in the specialist testing units

HMRC works closely with other agencies in tackling oils fraud, particularly the Police, and in Northern Ireland also now the Organised Crime Task Force. This ensures more efficient and effective action.

Sanctions open to HMRC include:

- seize any vehicles running on red diesel or kerosene
- seize any equipment – such as storage tanks or pumps – used in the evasion of oils duty
- impose financial penalties for instances of misuse
- issue duty assessments to recover duty that has been evaded
- prosecute individuals engaged in the evasion of oils duty
- seize the assets of those engaged in oils fraud and the evasion of duty

Co-operation

An integral part of HMRC's approach to tackling oils fraud is an active and co-operative relationship with the oils industry. The establishment of the Joint HMRC-Industry Oils Intelligence and Security Forum is a clear statement from both HMRC and the Industry that they are intent on working as partners against those who deal, supply or use illegal fuel.

The central aims of the Forum are to:

- ensure that where the industry has information on illegal activity the pathways exist to pass that information to HMRC
- provide a forum in which HMRC can provide feedback on activity and on the action taken as a result of information received
- provide a forum for sharing views and concerns
- encourage the passing of items of intelligence to HMRC

The Oils Forum meets approximately three times a year to fulfil this purpose.

Limitations and restrictions

It is understood that information will only be shared by either party where this does not compromise any legal restrictions, duty of confidentiality, security or operational effectiveness. Outside of these restrictions both parties will be as open as possible.

Specific restrictions include (but are not necessarily limited to):

- Information about ongoing court cases
- Information about named individuals
- 28 day opportunity to come up with papers

- Pre-empting official publication of new data
- S17-23 CRC Act (which covers the use of information that HMRC has obtained)
- Data protection
- Limitations of data collection etc.

Information in the Public Domain

Some information regarding HMRC's activities is published, and available in the public domain.

Examples of this are:

- Press Releases – The press releases can be found under HMRC or under Northern Ireland. (<http://www.gnn.gov.uk/>)
- Tribunal Hearings – The decisions of Hydrocarbon Oils tribunal hearings can be found at this website. (www.financeandtaxtribunals.gov.uk)

2. Latest Published Data

Oils¹ Tax Gap: Statistics (HMRC Autumn Performance Report 2007)

	2001/2	2002/3	2003/4	2004/5	2005/6	2006-2007	Totals
Revenue loss – GB²							
Total diesel (non UK duty paid) ³	£1,050m	£1,000m	£1,000m	£950m	£750m	- ⁴	£4,750m
Illicit diesel (fraud and smuggling)	£700m	£650m	£650m	£550m	£350m	- ⁴	£2,900m
Cross border shopped diesel	£350m	£350m	£350m	£400m	£400m	- ⁴	£1,850m
Total petrol ³ (non UK duty paid)	£400m	£250m	-	-	-	-	-
Revenue loss – NI^{2,3}							
Total	£270m	£270m	£280m	£240m	£260m	- ⁴	£1,320m
Total diesel (non UK duty paid)	£210m	£210m	£220m	£190m	£210m	- ⁴	£1,040m
Total petrol (non UK duty paid)	£60m	£60m	£60m	£50m	£50m	- ⁴	£280m
Market share – GB							
Diesel (illicit)	6%	5%	5%	4%	2%	- ⁴	
Petrol (non UK duty paid) ⁵	2%	2%	-	-	-	- ⁴	
Market share – NI³							
Diesel (non UK duty paid)	58%	53%	51%	42%	43%	- ⁴	
Petrol (non UK duty paid)	18%	18%	18%	13%	14%	- ⁴	

¹ All estimates of non duty paid consumption have been revised as a result of improved methodology and data. 2006-07 data will not be available until next year.

² Estimates includes duty and VAT. As VAT is assumed lost on all non UK duty paid consumption, this assumption will over state the actual revenue loss. Non UK duty paid includes both legitimately cross border shopped and illicit consumption.

³ Figures have been independently rounded to an appropriate degree of accuracy. As a result components may not appear to sum to totals.

⁴ Not yet available

⁵ – indicates a negligible figure

Oils Performance: Statistics (HMRC Autumn Performance Report 2007)

	2001/2	2002/3	2003/4	2004/5	2005/6	2006/7	Totals
<u>Total oils seized</u>	3.95m litres	4.03m litres	2.48m litres	2.50m litres	1.51m litres	1.17m litres	15.64m litres
Volume seized – GB	2.2m litres	2.44m litres	0.96m litres	0.72m litres	0.43m litres	0.33m litres	7.08m litres
Volume seized – NI	1.75m litres	1.59m litres	1.52m litres	1.78 m litres	1.08m litres	0.84m litres	8.56m litres
Laundering plants							
Total disrupted	38	46	31	26	37	34	212
GB	30	25	18	8	21	16	118
NI	8	21	13	18	16	18	94
Mixing plants						Total Mix & LP	212
Total disrupted	2	7	4	N/A ¹	N/A ¹	N/A ¹	N/A ¹
GB	2	4	1	N/A ¹	N/A ¹	N/A ¹	N/A ¹
NI	nil	3	3	N/A ¹	N/A ¹	N/A ¹	N/A ¹
Gangs disrupted	19	14	13	9	4	4	64
GB	12	13	11	4	2	2	44
NI	7	1	2	5	2	2	19
Challenges							
Total	16,313	29,302	84,700	108,773	119,733	112,391	471,212
Commercial	Not available	Not available	60,022	80,137	80,564	80,220	300,943
Non commercial	Not available	Not available	24,678	28,636	39,169	32,171	124,654
Detections							
Total	3,340	3,960	3,753	3,760	3,747	4,143	22,703
Commercial	Not available	1,801	2,043	2,228	2,002	2,231	10,305
Non commercial	Not available	2,159	1,710	1,532	1,745	1,921	9,067
Assessments							
Fraud detected and identified	£8.3m	£13.2m	£11.5m	£7.0m	£3.1m	£2.5m	£45.6m
Prosecution figures GB²							
Number of convictions	9	8	17	12	17	13	76
Average sentence	16 months	14 months	14 months	15 months	16 months	28 months	17 months
Confiscation orders	£660,000	£374,000	£167,387	£125,350	£272,311	£1.48m	£1,599,084
Prosecution figures NI							
Number of convictions	15	3	4	Nil	4	4	30
Average sentence	16 months	8 months	7 months	nil	2 months	6 months	7 months
Confiscation orders	Nil	£250,000	Nil	Nil	Nil	Nil	£250,000
Vehicles seized in NI	684	1,576	901	812	956	1,199	6,128

¹ Mixing plants are now included in the laundering plant figure as mixing plants are no longer recorded separately.

² 2005-06 data revised due to improved methodology and data

3. Activity Report

Covers activity from 2007/2008.

Note that examples only are provided – this is not a complete report of all activity.

Enforcement

1. During a planned operation Belfast RFTU searched a rural premises in South Armagh on 8 August. The laundering plant detected had the capacity to launder over 100,000 ltrs per week (equal to 5,000,000 ltrs - £2,500,000 revenue loss per annum). The processed product matched all the specifications of ULSD and would have been impossible to detect at a road side test. This was the first detection nationwide where ULS MGO was being laundered.
2. Belfast RFTU staff confirmed seizure of 20,000 Ltrs of laundered UK Kerosene stored at another rural premises on 8 August. Information and historical Intel indicates that this product 'laundered kerosene' is used to 'stretch' petrol which would be sold at retail outlets.
3. In September 2007, Cheadle RFTU attended multi-agency Motorway check site M56 near Chester in response to a call form VOSA (Vehicle Operator Services Agency) concerning a ROI HGV believed to be misusing Irish Green Rebated diesel. Inspection of the vehicle identified additional fuel lines from refrigerated 'belly tank' to the vehicle's fuel system. Whilst at the check site another ROI HGV tested positive to Irish Rebated Green diesel. The vehicle detected with rebated oil in running tank was seized and restored on payment of £1000 and the adapted HGV was seized and non-restoration policy applied.
4. In October 2007, HMRC officers visited commercial premises of a haulage company in Ballynahinch, Co Down. Evidence of fuel purchases was requested but none was forthcoming. Further investigation revealed that the company purchased all fuel in the ROI and illegally decanted it into its NI fleet for subsequent use. The owner was arrested and six commercial vehicles seized along with 2700 litres of smuggled fuel. Estimated misuse is £200,000.
5. Also in October 2007, HMRC officers accompanied by PSNI, visited farm premises in Mowhan, Co Armagh. A substantial acid laundering plant was found and approx 6000 litres of acid waste stored in 25-gallon drums awaiting disposal. Conservative estimates put the misuse potential at 2.4 million litres per annum with a revenue loss of £1.2 million.

6. In November 2007 following an Intelligence referral Cheadle RFTU deployed to a premises in Widnes and detected 24,000 litres of ROI 'Green' diesel' which had been smuggled in from ROI on a curtain sided trailer in 24 IBC's. An artic unit, road tanker and another trailer at the premises was also seized. A number of filling stations in Central region believed to be acquiring the fuel were visited and a further 100,000 litres of ROI green diesel was seized.
7. Major disruption of an Organised Crime Group involved in Oils fraud took place in November following months of case building. This was a combined operation between Oils Criminal Intelligence Team (OCIT), CI, LC and Detection. The very early results achieved by this operation are:
 - £32,500 seized by authorities in Republic of Ireland and the identification of two key suspects;
 - ROI have instigated an investigation;
 - Intelligence identified a suspect yard in Widnes and entered with RFTU. A lorry with 24 IBC's (17 Irish green, 7 Kerosene) was detained along with a tanker, an artic trailer and paraphernalia;
 - 8 filling stations visited by RFTU following OCIT intelligence. There were positive results at 7. These have been referred to Local Compliance for audit and details given to OCCT to update the risk matrix.
 - In all, approximately 160,000 litres of illicit fuel were detained in the operation.

The main subject of the investigation was arrested by Police for driving whilst disqualified (numerous previous offences) and without tax and insurance. He was released and bailed to appear in January. He is understood to still be subject to a Confiscation order from his previous Oils fraud offence (for which he received a 3 year custodial sentence).

- OCIT are liaising with relevant parties.
 - Earlier in the case Irish authorities made a seizure of 50kg of Cannabis following OCIT intervention. This is a significant seizure in ROI.
 - Debriefing continues and Intelligence will review any disruption opportunities that result.
8. December 2007 - A Multi-Agency cross border operation resulted in four arrests, the seizure of 8,500 ltrs of ROI MGO and the detention of 18,000 ltrs of UK Kerosene at an Oils retail site with outlets on both sides of the border in Co Fermanagh. This case concerned abuse of the VAT system to enable the oils trader to supply kerosene at a reduced price. Numerous false home heating deliveries were evidenced within the commercial business records of the principal – all quantities were recorded as under 2600 litres thus attracting a 5% VAT rate. The kerosene was in fact sold in commercial quantities (17.5% VAT rate) to another oil trader located adjacent to the Border. It is

suspected that the kerosene was in fact being smuggled to the ROI. Revenue evaded in the UK is estimated at £500,000. Offence action is being considered by ROI authorities.

9. January 2008 - Following a road traffic accident RFTU officers arrested the driver of a transit van which was carrying 3 IBCs which contained 3000 litres of laundered fuel. This again highlights the serious dangers involved in the movement of illegal fuel.
10. In a commercial vehicle follow up visit officers seized 3000 litres of laundered fuel from a retail site in Armagh. This fuel retailed to the unsuspecting public as ultra low sulphur diesel would eventually lead to mechanical difficulties in the vehicle.
11. On 15th / 16th March 2008, an Irish haulage Co, which has a UK mainland base in Lancashire, was visited by Cheadle RFTU. Decanting of Southern Irish Derv, from the running tanks of vehicles was discovered. The vehicles are sent over to Dublin weekly for fuelling. A total of 13100 litres of decanted fuel was seized, along with 5 HGV tractor units. A further 43 HGVs and 2 vans were detained pending further enquiries.
12. On the 8th April 2008 premises in Co Antrim were searched by HMRC and a fully operational filtration laundering plant was found along with 2100 litres of contaminated fuel. All items were seized and the owner of the premises arrested. A report is being prepared for the PPS.
13. On the 30th April 2008, a Newry male was sentenced to a 2-year conditional discharge and fined £2716 at Newry Magistrates Court. He had been previously detected at a VCP in Armagh driving a tipper lorry with a concealed tank within the body. The vehicle, tank and 5100 litres of fuel had previously been seized. PSNI brought a number of Road Traffic offences against the driver.
14. During late April into May 2008, four Armagh based fuel suppliers were sentenced at Newry Crown Court in relation to oil smuggling offences.

Three received sentences of 2 years imprisonment suspended for 5 years, whilst the fourth was sentenced to 9 months suspended for 2 years.

Three of the four were served Confiscation Orders totalling £1.2 million.

The UK's first Serious Crime Prevention Orders were served on all four.

The first Order prohibits each defendant from dealing in Oils in any shape or form, either as individuals or as an employee, for the next 5 years.

The second Order directs the defendants to submit signed Affidavits disclosing their entire financial affairs, assets and bank accounts to HMRC and allows HMRC to inspect these records and accounts at any time during the next 5 years. If it is discovered that any assets have been hidden from the Court – the defendant in question is liable to face trial for perjury.

This result has effectively dismantled this team, described by the trial judge as “ four professional smugglers.”

15. Laundering plant (fullers earth) detected and dismantled in Doagh resulting in the seizure of 2100 lt of fuel, 200 lt of waste, 3 Intermediate Bulk Containers, a tank, and other associated equipment.
16. 3 vans containing IBC's seized at different locations during the month, one containing 2400 litres of green marked gas oil with a follow up resulting in the additional seizure of 3300 litres of green MGO.
17. Detection of van at Vehicle Check Point turned out to be the Co.Down Gaelic Athletic Association team van carrying the team kit to the National League match which was delayed as a result. GAA is the National sport in Ireland and this created a lot of media publicity, articles appearing in several newspapers both North and South.
18. A total of 31550 litres of fuel uplifted in April.

Compliance (National statistics)

Currently registered RDCO's	As at 30 06 07 - 4200	As at 31 03 08 - 4139
AVTUR traders	As at 30 06 07 - 50	As at 31 03 08 - 80
Periods	1 January – 30 June 2007	1 August 2007 – 31 March 2008
Revoked	2	4
Conditions imposed	4	7
Cancellation (Missing trader)	128	254
Refused	2	14

Nationally, of the 254 cancelled traders the breakdown/reasons is as below:

- 153 - Ceased trading for various reasons (retirements, sold business etc)
- 54 - Transfer of going concern or change of legal entity
- 12 - Are now End users and no longer need to be registered
- 4 – Revoked.
- 8 - Trader going into liquidation, insolvency etc
- 18 - Deals in pre-packed containers only so doesn't need to be registered
- 2 - Cancelled as missing
- 3 - Other (Tied Oil registered now, rather than RDCO)

NI Results

Post Detection Audits

392 audits were completed on the referrals from Road Fuel Testing Units during the year with 252 assessments issued generating £1.7 million revenue.

1. RFTU identified a transport company decanting smuggled fuel from the republic of Ireland. An assessment of £204,000 was issued despite a total lack of co-operation from the company.
2. RFTU identified further haulage companies decanting smuggled fuel from the Republic of Ireland. An assessment for £78,000 was issued in September 2007 and another assessment for £34,000 was issued in February 2008.
3. RFTU discovered two haulage companies using rebated fuel at vehicle checkpoints and we issued an assessment for £74,000 in November 2007 and £82,000 in January 2008.
4. RFTU identified a commercial vehicle using rebated fuel at a checkpoint in Belfast Docks. A follow up search at the trading premises identified further examples of misuse and an assessment for £80,000 was issued in June 2007.
5. RFTU received a request from the Police Service of Northern Ireland (PSNI) to attend a vehicle checkpoint. The subsequent fuel test confirmed the misuse of rebated fuel and further misuse was identified during a search of the trading premises. An assessment for £50,000 was issued in July 2007.

6. RFTU identified the misuse of rebated fuel by an excepted vehicle undertaking haulage work. An assessment for £55,000 was issued in July 2007.

Registered Dealers in Controlled Oils

468 audits were completed during the year with the issue of 54 warning letters and 6 civil penalties for non compliance.

1. Two applications were rejected due to the lack of a business case including appropriate premises, finance and a legitimate source of supply.
2. Two RDCO approvals were revoked during the year.
 - One fuel distributor had a history of a seizure of unleaded petrol due to the lack of credible evidence of duty payment. The absence of trading in rebated fuel for a considerable period resulted in the cancellation of the approval.
 - A fuel distributor and operator of a retail site failed to provide information on the conditions of his weekly returns. The approval was cancelled due to this history of non compliance.
3. Three traders had conditions imposed during the year.
 - A fuel distributor was found to be in possession of a road vehicle using rebated fuel.
 - A retail site operator was identified as the source of two private vehicles using rebated fuel. Several monthly returns were not submitted by the due date during the year.
 - Another retail site premises failed to submit returns by the due date and was subject to a previous civil penalty for allowing the misuse of rebated fuel in private vehicles.
4. Two previously cancelled approvals were subject of appeals to Independent tribunals.
 - One retail site operator with a history of fuel condemnations and non compliance had the appeal dismissed by the Chairman.
 - A fuel distributor failed in his appeal at a Tribunal in April 2007. The trader is now seeking a Judicial Review of our rejection of a subsequent application within three months of the Tribunal decision.

Value Added Tax.

450 audits were completed with 117 assessments generating £3.2 million revenue.

1. One assessment for £1 million relates to a fuel distribution company submitting bogus invoices from missing traders as the source of fuel. The directors of this company using a different trading entity failed to appear at Tribunal appeal in February 2008 against a VAT assessment for £33,000. The Chairman dismissed the appeal after hearing of minimal evidence and this decision supports the previous cancellation of an RDCO approval.
2. One further Tribunal appeal by a retail site operator was heard in March 2008 against a VAT assessment for £38,000 on under declared sales. The Chairman has not yet released his decision on this case.

The previous operator of this site was subject to a criminal prosecution.

Legal proceedings

1. December 2007 - A Co. Derry man received a 2 year prison sentence suspended for 4 years in Derry Crown Court for his part in a fuel laundering plant detected in May. He had pleaded guilty to the fraudulent evasion of duty on 10,700 litres.
2. Bristol Crown Court: Three pleaded guilty to oils fraud offences. This case involved laundered/smuggled fuel and onward supply to retail outlets. The revenue involved is between £1.5 and £3.2 million. The trial of a fourth defendant has been adjourned due to ill health. Three of the defendants are from Northern Ireland.
3. Liverpool Crown Court: Confiscation proceedings continue following a guilty plea by the defendant. Defendant was extradited from ROI in November 2007 and sentenced to 4 months imprisonment for Money Laundering Offences linked to a major oils fraud investigation which began in 2002. Nine people have already been dealt with by the court in 2005-06 for their part in this fraud. The case involved 2.5 million litres of rebated fuel, the proceeds are estimated to be £1.4 million.
4. Belfast: In the first phase over 100,000 litres of fuel has been detained and subsequently seized at 4 retail sites. The purpose of Negate was to stem the supply of illegitimate fuel forcing operators to purchase fuel from reputable outlets.
5. An investigation into the laundering and sale of laundered fuel in the Cookstown/East Tyrone area. During the operation on 12/10/06 a fully functioning laundering plant was dismantled, laundered fuel and vehicles used in the transportation of laundered fuel were seized. One person was arrested and after initially pleading not guilty changed his plea on 11/1/08 and was sentenced to 4.5 months suspended for 3 years. The defendant was an undischarged bankrupt so no financial penalty was imposed.
6. An investigation into the sale and distribution of laundered fuel. The case was knocked on 16/3/05 and 3 persons were arrested while delivering laundered fuel to an illegal fuel retail site in West Belfast. All 3 persons were charged with evasion of excise duty. Two defendants entered guilty pleas in March 2008 and each received 9 months suspended for 12 months. Due to ill health the third defendant was unable to stand trial and the case will be reviewed in June 2008. Estimated revenue loss £225K.
7. Detection of a tipper lorry on 6/4/06 in Co Armagh with a concealed tank containing 5000 litres of laundered diesel. This vehicle had been in a road traffic accident and the driver absconded however he was later apprehended and was been linked to the vehicle by DNA. Guilty plea entered in January 2008 however sentencing was deferred to 30/4/08 to give the offender the opportunity to assist HMRC by

providing information on the organisation he was working for – The Magistrate stated the level of cooperation shown would influence the sentence imposed. On 30/4/08 the driver received a conditional discharge suspended for two years and was ordered to pay £2716.77 confiscation and £58 court costs.

8. Detection of a curtain sided lorry containing 12 IBC's of diesel in Belfast on 3/11/06. The driver was challenged by PSNI and failed to stop. After a chase and shots being fired by the PSNI the lorry crashed in West Belfast. The driver was arrested, interviewed and subsequently charged with evasion of duty. After initially pleading not guilty the driver changed his plea to guilty in February 2008 and is awaiting sentence. On 1/5/08 the driver received 200 hours community service and was ordered to pay £11,211 confiscation.