



British American Tobacco in South Africa:

Any Means Necessary



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A GLOBAL
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WATCHDOG

Authors

By Andy Rowell (1) and Alon Aviram (2),
University of Bath

(1) Rowell is a senior research fellow at the Tobacco Control Research Group (TCRG) at the University of Bath.

(2) Aviram is a freelance journalist who worked with the TCRG on this investigation.

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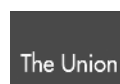
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**Vital
Strategies**

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Introduction

On a cold November night in 2013, a group of men gathered at the Ship and Shovell, a traditional pub in the heart of London—a 10-minute walk from British American Tobacco (BAT)'s global headquarters. The mood was jovial as the men enjoyed beers and curry and prepared for the following days' activities: a competitive game of golf in Richmond and a rugby match in Cardiff.¹

But a closer look around the table would reveal a rather interesting crowd. Among the group of business executives were ex-security personnel, as well as ex-Apartheid police and a serving South African police officer. And amongst the pints, curries, golf and rugby, there was serious business to be discussed: the running of a massive secret surveillance and informant network in Southern Africa on behalf of BAT.

Most of the South Africans in the Ship and Shovell that night worked for a service provider in South Africa called Forensic Security Services (FSS). They were employed to allegedly stamp out tobacco smuggling by the competitors of BAT, a blue-chip FTSE 100 company, which is one of the world's largest transnational tobacco corporations.²

For decades, South Africa has been one of BAT's most important markets, one of the jewels in its crown. Its factory is the eighth-largest within BAT's global empire, the company has a domestic monopoly at over 70% share of the market and from

the country produces cigarettes for export across Africa.³

But in the early 2000s, new players started to threaten BAT's dominance. And with the new players came an increase in the illicit trade in the country. The exact size and cause of the growth in the illicit market is not only disputed between academics, experts and the tobacco industry, but between the tobacco companies themselves, especially BAT and its smaller, newer competitors. Getting reliable data can be difficult. For example, one academic paper from 2014 written by tobacco control experts from the University of Cape Town noted that "the tobacco industry has a long history of deceit and misrepresentation" of data on illicit trade.⁴

What we do know is that the number of illicit cigarettes in the country has increased since about 2009-2010, rising from about 10% to between 30% and 35% by 2017.⁵ How much this rise in illicit cigarettes is due to the new companies is a topic of active debate. In 2020, University of Cape Town academics noted that "anecdotal evidence" from ex-employees at the South African Revenue Service (SARS) had suggested that the new, smaller tobacco companies had "accounted for a large proportion of the increase in illicit trade from around 2009 onwards."⁶

However, one of those academics, a world expert on the issue, Professor Corné van

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Walbeek, argues: “Industry players accuse ‘others’ of involvement in illicit trade. The fact of the matter is that they are all, to some extent, involved in illicit trade. They have an incentive to be.”⁷ Others agree with this analysis. In 2020, a paper published by the Global Initiative Against Transnational Organized Crime added: “The independents are commonly targeted by Big Tobacco and the media as being the main proponents of the illegal trade. While at least some of these independents are undoubtedly complicit in illicit trading, one cannot assume that all are guilty of it. And elements of Big Tobacco have also reportedly been complicit in illegal trading in Africa in the past.”⁸

Just after the Millennium there began a two-decade-long fight by BAT to try to maintain its market share by any means necessary. Although that fight continues to this day, the conduct outlined in this report by BAT and its service provider is no longer believed to be continuing in South Africa. However, it is still in BAT’s financial interests to keep South Africans addicted to its products, not those of its competitors.

Due to this fight between BAT and its competitors, for the last few years the tobacco giant’s operations in the region have been shrouded in controversy, with the company accused of “corporate espionage” to disrupt the operations of its rivals.⁹

BAT has repeatedly denied such accusations over a number of years. When approached for comment in the past, the tobacco giant has insisted the company did not “tolerate

corruption in our business anywhere in the world” and said its policy “is to take all appropriate action” on any allegation,¹⁰ and that “our company takes its responsibility as a legitimate business very seriously. As part of this, all British American Tobacco subsidiaries adhere to a strict code of business conduct – ensuring they respect local, national and international laws.”¹¹ In 2014, a spokesperson for the company added that it “denies current allegations of any involvement in industrial espionage or any illegal activity.”¹²

In August 2021, BAT commented that: “BAT has long been committed to fighting the global criminal trade in illicit tobacco. As part of those efforts, BAT has sought to assist national law enforcement agencies in providing support and, in the past, intelligence on suspected illicit operators.

“We emphatically reject the mischaracterisation of our conduct by some media outlets. Our efforts in combating illicit trade have been aimed at helping law enforcement agencies in the fight against the criminal trade in tobacco products. The allegations now being made against BAT have been covered extensively in various news media over several years. They are not new and have been investigated.”

The tobacco giant added: “Acting responsibly and with integrity underpins the foundations of our culture and values as a company. BAT is committed to the highest standards of corporate conduct and transparency wherever we operate.”¹³

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Despite these denials, questions remain. A new analysis of leaked documents shows that BAT and FSS may have repeatedly crossed the line of legality to undermine numerous BAT competitors, disrupting both illegal and legal operations. To this end, the evidence outlined in this report (and other related briefing papers produced by STOP, including related material produced by our partners in this investigation at the BBC and the Bureau of Investigative Journalism, as well as the Organized Crime and Corruption Reporting Project), raises serious questions about BAT's activities in South Africa. This includes involvement in endemic surveillance with evidence that this was unlawful, and questionable payments to sources and informants, some of whom seem to have also worked and been associated with organized crime gangs.

There are serious questions to ask regarding the company and its service provider concerning allegations that they spied on competitors via police CCTV, drones, vehicle trackers and other technologies which may have included phone bugging. Other questions need to be asked as to whether covert agents' lives were worryingly put at risk. Many of these alleged operations were enabled by BAT's tentacle-like capture of various law enforcement agencies, but many were the actions of a company that appears to be operating as if it were above the law. BAT acted like a colonial company, with directions coming from London.

The company was portraying itself as a legitimate partner to government agencies in

the fight against illicit trade, including being on the country's Illicit Tobacco Task Team.¹⁴ BAT also faces serious questions over how its cigarettes produced in South Africa ended up being smuggled into West Africa, allegedly fueling conflict, organized crime and political instability across the region.¹⁵ There are separate briefing papers by STOP on BAT's alleged capture of state agencies, potential complicity in smuggling in South Africa and alleged connection to an attempted bribery conspiracy in Zimbabwe. These will be published in due course.

The informant network ring, which appeared rampant in South Africa, but also reportedly extended into neighboring countries, most notably Zimbabwe, is just one of the many questionable tactics employed by the British tobacco company to maintain market dominance in the region. Ultimately, BAT's dubious activities helped keep consumers addicted to its deadly products at the expense of public health and the public purse. Every year, an estimated 25,000 to 42,000 people in South Africa die from tobacco-related diseases.

Over a quarter of the male adult population in South Africa continues to smoke,¹⁶ many addicted to BAT's products. And South Africa's economy is left to foot the bill: According to academic research published in 2021, the economic cost of smoking in South Africa was estimated to be R42 billion (US \$2.88 billion) in 2016.¹⁷ Put another way, for every Rand received in the form of cigarette tax, society lost 3.43 Rand.¹⁸

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Meanwhile, there have been consistent questions regarding BAT's tax affairs in the country. In 2017, SARS demanded 214 million Rand from BAT's South African subsidiary, British American Tobacco South Africa (BATSA), for unpaid excise duties.¹⁹ A year later, SARS demanded 143 million Rand from BATSA in unpaid excise duties.²⁰ BATSA disputed the payments and did not mention any outstanding South African liabilities in its latest Annual Report.²¹

BAT's grubby underbelly is a far cry from its polished public image, in which it tries to portray itself as a responsible company in a controversial industry. The tobacco giant has carefully constructed a façade for shareholders and investors to convince them it "acts with integrity,"²² and is even "raising the bar" on human rights.²³

Behind the façade lies a murkier truth.

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BAT's History of Operating with Impunity

Despite two decades of dubious tactics in the region, including alleged industrial espionage and alleged bribery, the company has yet to face meaningful consequences for its actions either in the region or at home in the U.K. In January 2021, the U.K. Serious Fraud Office (SFO) dropped its five-year investigation into alleged bribery by the company and its employees, citing that there was not enough evidence to support prosecution as defined under the U.K. Code for Crown Prosecutors.²⁴

But BAT is not in the clear yet. In the company's 2020 Annual Report, BAT stated that the "Group [BAT] has been investigating and is aware of government authorities' investigations into allegations of misconduct."²⁵ BAT continued: "The Group is cooperating with the authorities' investigations, including the DOJ [U.S. Department of Justice] and OFAC [Office of Foreign Assets Control], which are conducting an investigation into suspicions of breach of sanctions."²⁶ Nothing was mentioned by BAT in its half-year results in July 2021, so it is presumed these cases are ongoing.²⁷

Although it noted the SFO investigation had ceased, BAT continued: "The SFO stated that it would continue to offer assistance to the ongoing investigations of other law enforcement partners. The potential for fines, penalties or other consequences cannot currently be assessed."²⁸

Early warning signs across the region

The evidential paper trail of BAT's apparently nefarious activity in the region stretches back decades. By the late 1990s, BAT had become the largest manufacturer of cigarettes in South Africa. In 2002, competitor Apollo Tobacco sued BATSA and accused the company of colluding with state officials, and operatives at FSS of "industrial espionage." The head of Apollo, Hennie Delport, accused BATSA and FSS of breaking into his offices and planting listening devices in order to disrupt operations.²⁹

One affidavit in the Apollo case alleged BAT was using underhanded methods against its competitors, asking its contractors to "eavesdrop" and "bug phone lines" of BATSA's local competitors.³⁰ Nearly twenty years on, the legal case continues. In response, BAT denied it had done "anything that was aimed at undermining Apollo Tobacco's legitimate business," and that it had passed evidence to the relevant South African authorities, notably in this case SARS.³¹

**...fueling conflict,
organized crime and
political instability
across the region.**

In November 2012, The Zimbabwe Independent reported that BAT Zimbabwe (BATZ) was accused of using surveillance on its competitors and had adopted an industrial espionage strategy in the country.³² Although BAT denied the allegations, the paper had acquired BATZ's "Competitor Strategy" where BAT warned that "competition is penetrating the market at an alarming rate" and "to come up with an espionage strategy which will be used through-out the organization for harnessing competitor activities."³³ Again, BAT denied the allegations stating that BATZ "strongly denies allegations of its involvement in any possible industrial espionage or illegal activity."³⁴

**The evidential paper trail of BAT's
apparently nefarious activity in the region
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BAT's Web of Surveillance

The ultimate goal: disruption, no matter what

At the heart of the informant network described in this report were BAT operatives from Globe House, the company's headquarters in London, and also from South Africa, who were ostensibly cracking down on the smuggling of cigarettes by BAT's competitors. Documents, interviews with industry insiders and affidavits from court cases suggest BAT's operatives appear to have been predominantly occupied with disrupting the company's opposition, whether they were smuggling or not. The documents, including court affidavits, give reasonable grounds for believing that the overarching strategy by BAT was an anti-competitive one, which was publicly presented as being anti-smuggling.

The backdrop for BAT's strategy is the bitter competitive war between BAT and the smaller tobacco companies. BATSA believed that many of these competitors, who were selling cheaper so-called "value cigarettes," could only be doing so illegally.³⁵ This has been repeatedly disputed by these smaller tobacco companies.³⁶ For BAT, stopping companies from selling the cheaper brands meant keeping consumers addicted to the more expensive BAT brands and a continued market dominance for BAT in the South African market, which in turn affected the health of millions of South Africans.

Both insiders and documents alluded to this anti-competitive strategy. In 2015, in a signed affidavit for a court case against

BATSA, FSS and key individuals from both organizations, senior ex-FSS staffer Francois van der Westhuizen alleged that, under BATSA and BAT's orders, FSS undertook a "systematic campaign of maximum disruption to the production plants and business" against Carnilinx, one of BAT's locally owned competitors in the country.³⁷

Although Carnilinx itself was also in trouble with the South African authorities over unpaid taxes and other "nefarious activities,"³⁸ it was also accusing BAT of unethical activity. This allegedly included espionage, "systematic and unlawful" surveillance, "unlawfully seizing products," and "causing its distributors and staff members" to be arrested, amongst other things.³⁹ Carnilinx brought both civil and criminal cases against FSS and others. Although this criminal case seems to have stalled, Carnilinx lost its civil case on a technicality of law. In the civil case, the judge noted that "the principal reason for not ordering a referral to trial is that this matter presents itself as a prime example of a cause of action which should have been pursued by way of action proceedings given the inevitable disputes of fact which lay ahead." He added: "I should make it clear that this order should not be understood as suggesting that there is no merit in the applicant's case."⁴⁰

The leaked documents seem to back up Van der Westhuizen's allegations: One of the objectives outlined in an FSS company document against Carnilinx was to cause "disruptions and/or in fighting amongst

Directors and Distributors with a view of pertaining criminal evidence of low price methodology” and “disruptive activities on retail level.”⁴¹ As FSS outlined in one operational plan against a locally owned tobacco company: “The benefit to be derived from this project will be to level the playing field for the client and at the same time to increase the client’s market share.”⁴² Another warned that “constant disruption by the same LEA [local enforcement agencies]” of their key competitors “might lead to allegations of harassment and subject might get a Court Order to stop actions.”⁴³

Carnilinx was not alone in being targeted. Other competitors of BAT, such as Hennie Delpport of Apollo Tobacco; Simon Rudland of Gold Leaf Tobacco Company (GLTC); Adam Molai of Savannah Tobacco; Tribert Ayabatwa of Mastermind Tobacco; and McCroft Tobacco, Breco International, John Bredenkamp and Benson Craig all had their operations disrupted.⁴⁴

One such example of BATSA and FSS’ strategy was called “Operation Overlord,” a strategy to “seize, disrupt and to arrest” smuggling gangs and the local competitors selling low-price product. Documents relating to Operation Overlord show that the operation seized both legal and illegal product from the market, working with South African Customs and Police.⁴⁵ A leaked PowerPoint used military-style language to outline how: “We need to work as a unit, lean mean fighting machine. We will disrupt the enemy. We will destroy their Warehouses. We will blow up their supply lines.”⁴⁶ And this is,

metaphorically speaking, what BAT and FSS did in South Africa, with the trail leading back to BAT’s London headquarters. FSS even operated a “war room.”⁴⁷

Controlled out of London as well as South Africa, BAT oversaw simultaneous but independent surveillance and intelligence networks. One informant network was run out of London with staff controlling paid sources from Globe House. For this informant network, BAT had a surreptitious, off-the-books payment system using Travelex cards, by which “high-value” agents were secretly paid in cash by cards, which were not in their name.⁴⁸ The leading official investigating such payments, Johann van Loggerenberg, formerly of SARS, believed this payment method appeared to be “criminal” and “totally offgrid.”⁴⁹

Instead of paying people officially on their payroll, BAT would top up Travelex cards at London’s Heathrow Airport and the agents would use the cards to take out the cash in South Africa.⁵⁰ This means the money transactions were untraceable. According to a senior BAT official, this network was approved at the higher echelons of Globe House.⁵¹ The other informant network was run via FSS and was overseen by the South Africa team at BATSA, with input from BAT U.K. Both networks were employed to undermine BAT’s competition.

The sources supplied valuable intelligence, including photographs from the factory floors of rival companies, details on shipments and tobacco production, vehicle movements and

critical information on staff including personal phone numbers.⁵²

How BAT did it: The service provider, FSS

A major player in the surveillance and disruption of operations in South Africa was the private company FSS, of which BAT and the Tobacco Institute of South Africa (TISA), the trade organization representing large tobacco companies in the country, were major clients.⁵³ FSS was tasked with tracking and reporting on the illicit tobacco trade, particularly among BAT's competitors. The documents reveal that, acting on behalf of its clients, it served as a private surveillance and intelligence company for BAT as well as TISA, to which BATSA was the majority donor.

In 2014, it was reported in the South African press that the FSS/TISA contract was worth 50 million Rand per year,⁵⁴ and the BAT/FSS contract worth 150 million Rand per year (roughly US \$10 million).⁵⁵ In contrast, World Health Organization (WHO) statistics show that, in 2009, the overall national budget for tobacco control activities was just US \$300,000.⁵⁶ Though the figure is somewhat dated, it illustrates how the deep pockets of a powerful multinational tobacco corporation could overpower efforts aimed at protecting public health.

Many FSS employees were veterans of notorious Apartheid police department Reaction Unit 9,⁵⁷ which was reportedly infamous for "questionable shootings" and using brutal force.⁵⁸ As the ex-FSS employee-turned-whistleblower, Van der Westhuizen,

would later tell the BBC in an interview: "All the people at FSS were ex-Apartheid managerial positions. All of them had links, direct links back to certain factions within the police, within law enforcement, within the revenue service. So it was just the old guard continuing."⁵⁹

The Unit 9 veterans were assisted in their operations by BAT staff and associates from London. The leaked BAT documents appear to demonstrate how BATSA financed and directed FSS to surveil and disrupt competitors with the aid of a vast informant network across Southern Africa. BATSA set up the FSS relationship seemingly to have controlling oversight of operations, with FSS then using a myriad of fronts to hide payments to sources and informants.

There are reasonable grounds to suspect that the parties were trying to keep key parts of the operational paper trail opaque, with key objectives set out verbally. The documents reveal the heightened oversight BATSA had over FSS and the intertwined relationship between the two companies.

Senior BATSA staff were involved in discussions on how to professionalize FSS, assisting with the "new structure layout" of FSS that was set up in 2012,⁶⁰ and giving advice on remuneration and benefits.⁶¹ Senior BATSA staff approved the new FSS staff and what teams they were placed on.⁶² Other senior BATSA staff had FSS email accounts,^{63, 64, 65} were involved in operational planning and meetings,⁶⁶ had details of agents in spreadsheets,⁶⁷ approved payments to

agents,⁶⁸ checked payments from FSS to informants (known as SINS, which is believed to stand for Special Informant Network),⁶⁹ and asked for routine daily updates on FSS operations.⁷⁰ BATSA's staff also approved FSS VAT payments⁷¹ and oversaw "petty cash" payments⁷² and travel mileage claims.⁷³ BATSA had routine operational oversight of what was going on, according to the documents. One BATSA senior employee was sent routine sensitive operational updates, including surveillance from FSS,⁷⁴ and would discuss ongoing operations with senior FSS staff.⁷⁵ He was not the only BATSA official heavily involved in overseeing and auditing FSS' operations. Other BATSA staff were involved in operational planning and meetings with FSS,⁷⁶ received updates on operations⁷⁷ and even watched operations live via a videocam.⁷⁸

Sometimes informants provided information without being officially "registered" or put on a formal retainer. For example, BATSA staff were copied on an email stating: "Person is not prepared to be registered as an informer nor supply any personal details for fear of being compromised in his position." Although the proposal was to pay the informant via the so-called secretive "Bootfund" account system,^{79, 80} the payments were still processed by BATSA staff.^{82, 83}

All of this evidence points to how BATSA oversaw the minutiae of FSS' work and kept detailed trackers of the numbers of seizures of competitors' cigarettes, interventions and arrests by collaborating law enforcement officers.⁸⁴ Monthly seizure figures were sent

from senior BATSA staff to FSS,⁸⁵ who also gave feedback on FSS' daily activities.^{86, 87} But again, as with the payment methods, there is evidence that the operatives may have been trying to hide their tracks. One document noted: "Once the doc is scrutinised and sanitised, I will forward it."⁸⁸ Another document stated that standard language should refer to "insource/ outsource" instead of "electronic monitoring" or "beacon on."⁸⁹ Another FSS document about payments to "special consultants" that suggests FSS was trying to cover its tracks noted that a particular receipt posed "potential risk as it indicate [sic] the word 'FSS' in the document."⁹⁰ The document was subsequently amended to avoid links to FSS.

FSS also obtained physical access to the Johannesburg Metropolitan Police Department (JMPD)'s CCTV control room, allowing it to potentially monitor 240 cameras, including one in particular positioned outside competitor Carnilinx's offices.⁹¹ One document noted: "JMPD has agreed to provide sole console for our use under the context of research IT Company so as not to raise suspicion."⁹² On one occasion, BAT also used a "stand-alone computer" to support some of FSS' operations,⁹³ which might suggest that for some reason, this operation needed to be off the main BAT system. London-based BAT employees may also have attempted to be untraceable, with documents suggesting one was given a so-called "ghost phone" with multiple SIM cards,⁹⁴ and another often allegedly traveling under a pseudonym in South Africa.⁹⁵

How BAT did it: State capture and collusion

In 2014, it was revealed in the South African press that BAT/TISA were members of the Illicit Tobacco Task Team, also known as the Tobacco Task Team, which had been set up by state agencies to fight the growth of illicit trade.⁹⁶ The team had representatives from the Directorate of Priority Crime Investigations (also known as the Hawks), South African Police Service (SAPS) Crime Intelligence Divisions, the State Security Agency and the National Prosecuting Authority—but not officially from SARS.⁹⁷ The leaked documents reveal how FSS was able to influence the activities of the Team. It noted that FSS/TISA would “provide intel” to the South African Police and Joint Operations Committee (JOC) “on daily basis” and that the SAPS “will analyze intel and act on it.”⁹⁸

In 2018, the South African Commission of Inquiry into the Tax Administration and Governance by SARS, led by Judge Nugent, said of the Task Team: “The one thing the Tobacco Task team did not investigate was the illicit trade in cigarettes, but investigated instead the investigators who once investigated that trade.” The Commission also reported one witness who “claimed there was a syndicate, including SARS officials, that victimised the competitors of BAT, by using state resources for illegal searches, audits, raids and intercepts.”⁹⁹

BAT and FSS’ state capture, or ability to influence the activities of state agencies including law enforcement, extended well beyond the Tobacco Task Team noted above.

FSS seems to have depended on friendly law enforcement agents, who appeared to be able to intercept communications and supply transcripts,¹⁰⁰ conduct covert operations and to seize competitors’ goods.¹⁰¹ The service provider also obtained copies of BATSA competitor invoices that had been filed for customs purposes and profiles of persons of interest, thanks to law enforcement agency connections.¹⁰²

The leaked FSS documents show that BAT was able to gain considerable amounts of private information this way. They were able to access numerous classified police documents containing sensitive information, including spouse details, phone numbers, addresses, car registrations, passport numbers and the criminal records of individuals of interest to FSS.¹⁰³

The extent of law enforcement capture by BATSA was deeply concerning to SARS. It sent a dictate to its key staff saying: “We are not to participate with any committees with the law enforcement agencies, especially where FSS/ TISA/ FITA or any other groups are part of.”¹⁰⁴

Direct Links to BAT's London Headquarters

The role of Globe House

The documents suggest key personnel implementing strategy and direction came from London, adding weight to London being a significant controlling mind of something that, up until now, has been seen as a South African scandal.

Senior head office staff helped oversee the South African operations. They traveled to the country to train operatives and, in some instances, recruit informants themselves.¹⁰⁵

According to FSS company emails, one even spearheaded a "recruitment drive."¹⁰⁶

Aside from running their own informants in South Africa, the U.K.-based operatives delivered trainings, consultations and helped professionalize FSS.¹⁰⁷ This team was overseen by senior board-level Globe House-based staff.¹⁰⁸

The documentary evidence suggests Globe House staff recruited and handled sources to target BATSA competitors, including Gold Leaf Tobacco Company (GLTC), Carnilinx and distributor Gwaii Marketing.¹⁰⁹ In at least one case, one senior Globe House executive appears to have signed off on a cash payment as part of the informant scheme. These payments to informants were internally logged as "Special Consultancy Fees."¹¹⁰

Between them, the evidence suggests British-based BAT staff recruited and, for a period, themselves handled at least four SIN informants, who were each placed on monthly retainers.¹¹¹

On one occasion, one Globe House staffer

reportedly recruited an informant to target GLTC, which BAT believed was smuggling. The informant was reported to have had "intimate knowledge of the company [GLTC] and its personnel." As such, he was treated as a valuable asset.

In a separate document, FSS detailed how it intended to establish sources within GLTC's finance department. FSS' operational plan candidly stated its intent to cause a "substantial rift" between distributors, stating this would be "done through means of jealousy or false reports."¹¹²

Far from solely managing work remotely from Globe House, emails and invoices again suggest that the London team was intimately involved on the ground, traveling to South Africa for debriefings with sources who carried out surveillance.^{113, 114 115} In one email, a BAT U.K. operative noted: "Life very busy at the moment with lots of trips away to South Africa but managing to get back at weekends."¹¹⁶ One entry log recorded "UK BAT guests" having attended a "surveillance with client" at a hotel next to Johannesburg's Tambo International Airport in 2013.¹¹⁷ BAT and BATSA staff also apparently debriefed a high-level source at GLTC on at least one of these trips.¹¹⁸

As well as records of cash payments to the informants by the London team, one Head Office staffer was also logged as having himself received a Special Consultancy Fee.¹¹⁹ It is unclear why they were paid the R40,000 in March 2013 (approximately 2,900 GBP at the time), but it appears to have been

made available to them to pay source(s) on the ground during his stay in the country. The receipt for this payment appears to have been co-signed by another Globe House senior employee.¹²⁰

According to the ex-FSS employee-turned-whistleblower Van der Westhuizen, speaking to BBC's Panorama program, broadcast in September 2021: "I've got the evidence, where they drew the money, where the cash- where the cash was handed over, and their signatures co-signing these cash payments."¹²¹

He added: "Some of the BAT members themselves had policemen on the payroll. Some of the BAT personnel and management were actually getting all their information from the police, were getting these police profiles, were getting police clearances, were getting ownership of vehicles."

The SIN network: Controlled (and pressured) by BAT

FSS ran both unregistered and registered informants, who were paid a combination of retainers and rewards. The formal registered network was called the Special Informant Network, or SIN for short. "SIN" agents were assigned a unique number that would be used in place of their real names. Once again, the evidence suggests BAT and BATSA had a controlling influence over the SIN network. The documents outline how BATSA had the final say on whether SINs were recruited, paid, retained and further financially rewarded if the information led to significant

seizures or arrests if the intelligence was passed to law enforcement.¹²²

One document notes that a receipt of a payment to a source would not only be kept by FSS, but also "may be filed at the client's Head Offices."¹²³ While it has been reported that FSS had 171 informants working on the BAT account, FSS spreadsheets list over 200 agents, and multiple documents refer to "unregistered sources," suggesting the scope of the surveillance program reported in the press may have been underestimated.¹²⁴

BAT and BATSA applied pressure for FSS' agents to deliver, the documents suggest. It was a results-driven business. If an informant provided no information, they would not be "rewarded," leading to the accusation that some made up information just to be paid.¹²⁵ In 2013, for example, one FSS official warned that BATSA was looking to cut the retainer payments to certain SINs unless FSS could prove that they were producing sufficient information and had the right "motivation" to be rewarded.¹²⁶ In other correspondence, BATSA asked for the information and "successes" from the SINs.¹²⁷ FSS was conscious it was underdelivering, with one email stressing that the stats "are looking bad" with the need to "increase the interventions."¹²⁸ Another document outlined that no matter the evidence, there would be "a minimum of one intervention" against BATSA's competitors a week.¹²⁹

Even that was not enough, it seems. One document outlines how one BATSA staff member reportedly said at a meeting¹³⁰:

"Can we utilize current network to 'set UP' anyone?" Another stated they wanted their agents to "cause disruptions between distributors by various means which would include extending the truth."¹³¹ What "extending the truth" means in this context is unclear. What is clear, though, is that informants would routinely supply intelligence on the movement of trucks entering and leaving GLTC. In one case in 2013, an FSS agent saw to it that an LEA stopped a truck, only for all the paperwork to be found to be in order and the truck was released.¹³²

In interviews with the BBC Panorama program, BATSA's competitors back up allegations about the stopping of trucks. Adriano Mazzotti from Carnilinx said: "Whenever our trucks were moving they seemed to know when our trucks were moving and, wherever our trucks were going they would, they would turn up with the police with, ah, the taxman, with the investigative arms and, ah, they would then, ah, either impound our stock or confiscate our trucks or, you know, just disrupt our business continuously."

He continued: "We'd never go to court, you know, we would show our documentation, we would be able to justify what we were doing, and everything was returned to us but, if you're a small business it hampers your cash flow dramatically."¹³³

A lawyer for GLTC told BBC's Panorama program that one to three trucks a week would get stopped. He said: "Halfway through the journey, or somewhere along

the journey, the vehicle will get pulled over by police, and the police will now make up all kinds of, er, allegations or suspicions, create suspicions, to say that either the stock is stolen, or it's fake, or it's illegal, or something, something to just basically detain the stock." He said they knew where the truck was by trackers placed "underneath the chassis of the truck."¹³⁴ Indeed, one document from FSS noted: "SARS not interested in the GLTC brand as according to them it is legal," and: "Customs officials hesitant to share information for fear of losing there [SIC] employment."¹³⁵

Despite this, persistent disruption of local competitor supply lines appears to have been the modus operandi of FSS and BATSA.¹³⁶ It was not uncommon for trucks to be stopped by LEA based on FSS intelligence and for product to be detained, only for cargo to be seemingly released once the appropriate paperwork was produced.¹³⁷ Delays to the transport of tobacco consignments were costly, especially in the sweltering South African heat which could rapidly deteriorate cut rag—processed tobacco for cigarette production.

In a separate 2015 case, one seemingly exasperated Lieutenant Colonel told FSS that the Directorate for Priority Crime Investigation, which was responsible for the combating, investigation and prevention of national priority crimes in South Africa, could not afford to "waist [sic] time and effort on fruitless cases," and that a truck of interest to FSS would "have to be released as they have no mandate to arrest."¹³⁸

Direct Links to BAT's London Headquarters

But the truck stops across South Africa appeared to continue unabated. As a result, stockists and customers would reportedly switch to what they deemed more reliable brands. Speaking about the disruption, Mazzotti told the BBC, “Your customers especially in the formal market don’t want the headache of the police turning up at their stores every day.”¹³⁹

In the book *Dirty Tobacco: Spies, Lies and Mega-Profits*, ex-SARS official Telita Snyckers noted: “For all this effort, one would imagine that between BAT and FSS they would have had some astonishing successes pinning criminal charges on their competitors. They didn’t—and that was apparently not the goal anyway. The goal seems to have been simply to disrupt them, to taint them.” Snyckers pointed out that in the first half of 2014, it seemed “that between TISA and FSS, they had lodged one hundred and ten criminal cases against the smaller independent companies... And you know what?” she added, “I couldn’t find one mention of a conviction. Not one.”¹⁴⁰

Surveillance gear and training also came from the U.K.

The links to the U.K. do not end at BAT’s Globe House, but lead to two other British companies as well: Essex-based Hidden Technology Systems International (Hiddentec) provided tracking beacons to BAT/FSS,¹⁴¹ and Security Services International (SSI) provided surveillance and security training in South Africa.¹⁴² Meetings with these companies happened at Globe

House in London as well as in South Africa. There is no indication that the companies did anything other than provide vehicle tracking equipment and consultancy to BAT and FSS. Both companies declined to comment when asked about these services.

Working through BAT’s London headquarters, Hiddentec provided vehicle tracking beacons—similar to those long-used by private detectives and law enforcement—which FSS covertly attached to vehicles of local BAT competitors.¹⁴³ Hiddentec is listed as a U.K. Trade and Industry Defence and Security Organisation,¹⁴⁴ which “works with industry and overseas governments to ensure U.K. equipment, products and services are promoted in the best possible way.”¹⁴⁵

BAT U.K. oversaw some of the provision of services and equipment by Hiddentec, while BATSA was involved in processing the payments. One Hiddentec invoice to FSS was forwarded and copied to BATSA personnel.¹⁴⁶ ¹⁴⁷ A number of tracking beacon units and services supplied by Hiddentec were also apparently financed by BAT through an intermediary company.¹⁴⁸

The tracking beacons were a mainstay of FSS’ operations; they allowed BATSA to potentially track the movements of its competitors and track smuggled tobacco across Southern Africa as part of its day-to-day business. The trackers could be viewed remotely through live monitoring links.¹⁴⁹

Direct Links to BAT's London Headquarters

Records show that Hiddentec met senior executives from FSS along with other BAT personnel and service providers at a meeting at BAT headquarters in late 2011. Having been shown some of the tracking devices and its software, one senior FSS executive told Hiddentec in an email: "You are definitely providing solutions to some of our challenges."¹⁵⁰

It's easy to see why BAT and FSS were interested. One Hiddentec brochure outlined how this system, if kept on a thumb drive "...can be run from any public computer and once used and the thumb drive removed, there is NO FOOTPRINT WHATSOEVER left on the computer." The correspondence noted: "The cardboard trackers (9 in total) and 1 x Mag unit are from BAT London's office." A senior BAT U.K. staffer was copied on the correspondence.¹⁵¹

That month, Hiddentec also provided a link for monitoring tracking units in an email with the subject header, "BAT webtrack."¹⁵² This gave the website and password for FSS or BAT personnel to live-track the surveillance units remotely. Later that year, in November 2012, Hiddentec arranged a training for FSS in South Africa and the delivery of military-grade tracking equipment to coincide with a visit by a BAT employee to the country.¹⁵³

Not everything worked as predicted, though. The tracking devices were beset by teething problems.¹⁵⁴ For example, the tracking beacons switched off if a vehicle crossed from South Africa into Zimbabwe.¹⁵⁵ That did not stop BAT and FSS from wanting to

use the technology further afield, though. In 2012, FSS enquired whether Hiddentec's surveillance kit had capacity to operate in Mozambique, Swaziland, Botswana, Namibia, Angola and Zambia—suggesting BAT's surveillance network was considering expanding internationally.¹⁵⁶ To try to resolve the ongoing issues with Zimbabwe, in early 2013, Hiddentec arranged a visit to South Africa to deal with the "beacon problems."¹⁵⁷

Training, consultation and equipment purchases occurred more than once. In Spring 2013, Hiddentec personnel were in South Africa, this time to hand-deliver repaired vehicle trackers and conduct software training as part of "on-going customer support to FSS."¹⁵⁸ Later that same year, FSS once again received more vehicle tracking units and training courtesy of Hiddentec after receiving verbal approval from BATSA.¹⁵⁹

Among the hundreds of vehicle beacon tracker deployments, the story of one would cause problems for FSS. In a sworn affidavit, Van der Wesithuizen alleged it was "normal" for FSS to place vehicle trackers on the trucks belonging to BAT's competitors. In June 2012, a tracking device was found by Carnilinx, who reportedly consulted a private investigator to determine the surveillance device's origins. By analyzing the SIM card, Carnilinx was able to trace it back to not only FSS, but the SIM card had apparently been used by the SAPS Crime Intelligence Division.¹⁶⁰ The SAPS have since denied their involvement. In a 2015 affidavit, Lieutenant-Colonel Hennie Niemann from SAPS and a

Direct Links to BAT's London Headquarters

member of the Illicit Tobacco Task Team, rebutted claims by FSS that he had permitted the placing of the tracking unit on the Carnilinx vehicle. Neimann instead accused FSS of acting unilaterally and “unlawfully.”¹⁶¹

Hidentec was not the only British security company dealing with FSS. A surveillance and counter-surveillance training schedule was undertaken by SSI, a Hereford, U.K.-based company that provided “individually tailored protection packages to a high-end global clientele.”¹⁶²

The documents show that BAT HQ staff were also scheduled to attend the training, which was held in the “war room” at one of FSS’ offices in November 2012. Each man was equipped with covert cameras and over the three-day training, the British security contractors, apparently together with BAT U.K. employees, conducted surveillance simulations and exercises with FSS. The agents were trained in the use of vehicle trackers, night vision equipment and covert operations.¹⁶³ BATSA was copied in on the correspondence.¹⁶⁴

A year later, FSS planned a trip to BAT HQ in London to meet both Hidentec and SSI personnel. Despite the solemn and serious nature of their business together, the documents reveal the casual relationship between FSS, BAT, SSI and Hidentec, including drinks, food and a golf trip, including the night out at the Ship and Shovell.¹⁶⁵ Serious work was also undertaken on the trip. One Globe House operative emailed FSS to say that to make

the trip “more official,” a “company designing beacon/tracking devices will attend” and that it would be useful to get feedback as FSS was probably the only service provider utilizing the technology “full time.”¹⁶⁶ In another email, one FSS executive said he needed to collect “some toys” from Hidentec.¹⁶⁷

Another point of interest regarding the London trip, is that joining the FSS agents in London was a serving SAPS officer, who was deeply embedded in assisting BATSA operations. The officer appeared in numerous weekly updates, including meeting SINS as well as working with FSS on operations, including as a project leader.¹⁶⁸ The SAPS officer also attended business meetings at BAT’s Globe House.¹⁶⁹

They also joined the others for a day of golf and traveled to Wales to watch rugby along with BAT’s staff as well as those from Hidentec and SSI.¹⁷⁰ South Africa beat the home side in Cardiff, much to the delight of the traveling South Africans who had discussed buying matching Springbok jackets for the trip.¹⁷¹ Ahead of the visit, email communications with the officer were to his personal email, not to a SAPS email address, casting some doubt on whether this was an authorized SAPS business trip.¹⁷² The officer was also wined and dined along with other LEA officers by FSS to show its “gratitude for their support” when back in South Africa.¹⁷³

The Cover-ups:

**BAT Tried to Distort its Links to the
Informant Networks**

The documents suggest BAT was trying to cover its tracks and distort any ties that could link it to the networks it ran. In addition to using informants' SIN numbers instead of their names, BAT, BATSA and FSS were trying to cover their tracks in other ways.¹⁷⁴

The Travelex cards and the “triple agent”



When one of the BAT U.K. employees spoke at a security conference on fighting cross-border crime, one of the discussions was how organized crime used payment cards as a way to launder money.¹⁷⁵ Ironically this is exactly what BAT itself has been accused of doing by its critics. The evidence suggests BAT was using a complex covert Travelex system to pay high-end individuals, such as lawyers.¹⁷⁶ The Travelex cards were topped up by BAT U.K. staff at London's Heathrow Airport, with cash withdrawn by BAT's agents in their host countries. According to seasoned ex-SARS investigator Johann van Loggerenberg, who was at SARS from November 1998 until he resigned in February of 2015, the cards were accounted for in the BAT U.K. expense accounts, but made to “look like expense in the production of income and deducted for tax purposes,”

whereas it “should have been either payroll or gifts.”¹⁷⁷

There are further reports that BAT's Travelex network of informants even stretched beyond South Africa into South America and indeed across the globe.¹⁷⁸ And it seems to have gone to lengths to keep the cash payment system out of the public eye.¹⁷⁹

This is maybe why a communication from SARS to the British authorities regarding the Travelex payments seems to have set off alarm bells at Globe House. SARS had identified eight individuals working with BAT in South Africa who had received Travelex payments, and suggested that BAT's senior staff might be aware. The SARS letter outlined how “at face value, the transactions fall within the statutory definition of anti-money laundering legislation in the Republic of South Africa.”¹⁸⁰

Agent 5332

One such person paid by BAT U.K. directly was a so-called triple agent.¹⁸¹ Their primary job was as a lawyer working for the small tobacco companies, including heading up FITA, the Fair Trade Independent Tobacco Association, which represents small tobacco companies in South Africa. But they had also covertly been working as an agent for the South Africa State Security Agency (SSA) since 2010.¹⁸² The agent was subsequently recruited by BAT to help garner information on BAT's competitors, including Carnilinx and Tribert Ayabatwa, one of BAT's main competitors on the continent.¹⁸³ In his 2019

book, *Tobacco Wars: Inside the spy games and dirty tricks of southern Africa's cigarette trade*, Van Loggerenberg recalls how the agent “made a startling confession” to him. They told Van Loggerenberg they were an agent “codenamed 5332, for the Illicit Tobacco Task Team.”¹⁸⁴

After meetings between the agent and senior BAT U.K. staff from Globe House, both in London and South Africa, the secret operative was back in London and worked as an agent for BAT for the whole of 2013¹⁸⁵ providing “insider information” to both BAT and the Illicit Tobacco Task Team, wrote Van Loggerenberg.¹⁸⁶ It was agreed that BAT would pay the agent £36,000 per year.¹⁸⁷

What happened after this between the agent, BAT and SARS is a complicated, convoluted story, with the agent stating differing accounts of what happened in separate affidavits and to different media.¹⁸⁸ The relationship between BAT and the agent broke down at the end of 2013, with it getting increasingly acrimonious in the early months of 2014.¹⁸⁹ BAT maintained that the Travelex payments were legal due to the fact that the information was passed to the authorities in a timely manner. And a telephone recording between a senior Globe House operative and the agent in January 2014 shows that if the Travelex network became public, it could cause problems for BAT.¹⁹⁰

The recording appears to show the BAT Globe House staff member telling the agent not to share any names or details of the payments to SARS when they met them.

He told the agent: “I would not volunteer tomorrow. You know, unless you are legally forced to, where the sources come from,” reassuring them: “There is no record of who that goes to.”¹⁹¹ The day after their SARS meeting, the agent messaged the BAT operative on WhatsApp, saying that SARS “know about the payments.” Agent 5332 demanded “secrecy protection before this gets out of hand or goes public.” They added, “I think we both know that this would be detrimental to me and probably worse for BAT.”¹⁹²

The following day, the agent alleged that the BAT U.K. staff member had “raised serious concerns for me when he referred to the U.K. Bribery Act. I have had the opportunity to review the U.K. legislation and have an appreciation for his concerns that BAT U.K. may have conducted itself in ways which would contravene this legislation.” The agent added, “In my view something untoward is afoot.”¹⁹³

Events escalated between the agent and BAT. In a letter to the agent, a senior BAT Globe House executive confirmed that the agent “did provide a service to the BAT Group” from “January to November 2013,” but argued the relationship between both parties had been “legal and proper throughout,” which had been “guided” by senior lawyers within the BAT Group who had been “kept abreast of such matters.” BAT said it was incumbent on the agent to pay the tax from the Travelex payments in South Africa. BAT U.K. created a payment schedule outlining the monies to be paid to the agent as

£30,500 during 2013.¹⁹⁴

In May 2014, attorneys wrote to BAT U.K. on the agent's behalf, outlining that BAT had required information from the agent for the "purposes of industrial espionage, alternatively to unlawfully compete with its competitors in the tobacco and cigarette industries." The letter added it "was illegal and unlawful for BAT to pay" the agent "by issuing Travelex cards." The letter demanded £5 million from BAT in compensation, for the agent suffering damage due to their relationship with BAT, including "being made party to serious illegal and unlawful activities."¹⁹⁵

The agent's demand was withdrawn a month later, claiming they had been subject to "coercion, manipulation, threats and intimidation" and apologized to BAT.¹⁹⁶ In his book, Van Loggerenberg wrote that the agent had reportedly cut a deal with some of the South African regulatory agencies represented on the Illicit Tobacco Task Team that the agent "was to withdraw [their] legal demand from BAT and [their] threatened demand against the State Security Agency, for which, in turn, they promised not to prosecute [them] for the offences [they] had committed."¹⁹⁷

The saga is further complicated by the fact that the agent had a brief relationship with a SARS official, which would become public knowledge in 2014, setting in motion a series of events that would lead to the disbandment of Van Loggerenberg's division at SARS.¹⁹⁸ This was perpetuated in the South African

media with the false narrative played out by the agent and others that the SARS official had been running a so-called "Rogue Unit," that itself had acted unlawfully. It would take years for this narrative to be debunked.¹⁹⁹ Meanwhile, the agent has essentially vanished and is refusing media interviews,²⁰⁰ leaving many questions unanswered. Agent 5332 declined to comment when approached for this report.

The shell company: Vixen

In addition to using the Travelex payment system, BATSA and FSS apparently used a shell company to conceal payments for surveillance and informants. One shell company was intriguingly named Vixen & Associates. According to the South African Companies and Intellectual Property Commission, the company, which was registered as Fox Golf Tours, is catalogued as a "community, social and personal" service provider. In reality, this company served a different purpose.

Vixen's sole director was the wife of an FSS manager and the company's address was the same as FSS.²⁰¹ Ex-FSS whistleblower Van der Westhuizen said that Vixen was a special purpose vehicle used by FSS and BAT to obfuscate payments to informants and some surveillance jobs. In one administrative slip-up, one BATSA staff member was sent invoices to approve two covert camera surveillance operations,²⁰² only for an FSS manager to subsequently request that staff instead address the invoices to Vixen.²⁰³ While discussing the cost of the covert

camera jobs, the surveillance contractor wrote to FSS that “as a rule for all BAT related installations, our costs for the past 14 years are still the same.”²⁰⁴

BAT appears to have financed the installation of covert cameras for well over a decade through this one local contractor alone. The documents also outline how Vixen was also involved in paying the SINs. In 2012, BATSA authorized a payment of R70,000 to an informant.²⁰⁵ The “special consultancy fee” was routed through Vixen and another company.²⁰⁶ And in an additional case of circular payments involving informants, Vixen invoiced FSS for a monthly retainer of R25,000 for allegedly one of the most valuable sources on FSS’ payroll, codenamed SIN124,²⁰⁷ who was allegedly providing insider information at the very highest levels of BAT’s local competitor.²⁰⁸

Whistleblower Van der Westhuizen alleged that SIN124 was one of two high-profile informants recruited by senior BAT U.K. operatives. The source has denied they were ever an informant or ever received payments from FSS, but the leaked documents suggest otherwise.²⁰⁹

Crossing the legal line

The activities in South Africa appear to have broken the law. Speaking to the BBC’s Panorama program, broadcast in September 2021, Avani Singh, a lawyer with PowerSingh, a public interest law firm based in Johannesburg, said of BAT’s activities: “It’s really unacceptable because of the large multinational status that some companies

enjoy, and feeling like they can be immune from any kind of prosecution.”²¹⁰

In South Africa, the interception of communications is governed by what is known as RICA, or the Regulation of Interception of Communications and Provision of Communication-Related Information Act. So if BAT or FSS had been intercepting their competitors’ communications, this could be problematic under RICA. According to Singh, “only the specifically-defined agencies may apply for an interception direction to undertake a surveillance activity.”²¹¹

And if communications had been intercepted without someone’s consent or in an illegal way, there could be problems with inadmissibility in court. Singh explains: “If it’s intercepted in a manner that does not comply with RICA, it may be excluded. The court enquiring into this will have to ask two questions: (i) would the admission of the evidence render the trial unfair; or (ii) would the admission of the evidence otherwise be detrimental to the administration of justice. If the answer to either question is yes, then the evidence must be excluded.”

Finally, if BAT or FSS had been paying informants working for their competitors this could potentially violate Section 10 of the Prevention and Combating of Corrupt Activities Act 12 of 2004, known as POCA. According to Singh: While it will depend on the facts of a particular case, the short answer is yes, “paying people working for others may violate POCA.”

In Too Deep:

Dangerous Operations Caused an

Agent to Blow the Whistle on BAT

Not only was BAT trying to undermine local cigarette manufacturers, the documents suggest that informants from FSS were also tasked as part of BAT-financed operations to penetrate organized crime groups, including Pakistani, Mozambiquan and Zimbabwean syndicates who they suspected of being involved in smuggling into South Africa.

Evidence suggests that FSS' employees and agents were scared that their lives were needlessly being put at risk in these operations because it was unclear how this was helping stop the illicit trade and because they may have believed that they had official backup if something went wrong, which was not the case.²¹²

In his interview with BBC's Panorama program, which aired in September 2021, FSS whistleblower Van der Westhuizen described getting "illegal sources on board" including from the South African "mafia." The whistleblower alleged that one sensitive source was a notorious crime boss. "He's an underworld figure that ran the South African police system at this stage," adding, "I was dealing with him on behalf of BAT. I had to debrief him to get intelligence from him."

This type of intelligence work, which involved getting "right in the deep with the underworld," made Van der Westhuizen, a man who was used to operating in a world of violence, "very nervous" and ultimately led to him wanting to leave FSS. He described the connection to the underworld boss and similar encounters as making him "stop everything and come to a halt and become a whistleblower."²¹³

The documents outline how FSS also infiltrated the Triads, a Chinese transnational organized crime syndicate, with at least two informants, because they were allegedly involved in cigarette smuggling into South Africa. One source helped identify illegal tobacco processing plants operated by the Triad crime syndicate. In another report from 2014, an FSS log records grave safety concerns for a source: "The agent is very scared of the Chinese Triad members involved in the syndicate ... They in his presence indicated their intentions of silencing witnesses by slicing off the ear of one of the members who did not adhere to instructions two weeks ago. Progress will be updated as soon as the agent is located."²¹⁴

FSS seemingly had had no qualms working with tobacco smugglers and criminals, so long as their intelligence led to seizures of illicit stock with the consequent disruption of competitors. In one example, FSS paid a reward to one informant who operated "with syndicates" for a tip-off which led to the seizure of "non-compliant" Pacific cigarettes, a Savanna Tobacco label in 2013.²¹⁵

The "illicit trade" definition the operatives used was that cigarettes were "non-compliant" if they violated the Tobacco Products Control Act, No. 83 of 1993.²¹⁶ There are countless examples of similar instances. In the northern borders, a former tobacco smuggler with close links to the "Zimbabwe and Mozambique syndicates" was also recruited. FSS set out in its "Reward Evaluation" sheet, which classified the value of informants and determined their

paygrades based on their intelligence value and exposure to risk, that the source “could easily go back to smuggling.”²¹⁷

In one case, an informant handled by Van der Westhuizen needed “cash to entertain the syndicate,” which was duly supplied.²¹⁸ This cash appears to have enabled him to lease a property to temporarily house an illicit cigarette production machine for a Pakistani syndicate. BATSA in South Africa was meanwhile sent a progress report to review the operation.²¹⁹

Lives and families were “at risk”

Informants were routinely exposed to serious risk and few, if any, measures were applied by FSS or BAT/SA to protect these individuals from harm, according to Van der Westhuizen. The whistleblower alleges that some informants believed they were working for law enforcement, not a private company—given the extent of links between BAT, FSS and South Africa’s law enforcement authorities. And those who consequently expected state protection received none.²²⁰

In 2013, in a routine operation, an unregistered source working undercover as a farm laborer provided intelligence that led to the seizure of a consignment of cigarettes to be smuggled on foot by mules from Zimbabwe to South Africa.²²¹ He was “paid R2000 cash in private funds” (or approximately 150 GBP at the time) for the intelligence. But it came at a personal cost. He and his family had to relocate to a “safer location” in another town. FSS later

recorded that the informant had “put his life and families (sic) life in danger to supply the information at the time of the intervention.”²²²

Danger in the informant program was certainly not uncommon. There are numerous references in the leaked documents to informants even receiving “death threats”²²³ and being placed in “great danger.”^{224, 225}

In 2012 in Durban, an ex-truck driver of illicit tobacco for a crime syndicate was convinced by FSS to re-enter the gang to supply intelligence. FSS staff again accepted that he placed his own life in danger “and that of his immediate family in assisting the investigating officer.”²²⁶

This Durban trucker had previously worked as a South African Police informant. Again, this was not unprecedented. LEA and FSS worked hand-in-hand and had a history of sharing their own informants. This relationship appeared more akin to that of two law enforcement bodies sharing assets rather than a private firm contracted by BAT, being gifted access to informants by state agencies.

Whereas on the surface, the fact that BAT was working to stamp out smuggling even by Triad gangs could be seen as laudable, the tobacco company itself has long been accused of facilitating smuggling itself.²²⁷ A separate briefing paper explores how the company’s complicity in smuggling could be continuing.

Conclusion

Conclusion

The surveillance and informant operations described in this report were allegedly overseen and run by senior operatives in Globe House. Espionage activity overseen by London bolstered the market dominance of BATSA to the benefit of the British-headquartered multinational, under the mantle of tackling tobacco smuggling. This is as much a London scandal as a South African one.

By maintaining market dominance using any means necessary, including potentially illegal activities, it appears that BAT would do anything to maintain its market monopoly in South Africa. This of course impacts the health and well-being of smokers in the country, who remain addicted to its products. BAT abuses that power, as this report outlines, but its egregious behavior goes further. The company has serious questions to answer about tobacco smuggling, as well as tax evasion.

Although BAT was under investigation by the U.K. SFO, key witnesses claim the SFO inexplicably didn't interview them.²²⁸ More investigation is needed regarding BAT's complicity in smuggling in South Africa and the wider region, an issue which the SFO was said to be interested in,²²⁹ but has not yet taken action on.

Given the serious issues outlined in this report and related outputs by the Tobacco Control Research Group (TCRG) at the University of Bath and other partners, there is a case for the company to be investigated by numerous authorities.

All the evidence suggests that BAT's modus operandi in Southern Africa was not a one-off, but rather an indication of how the company operated globally. Regulators in other countries may therefore wish to explore whether similar models are in use by other BAT subsidiaries across the globe to maintain BAT's monopolistic control, ultimately causing harm to public health worldwide.

The company has serious questions to answer about tobacco smuggling, as well as tax evasion.

Conclusion

There are also many unanswered questions. The informant network itself was allegedly not confined to Africa, with evidence suggesting it was operating in South America, as well. If BAT had a global informant network of people paid with Travelex cards topped up with cash at Heathrow, which other countries did it operate in? Given the evidence outlined in this report, as well as by partners at BBC Panorama, the Bureau of Investigative Journalism as well as the Organized Crime and Corruption Reporting Project, the SFO might want to review any new evidence.

BAT denies any wrongdoing. The company is still under investigation by the U.S. Department of Justice and the Office of Foreign Assets Control for sanctions busting. It remains under investigation for potential bribery in other unknown jurisdictions, as well.²³⁰ Based on the evidence analyzed for this report, and the presence of these on-going investigations, STOP is also calling for:

- Governments worldwide to investigate BAT's anti-competitive practices;
- Governments worldwide to investigate BAT's global informant networks; and
- International agencies, governments and regulators worldwide to reject any kind of partnership with BAT.

By maintaining market dominance using any means necessary, including potentially illegal activities, it appears that BAT would do anything to maintain its market monopoly in South Africa.

Appendices

The Surveillance Gear: A Guide to BAT “Toys”

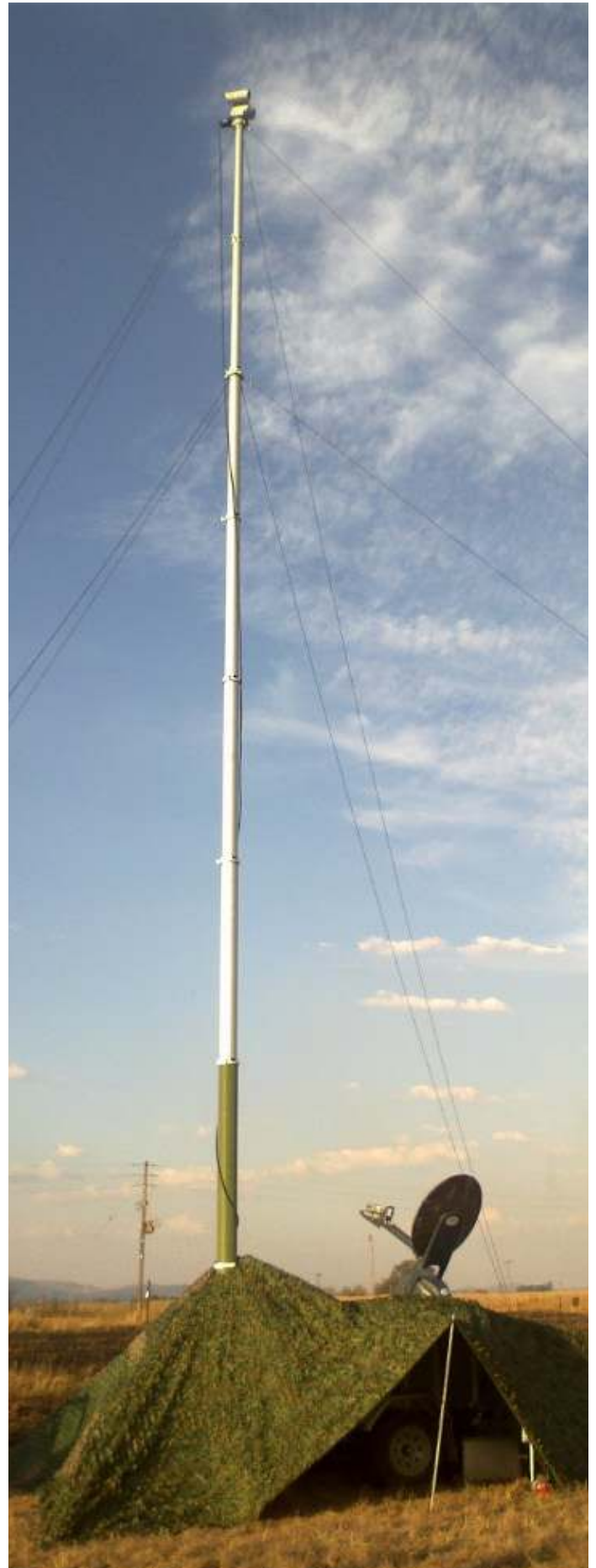
Trackers from Hiddentec were not the only surveillance equipment FSS used in the country:

Black Widow Surveillance Trailer

The Desert Wolf company’s Black Widow was an off-road surveillance trailer operated by FSS for BAT.²³¹ The self-sustaining unit came equipped with a telescopic mast, high-powered thermal day and night cameras and a satellite dish for real-time surveillance monitoring anywhere in the world. It was deployed in Zimbabwe and South Africa in the Limpopo border region skirting southern Zimbabwe. The Black Widow was used by FSS at known crossing points by smugglers, at times in partnership with law enforcement agencies.²³² Around the same time in 2014, Desert Wolf was criticized by the International Trade Union Confederation after selling the “riot control copter”—drones that fire pepper spray bullets—to a mining company.²³³

License Plate Recognition

FSS’ surveillance units came equipped with License Plate Recognition capabilities—the type of technology typically used by customs and other law enforcement.²³⁴ Together with thermal imaging surveillance, the firm operated powerful covert cameras to monitor the license plates of vehicles of



(Right) Picture: the Black Widow system

Appendices

competitors and smugglers alike and to aid FSS operations.²³⁵

Drones

FSS also appears to have had an “Aerial Surveillance Unit”—drones which conducted surveillance at high altitudes in remote areas, including in the Northern Limpopo border region.²³⁶ Agents were trained in drone operations, and in one email chain discussing said training, one BATSA staff member was copied using their personal FSS email address.²³⁷ These unmanned aerial vehicles [UAVs] may have provided FSS with considerable surveillance capabilities to monitor tobacco smuggling and crossing points into South Africa.²³⁸

Cell Phone Bugging and a Surveillance Wish List

One FSS document, entitled “Intelligence Gathering with aid of cellphone spyware,” details how the service provider considered the purchase of such equipment. A report prepared by the firm’s surveillance specialist stated: “Most people see cell phones as a device to easily communicate with colleagues and friends, we should see it as an opportunity to gather invaluable intelligence.”²³⁹

The specialist listed the surveillance functions of the technology, including: eavesdropping on phone calls, viewing pictures and videos, geolocating handsets, accessing WhatsApp and activating the phone microphone remotely. Once installed

on a mobile device, the application would be hidden on the phone and from the owner. It would then connect to a web server giving complete access to the phone and functions.²⁴⁰

Whether or not FSS purchased and/or used the equipment, its agent emphatically supported its purchase, advising: “Personally I think an application such as this can be a great aid to our investigations, and be an invaluable tool from intel gathering to damage control.”²⁴¹

Separately, another surveillance tool which was proposed for purchase was a Covert Caddy Surveillance Unit, a discrete vehicle with high-powered cameras which, it was written, “appears too small to be a surveillance unit and would not arouse as much suspicions if static on a street for prolonged periods.”²⁴² Similarly, the FSS technology specialist recommended the purchase of a “delivery motorcycle surveillance unit” with a remote-controlled covert camera fitted in the delivery box on the back of the motorcycle.²⁴³

In His Own Words: The South African Regulator

Johann van Loggerenberg was employed by the South African Revenue Service (SARS) from November 1998 until February 2015, when he resigned. He spent years investigating the activities of BAT and other tobacco industry players in South Africa.

On Agent 5332

The agent “disclosed to me that [they] worked as a spy for a multi-national tobacco manufacturer, British American Tobacco. [They] led me to believe that this was legitimate and approved by the SSA [South Africa State Security Agency] and was in fact done in conjunction with them. As [they are] a lawyer, I did not have any reason to doubt [their] judgment as to the legality of this.”²⁴⁴

“On 23 May 2014,” the agent “through [their] attorneys, addressed British American Tobacco plc demanding payment of GBP 5 million. The same demand indicated [their] intentions to bring legal action against the SSA. The essence of [their] demands was that both parties had used [them] under false pretences to conduct unlawful spying in conjunction with each other.”²⁴⁵

On Travelex

On paying Travelex spies: “Of course, it wasn’t lawful. BAT plc knew it, BATSA knew it, TISA knew it.”²⁴⁶

“We found that these people were being paid off the books, so to speak. This meant that none of the spies declared their income they earned in this manner and neither did the companies that paid them. This alone amounted to money laundering and tax evasion... We warned the tobacco industry in April 2014, that these activities contravened certain laws.”²⁴⁷

In 2015, “it became public knowledge that SARS had put through a request to HMRC in the U.K., it referred to the Travelex spies, ‘their peculiar relationship with BAT’ and their ‘concealed transactions’.. In the correspondence between the two agencies, ‘possible offences’ identified included tax evasion, PAYE tax evasion by BAT plc and money laundering.”²⁴⁸

On BAT

BATSA was well aware of the contingent of over 170 SIN informants and even sought direct feedback about their activities from FSS.²⁴⁹ On what should happen now: “In my view, the behemoths need to be held to a much higher standard than the smaller competitors. They have different scales of available resources, their nature and operations are larger and the oversights and controls that guide their business are also different... On the whole there has been no real recognition on their part of their culpability.”²⁵⁰

In His Own Words: The FSS Whistleblower

FSS whistleblower Francois van der Westhuizen was interviewed by the BBC for a Panorama program which aired in September 2021. Below are key excerpts from the interview which has been shared with consent by the BBC and the whistleblower.

On the crossover between the Apartheid Police force and FSS:

“In the beginning I thought I was back in the police force, I was back in the Apartheid police force, because everything operated the same way, there was no difference... The people that were employed by FSS, or BAT for that matter, were all ex-Apartheid police, military police, and South African Police Force people... So it was just the Old Guard continuing.”

On operating under no rules

“Most of our operations were not within the law. We were actually not the law; we were not worried about the law. Most of these operations were without the law. Well, we could do anything, we could just go on like we did in Apartheid police. It was the same system. The same policemen involved, 100%, so we just carried on where we left off... We did unorthodox methods, you know... There were no rules, you're right... We became part of that world of criminality. And we went down to their level. That was the problem.”

On BAT's involvement in espionage

“I even got the instructions from BAT personally—personal instructions were given to me to do these kind of things. Industrial espionage? Yes.

I can say every time—most of the time I met with, uh, law enforcement there were bribery and corruption involved. Most of the time I met with sources placed within there I had to pay them out of money given to BAT, given to all these sub-companies, out of my bank account and pay these people.”

On the scope of the operation

“I think officially there were over 240 registered. All of them are illegal. In fact, m- all of them have not even been declared to the revenue services of South Africa.”

On putting live at risk

When asked whether BAT knew that their money was being given to people whose lives would be put at risk because of what they were being asked to do, Van der Westhuizen replied: “Absolutely they knew. Absolutely. They knew all the risk. I mean, they came and trained us in how to get rid of the problem, how to get rid of the threat. So how did you not know? How can BAT turn around and say, ‘But we never knew?’”

On the use of vehicle trackers

“We’re talking about 70 to 80 trackers we had... No, no, it was common knowledge that it was illegal, you were trained on how to do it in a way that nobody would find it. If-, not even the police would find it.”

On breaking and entering

“Our people broke into people’s premises two o’clock in the morning like a thief in the night to place these items.”

On the use of the Johannesburg Metro Police Department’s CCTV for surveillance

“The JMPD, Johannesburg Metro Police Department, where there were about 600 cameras surveilling Johannesburg city, we had a boardroom in that, uh, JMPD’s, um, surveillance officers, we had a boardroom, uh, given to us for 24-hour surveillance on any subject we would like.”

On the involvement with organized crime

“Well, I actually became one of the mafia members myself at the end of the day, as a result of BAT. I was even tasked by BAT—and I’m saying this on-, on-, on record—I was tasked by BAT to get involved with the underworld in South Africa.

My immediate thought at first was ‘How am I going to get out of it- out of this alive eventually?’ Because it all looked like we were going into a funnel. And that funnel was

getting smaller and smaller.”

On being worried for his life

“I was very worried for my life. I was very worried for my family’s life... I became very nervous, because the circles we were moving in was not good, not good at all, and the more pressure got onto us over a systematic time or period to get intelligence-driven and get involved right in the deep with the underworld. That is what got me. The underworld as such, I had to go more and more debriefings and get involved with the underworld as far as gun, um, obtaining illegal firearms and, uh, distributing these firearms in the community.”

On the location and scope of the informant network ring

“Remember, we weren’t only doing it in South Africa. This intelligence was also driven in Zimbabwe, in Mozambique, in Botswana.”

On BAT’s direct involvement in the informant network ring

BAT was “directly involved for all this industrial espionage. They are the cause of it. They are the founding backers of it. Financially you would not have done nothing if it wasn’t for BAT paying us to pay the sources, paying the sources themselves.”

BAT “Absolutely, 100%, they knew it. They knew that we were all behaving like a criminal gang. Yes, they were, absolutely

Appendices

happy with that... These projects that were registered were registered and initiated by BAT in Britain, not South Africa. They- they stipulated how it should run. So I can testify to the effect, yes, they handled these sources, they paid them themselves, they were fully aware, and they are from BAT U.K....”

On the purpose of the operations

“The purpose was to eliminate their opposition.”

On BAT’s use of shell companies

“[BAT] set up, um, false companies. We would go and get sources within these companies in their production, manufacturing and distribution, all these sources would then report back to us. You must know, they were on a monthly payroll. So BAT knew about all this. Oh yes. They- they actually-, they- they established how it would run.”

On the fate of BAT

“I think they should be brought before court and face the court, and I don’t think the court should be in South Africa, I think it should be done in the U.K., or in America where their-, most of their investments are.”

“Absolutely, 100%,

they knew it.

They knew that we

were all behaving

like a criminal gang.

Yes, they were,

absolutely happy

with that...”

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