

**Court File No. CV-19-616077-00CL**

**Imperial Tobacco Canada Limited and  
Imperial Tobacco Company Limited**

**EIGHTH REPORT OF THE MONITOR**

**September 22, 2020**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO  
COMPANY LIMITED

**EIGHTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**A. GENERAL**

1. In this Report, unless otherwise defined, all capitalized terms shall have the respective meanings specified in the glossary attached to this Report as Appendix "A". The first instance of each capitalized term, if defined in the glossary, is hyperlinked to the glossary.

**B. INTRODUCTION**

2. The principal purpose of these CCAA Proceedings, and the related Chapter 15 Proceedings, is to restructure and compromise Imperial's liabilities, specifically the liabilities arising from the Tobacco Claims, including the Quebec Appeal Judgment.
3. The Initial Order in these CCAA Proceedings was issued by this Court on March 12, 2019, as amended and restated as of April 5, 2019, further amended and restated as of April 25, 2019, and updated by written endorsement on March 6, 2020.

4. A list of the orders issued by this Court and the US Bankruptcy Court in these CCAA Proceedings can be found in Appendix “B” to this Report.

**C. BACKGROUND**

5. Imperial is the largest distributor of Tobacco Products in Canada and operates two businesses: tobacco and logistics. The tobacco business includes the marketing and sale of Tobacco Products as well as Vapour Products. The logistics business distributes Tobacco Products and Vapour Products for tobacco manufacturers, as well as certain non-tobacco products and services.
6. Imperial is highly integrated with BAT and its affiliates. Imperial benefits from a wide range of services, licences and rights provided by certain of BAT’s affiliates. These services and functions have been and continue to be vital for preserving Imperial’s business and value.
7. Further information regarding these CCAA Proceedings and Imperial’s background is provided in the previous Monitor’s Reports.
8. All Court materials filed and orders issued in these CCAA Proceedings are available on the Monitor’s website at:  
<http://cfcanada.fticonsulting.com/imperialtobacco>.

**D. TERMS OF REFERENCE AND DISCLAIMER**

9. In preparing this Report, the Monitor has relied upon certain financial information and forecasts prepared by Imperial, and discussions and correspondence with, among others, the senior management and advisors to Imperial. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of this information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this Report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this Report is based on Imperial’s management’s assumptions regarding

future events; actual results may vary from the forecast and such variations may be material.

10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
11. This Report should be read in conjunction with the September Thauvette Affidavit which can be found here.

**E. PURPOSE OF THIS REPORT**

12. The purpose of this Report is to provide this Court with information regarding:
  - i. an update on the Court proceedings;
  - ii. an update on the Mediation;
  - iii. the impact of the COVID-19 Pandemic on Imperial's business;
  - iv. Imperial's business activities, industry developments and trends impacting Imperial's business;
  - v. Imperial's budget to actual cash flow results for the 31-week period ending September 6, 2020;
  - vi. the Cash Flow Forecast for the 30-week period commencing the week of September 7, 2020 through the week of March 29, 2021;
  - vii. the new Tobacco Regulations and regulations governing Vapour Products;
  - viii. the status of Imperial's payment obligations to BAT Mexico in connection with the BAT MX Agreement;

- ix. the activities of the Monitor and its counsel since February 13, 2020, the date of the Seventh Report;
- x. Imperial's request for an Order extending the Stay of Proceedings to March 31, 2021; and
- xi. the Monitor's comments and recommendations in respect of the foregoing matters.

**F. UPDATE ON COURT PROCEEDINGS**

- 13. On February 20, 2020, this Court heard a motion seeking the extension of the Stay of Proceedings and issued the September Stay Extension Order which extended the Stay Period to September 30, 2020. A copy of the September Stay Extension Order can be found [here](#).
- 14. On March 6, 2020, this Court issued the Notice Protocol Endorsement, which further amended the Second Amended and Restated Initial Order by adding paragraphs to govern the notice protocol for moving and responding parties in these CCAA Proceedings. A copy of the Notice Protocol Endorsement can be found [here](#).
- 15. On March 16, 2020, the Court issued a Limited Lift of Stay Order to allow ITCAN to be added as a respondent in an application brought by the City of Ottawa. ITCAN's participation in the application was predicated on the respondent's position in the proceedings which appeared to put ITCAN's potential contractual rights at risk; specifically, the potential right to the conveyance of certain lands from the City of Ottawa to ITCAN. A copy of the Limited Lift of Stay Order can be found [here](#).
- 16. After the Limited Lift of Stay Order was issued, the Monitor and Imperial, in consultation with counsel, conducted independent thorough reviews and analyses

of any potential residual interest that ITCAN may pursue in the context of such application. Imperial and the Monitor separately determined that there were no rights that were potentially implicated by the issues raised in the application. As a result, ITCAN determined not to seek party status on the application. The Monitor was supportive of this decision based on its own review of the facts and applicable law.

17. On April 8, 2020, US Counsel to the Monitor filed a Status Update and Declaration in support of a Status Update, with the US Bankruptcy Court, to provide the US Bankruptcy Court with an update on recent developments in these CCAA Proceedings. A copy of the materials filed can be found [here](#).
18. Due to the COVID-19 Pandemic, the hearing on the motion to extend the Stay of Proceedings will proceed by Zoom Video Conference. Counsel to the Tobacco Monitors worked together to develop a protocol for this and future hearings. This protocol has been served on the consolidated service list, posted to the Monitor's website and can be found at Appendix "C" to this Report.

#### **G. UPDATE ON THE MEDIATION**

19. At the commencement of the Mediation the Applicants, with the assistance of the Tobacco Monitors established Data Rooms to assist Mediation Participants in their due diligence. These Data Rooms are accessible only to the advisors of Mediation Participants who have executed NDAs.
20. The Monitor continues to work with Imperial to populate the Imperial Data Room with financial and other information relevant to these CCAA Proceedings and to respond to information requests.
21. Since the Seventh Report, the Court-Appointed Mediator, with the assistance of the Tobacco Monitors, has continued to conduct the Mediation and engage in discussions with the Applicants and stakeholders. Although the Mediation is

confidential, the Monitor can report that the parties are continuing to advance the Mediation with a view to facilitating a pan-Canadian global settlement of the Tobacco Claims.

22. On September 15, 2020, the Court issued the Consultant Order, appointing Daniel Shapiro Legal Professional Corporation (“**Shapiro**”) as consultant to the Court-Appointed Mediator, to provide general advice and consulting services on class actions, to support the Court-Appointed Mediator with the fulfilment of its duties; as such services may be requested from time to time by the Court-Appointed Mediator and agreed to by Shapiro. A copy of the issued and entered order can be found here.

#### **H. COVID-19 PANDEMIC IMPACT**

23. Substantially all the cigarettes sold by Imperial in Canada are manufactured in Mexico at a facility operated by BAT Mexico. Due to the COVID-19 Pandemic, on April 2, 2020, the BAT Mexico facility was shut down as a result of a 30-day government ordered lockdown. This lockdown was subsequently extended to May 30, 2020.
24. While the BAT Mexico facility was closed, Imperial experienced inventory shortages in Canada, which had an impact on the supply and sale of certain brands of cigarettes.
25. In order to address these shortages, Imperial worked with BAT to identify other BAT-operated factories capable of producing inventory compliant with Canadian regulations to meet demand in Canada. The BAT facilities in Brazil and Chile were selected and production of cigarettes for sale in Canada commenced in Brazil and Chile in May 2020.
26. A significant portion of the inventory produced at the BAT Brazil and BAT Chile facilities was airfreighted into Canada to mitigate the inventory supply shortages



- experienced by Imperial prior to the resumption of the BAT Mexico facility's normal operations over the summer of 2020.
27. Some of the inventory produced at the BAT Brazil and BAT Chile facilities currently remains outside of Canada and will be used if necessary to address delivery shortfalls in the event the BAT Mexico facility is forced to close again due to the COVID-19 Pandemic.
  28. As of the date of this Report, the BAT Brazil and BAT Chile facilities' production runs to supply Imperial have successfully concluded and BAT Mexico is operating as normal under the current COVID-19 Pandemic environment.
  29. As a result of the COVID-19 Pandemic, Imperial is also increasing its inventory levels in Canada to avoid disruptions to its supply chain in the event of another lockdown in Mexico and taking additional steps within the BAT network to ensure alternate production sources can meet inventory needs in Canada if necessary.
  30. In May 2020, the Monitor posted in the Imperial Data Room a company estimate of the anticipated additional costs and financial impact resulting from the COVID-19 Pandemic-related production interruptions noted above. Imperial is currently engaged in further contingency planning to prevent or mitigate supply chain disruptions and resultant costs and losses in the event of a COVID-19 resurgence or other unanticipated event. The Monitor will work with Imperial to provide an updated analysis of the actual financial impact to date and the anticipated additional costs associated with its contingency plan. This analysis will be made available to the Mediation Participants in the Imperial Data Room.

## **I. IMPERIAL'S BUSINESS ACTIVITIES, INDUSTRY DEVELOPMENTS AND TRENDS IMPACTING IMPERIAL'S BUSINESS**

### ***Receipts and Disbursements***

31. The Monitor has been advised by Imperial that due to the implementation of the Tobacco Regulations, as described in the Seventh Report, and the accelerated sale of certain branded Tobacco Products, Imperial experienced temporary, short-term variations from historic levels and timings of receipts and disbursements. As required by the Tobacco Regulations, retailers ceased selling Tobacco Products in branded packages as of February 7, 2020. Any Tobacco Products not sold by February 7, 2020 were returned to Imperial and destroyed. The transition to plain packaging in compliance with the Tobacco Regulations is now complete.
32. While the COVID-19 Pandemic has had an impact on the timing of receipts and disbursements, including (i) tax payment deferrals as part of certain government support programs, (ii) working capital impact due to increased inventory levels, and (iii) an increase in sales of Tobacco Products, recent trends indicate that the market for Tobacco Products appears to be returning to pre-pandemic levels.

### ***Management Update***

33. In the Seventh Report, the Monitor reported that Mr. Joe Fragnito would assume the role of Chief Executive Officer at Imperial, effective May 2020. However, since the Seventh Report, the Monitor has been advised that Mr. Fragnito has left the BAT Group and Mr. Ralf Wittenberg has assumed the role of Chief Executive Officer at Imperial, effective September 1, 2020. Mr. Wittenberg has been with the BAT Group for over 25 years and was previously the Area Director for BAT Central Europe North.

***VUSE Store Opening***

34. On September 15, 2020, ITCAN announced the opening of its first retail store in Toronto, Ontario which offers adult consumers a full range of VUSE Vapour Products. It plans to open additional VUSE stores in other Canadian cities when regulations permit. Imperial continues to sell a select portfolio of its Vapour Products at convenience stores throughout Canada.

***Reorganization of Certain BAT Group Functions***

34. ITCAN is a sub-licensee under four different Trade-Mark and Technology Access Sub-License Agreements related to the use of trade-marks, technology and other intellectual property rights connected with cigarettes. The sub-licensor under these sub-license agreements was British-American Tobacco (Holdings) Limited.
35. The Monitor has been advised by Imperial that, pursuant to the ongoing reorganization of the activities of certain BAT Group companies, the trade-mark and patent commercialisation activities of British-American Tobacco (Holdings) Limited were transferred to British-American Tobacco (Western Europe Commercial Trading) Limited. As a result, British American Tobacco (Western Europe Commercial Trading) was substituted for British-American Tobacco (Holdings) Limited as sub-licensor under these sub-license agreements pursuant to four novation agreements, effective as of April 1, 2020. Both of British-American Tobacco (Holdings) and British-American Tobacco (Western Europe Commercial Trading) are non-residents of Canada. The pre-existing terms and conditions of the sub-license agreements, including payments, remain unchanged.
36. Until recently, the BAT Group had a number of financing and cash management arrangements with BATIF. Since the date of the Seventh Report, and as a further part of the rearrangement of certain functions within the BAT Group, certain of these functions were shifted to B.A.T. Operating Finance Limited (“**BATOF**”). As

a result, BATOF has been substituted for BATIF as a counterparty with respect to certain financing and cash management agreements effective as of April 1, 2020. This has not had any impact on Imperial's operations or the costs incurred in relation to the financing and cash management functions at issue.

***Equipment Purchase***

37. As described in the Seventh Report, Imperial advised the Monitor that in order to cater to increased production needs associated with certain brands of cigarettes, Imperial would require additional equipment. The Monitor had previously approved a transaction to purchase the Used BAT Mexico Equipment at its net book value of \$6.7 million. Such Used BAT Mexico Equipment was to be used for two years until the slide and shell packaging requirements under the Tobacco Regulations are implemented in 2021, at which time the Used BAT Mexico Equipment would be destroyed and replaced with equipment that complied with the slide and shell requirements.
38. However, to address supply chain shortfalls caused by the COVID-19 Pandemic, the Used BAT Mexico Equipment was instead sold to BAT Chile.
39. In the summer of 2020, Imperial advised the Monitor that it had entered into a transaction with BAT Mexico to acquire Used Slide and Shell Equipment that complies with Canadian packaging requirements to be implemented in 2021, at its depreciated net book value of \$2.7 million. The total cost of the equipment to be purchased over the course of the next year is estimated to be \$12.9 million, including \$2.7 million cost to be paid to BAT Mexico for the Used Slide and Shell Equipment mentioned above. This estimated cost reflects the cost to purchase additional equipment by Imperial that complies with the slide and shell requirements and does not relate to the replacement of machinery at the BAT Mexico facility to comply with the Tobacco Regulations to be implemented in 2021.

40. As of the date of this Report, the Monitor has completed its review of the necessity and business rationale for the purchase of the Used Slide and Shell Equipment from BAT Mexico, as well as the consideration to be paid by Imperial and has approved of the transaction, which is reflected in the Cash Flow Forecast. The Monitor is in the process of reviewing the remaining purchases of equipment required to meet the slide and shell requirements.

***Supplier Dispute***

41. On August 26, 2020, ITCAN advised the Monitor it had received a letter from a supplier that purported to terminate a distribution agreement between the companies.
42. ITCAN and the Monitor share the view that the supplier is required to continue to honour and perform its obligations under the distribution agreement in good faith. ITCAN is currently in discussions with the supplier to find a business resolution to the dispute.

**J. RECEIPTS AND DISBURSEMENTS FOR THE 31-WEEK PERIOD ENDING SEPTEMBER 6, 2020**

43. Imperial's cash balance as of the week ended September 6, 2020 was \$1,921.5 million, an increase over the 31-week period of \$869.0 million.
44. Imperial's actual net cash inflow for the 31-week period ending September 6, 2020 was approximately \$1,055.6 million, compared to the forecasted net cash inflow of \$514.8 million, resulting in a positive variance of \$540.8 million, as summarized below:

VARIANCE REPORT	Actuals	Forecast	Variance
<b>For the 31-week period ending Sep 06, 2020</b>			
<b>RECEIPTS</b>			
Trade Receipts	3,038,470	2,847,652	190,818
<b>DISBURSEMENTS</b>			
<i>Operating Disbursements</i>			
Taxes and Levies	(1,537,175)	(1,795,481)	258,306
Operations	(445,000)	(536,768)	91,768
<i>Total Operating Disbursements</i>	(1,982,175)	(2,332,249)	350,075
<b>OPERATING CASH FLOWS</b>	<b>1,056,295</b>	<b>515,402</b>	<b>540,893</b>
<i>Financing Disbursements</i>			
Interest and Related Fees on Existing Facilities	7,459	12,873	(5,414)
<i>Restructuring Disbursements</i>			
Professional Fees	(8,183)	(13,482)	5,299
<b>NET CASH FLOWS</b>	<b>1,055,571</b>	<b>514,793</b>	<b>540,778</b>
<b>CASH</b>			
Beginning Balance	869,158	868,966	192
Net Cash Inflows / (Outflows)	1,055,571	514,793	540,778
Other (FX)	(3,261)	-	(3,261)
<b>ENDING CASH</b>	<b>1,921,468</b>	<b>1,383,759</b>	<b>537,709</b>

45. The significant budget to actual variances and corresponding explanations are as follows:

- i. *trade receipts*: positive timing variance of \$190.8 million or 7% against the forecast, consisting of (i) a one-time positive permanent variance of approximately \$100 million, primarily driven by higher-than-forecast sales that is attributable to the temporary contraction of the illicit market at the onset of the COVID-19 Pandemic and (ii) a positive timing variance of \$90.8 million driven by accelerated sales timing that is expected to reverse in the future reporting period based on anticipated sales patterns;

- ii. *taxes and levies*: positive timing variance of \$258.3 million, primarily driven by the deferral of over \$450 million of certain provincial tobacco tax and income tax payments as part of governmental COVID-19 Pandemic relief measures, which is then partially offset by approximately \$200 million of higher tax payments as a result of the increase in inventory levels as Tobacco Products are imported into Canada. The timing variance relating to the deferral of tax payments is expected to reverse at the end of September 2020 as the deferred provincial tobacco tax payments of \$430 million and the deferred income tax payments of \$27 million become due, which has been reflected in the Cash Flow Forecast;
- iii. *operating disbursements*: positive timing variance of \$91.8 million, primarily driven by (i) a positive permanent variance of \$40 million due to the reimbursement of certain expenses from a prior period that were not in the forecast and lower-than-forecast marketing spend, and (ii) a positive timing variance of \$51.8 million that is expected to reverse in the future reporting period;
- iv. *interest and related fees*: negative permanent variance of \$5.4 million due to the reduction in market interest rates as a result of the COVID-19 Pandemic; and
- v. *professional fees*: positive variance of \$5.3 million that consists of (i) a positive permanent variance of \$4.7 million and (ii) a positive timing variance of \$0.6 million that is expected to reverse in the future reporting period.

## **K. CASH FLOW FORECAST**

46. Imperial, with the assistance of the Monitor, has prepared a Cash Flow Forecast for the 30-week period commencing the week beginning September 7, 2020 through the week of March 29, 2021. The Cash Flow Forecast is attached as Appendix “D” to this Report.
47. During the Forecast Period, total operating receipts are forecast to be approximately \$2,328 million and total operating disbursements are forecast to be approximately \$2,786 million, resulting in a net negative operating cash flow of approximately \$458 million. In addition, Imperial forecasts interest income of approximately \$6 million in respect of cash balances on deposit in Canada and professional fees disbursements of approximately \$11 million, such that net cash outflow is forecast to be approximately \$463 million.
48. The Cash Flow Forecast reflects negative operating cash flows of \$458 million which consists of normalized operating cash inflows of approximately \$252 million before one-time payments totaling approximately \$710 million that primarily relate to the reversal of positive timing differences. These include (i) reversal of the \$457 million positive timing variance associated with the catch-up of certain deferred tax payments as described in paragraph 45 above, (ii) approximately \$198 million of annual corporate income tax payments for fiscal 2020 that are due in early 2021, and (iii) potential intercompany payments of \$55 million to BAT Mexico that are discussed in paragraph 58 below. The winter season is also typically the weakest period of the year in terms of sales collections.
49. The Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed monitor by Section 23(1)(b) of the CCAA. Section 23(1)(b) requires a monitor to review the debtor’s cash flow statement as to its reasonableness and to file a report with the court on the monitor’s findings. The Canadian Association of Insolvency and Restructuring Professionals’ Standards of



- Professional Practice include a standard for a Monitor fulfilling its statutory responsibilities under the CCAA in respect of its report on the Cash Flow Forecast.
50. In accordance with the standard, the Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to the Cash Flow Forecast and its underlying assumptions. The Monitor's procedures with respect to the assumptions were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Monitor also reviewed the support provided by Imperial's management for the assumptions and the preparation and presentation of the Cash Flow Forecast.
51. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material aspects, that:
- i. the assumptions are not consistent with the purpose of the Cash Flow Forecast;
  - ii. as at the date of this Report, the assumptions are not suitably supported and consistent with the plans of Imperial or do not provide a reasonable basis for the Cash Flow Forecast; or
  - iii. the Cash Flow Forecast does not reflect the assumptions.
52. As described in the Terms of Reference above, since the Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the assumptions occur, and the variations could be material. Accordingly, the Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Cash Flow Forecast or relied upon by the Monitor in preparing this Report.

53. The Cash Flow Forecast has been prepared solely for the purposes described above, and readers are cautioned that it may not be appropriate for other purposes.

**L. NEW TOBACCO AND VAPOUR REGULATIONS**

*The Tobacco Regulations*

54. As noted in the Seventh Report, the Tobacco Regulations came into force on November 9, 2019. These regulations require manufacturers of Tobacco Products to use plain, unbranded packaging. In accordance with the Tobacco Regulations, Imperial ceased selling branded Tobacco Products to wholesalers and retailers on November 9, 2019. Retailers ceased selling Tobacco Products in branded packages on February 7, 2020. Any Tobacco Products not sold by February 7, 2020, were returned to Imperial and destroyed.

*The Regulation of Vapour Products*

55. As discussed in the Seventh Report, Vapour Products continue to come under increased global scrutiny resulting in stringent regulation and, in some cases, bans.
56. Appendix “E” to this Report summarizes the various regulatory changes that have been considered and implemented across Canada since the date of the Seventh Report.
57. As noted in the Seventh Report, the Monitor has been advised by Imperial that, due to the new vaping regulations, health concerns and the increased scrutiny of Vapour Products globally, there is a high level of uncertainty surrounding the consumer demand for Vapour Products.

**M. UPDATE ON PROPOSED BAT MEXICO PAYMENTS**

58. As described in the Seventh Report, the Monitor has been advised by Imperial that BAT Mexico will be required to write off the undepreciated cost of manufacturing

equipment used to package and wrap Tobacco Products for Imperial that has been rendered obsolete by the Tobacco Regulations, as well as some wrapping materials that can no longer be used for packaging due to the Tobacco Regulations. BAT Mexico will bill these amounts to Imperial under the terms of the BAT MX Agreement. The estimated payment amount of \$55 million was reflected in the cash flow forecast in the Seventh Report and was forecasted to be paid in September 2020. No payment has been made to date and the amount is currently reflected in the Cash Flow Forecast and forecasted to be paid in the last week of March 2021.

59. The Monitor continues to work with Imperial to review these proposed payments and underlying documents and will report to this Court prior to any payment being made.

**N. OVERVIEW OF THE MONITOR'S ACTIVITIES**

60. Since the date of the Seventh Report, the Monitor and its counsel have held numerous meetings and/or discussions with Imperial and its counsel to:
- i. monitor Imperial's business activities;
  - ii. monitor Imperial's receipts and disbursements;
  - iii. assist in the preparation of its Cash Flow Forecast;
  - iv. prepare monthly professional fee disclosures;
  - v. gather and review Information to be included in the Imperial Data Room;
  - vi. address vendor and stakeholder inquiries;
  - vii. review proposed capital expenditures; and
  - viii. further their understanding of Imperial's business environment and the factors expected to impact its future business prospects.

61. The Monitor has continued to engage with Imperial to understand the supply chain disruptions to its operations as a result of the COVID-19 Pandemic and to review Imperial's business contingency plan.
62. The Monitor has also regularly attended meetings with the Court-Appointed Mediator and stakeholders and has provided the Court-Appointed Mediator with information necessary to advance the Mediation.
63. The Tobacco Monitors and their counsel have met regularly to discuss ongoing matters including the Mediation, reviewing Information to be included in the data rooms of the Applicants, procedural aspects of these CCAA Proceedings, and the relief sought herein.

***Professional Fee Disclosure***

64. Pursuant to the Professional Fee Disclosure Order, the Monitor continues to provide to the Quebec Litigation Plaintiffs and other parties who requested such information, a summary, by firm, of the restructuring fees incurred on or after March 12, 2019 and paid to the CCAA Professionals each month.

**O. STAY OF PROCEEDINGS**

65. Imperial is seeking an extension of the Stay Period to March 31, 2021. The Monitor understands that such extension is necessary for Imperial to operate the business in the ordinary course as it continues to engage in the Mediation conducted by the Court-Appointed Mediator and to work towards developing a plan of compromise or arrangement for a pan-Canadian global settlement of the Tobacco Claims.
66. The Monitor supports an extension of the Stay of Proceedings for the following reasons:
  - (a) Imperial is acting in good faith and with due diligence;

- (b) Imperial is continuing to engage meaningfully in the Mediation with the Court-Appointed Mediator in an effort to reach a pan-Canadian global settlement of the Tobacco Claims;
- (c) the Cash Flow Forecast reflects that Imperial is projected to have sufficient funding to continue to operate in the normal course through the proposed extension to the Stay of Proceedings; and
- (d) no creditor will be materially prejudiced if the extension is granted.

The Monitor respectfully submits to this Court this Report.

Dated this 22<sup>nd</sup> day of September, 2020.

*FTI Consulting Canada Inc.*

**FTI Consulting Canada Inc.**

in its capacity as Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited

## **APPENDIX “A” GLOSSARY**

“**Applicants**” means, collectively, Imperial, JTIM and Rothmans.

“**BAT**” means British American Tobacco p.l.c., a public company listed on the London Stock Exchange.

“**BAT Group**” means, collectively, British American Tobacco p.l.c., B.A.T. International Finance p.l.c., B.A.T Industries p.l.c., British American Tobacco (Investments) Limited, Carreras Rothmans Limited or entities related to or affiliated with them other than Imperial and the ITCAN Subsidiaries.

“**BAT Brazil**” means Souza Cruz LTDA.

“**BAT Chile**” means British American Tobacco Chile Operaciones S.A.

“**BAT Mexico**” means British American Tobacco Mexico S.A. de C.V.

“**BAT MX Agreement**” means the BAT MX Agreement dated July 2, 2015 between BAT Mexico and ITCAN.

“**BATIF**” means B.A.T. International Finance p.l.c.

“**BATOF**” means B.A.T. Operating Finance Limited.

“**Cash Flow Forecast**” means the cash flow forecast of Imperial’s receipts and disbursements for the 30-week period commencing the week of September 7, 2020 through the week of March 29, 2021.

“**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

“**CCAA Proceedings**” means Court File No. CV-19-616077-00CL commenced by Imperial under the CCAA.

“**CCAA Professionals**” means the Monitor, counsel to the Monitor, counsel to Imperial, and any financial advisor Imperial has retained in connection with these CCAA Proceedings, except for any financial advisor in respect of whose work Imperial properly asserts solicitor-client, settlement, litigation or other privilege.

“**Chapter 15 Proceedings**” means the proceedings commenced by ITCAN on March 13, 2019, for relief under Chapter 15 of the US Bankruptcy Code.

“**Comeback Motion**” means the Comeback Motion, as defined in the Initial Order, which was heard on April 4, 5, 25 and 26, 2019.

**“Consortium of Provinces”** means, collectively, the Province of British Columbia, the Province of Manitoba, the Province of New Brunswick, the Province of Nova Scotia, the Province of Prince Edward Island and the Province of Saskatchewan, in each province’s capacity as a plaintiff in the HCCR Claims.

**“Consultant Order”** means the order of the Court which appointed Shapiro as consultant to the Court-Appointed Mediator.

**“Court”** means the Ontario Superior Court of Justice (Commercial List).

**“Court-Appointed Mediator”** means the Honourable Warren K. Winkler Q.C., acting as an officer of the Court and as a neutral third party to mediate a pan-Canadian global settlement in the context of these Tobacco CCAA Proceedings.

**“COVID-19 Pandemic”** means the global pandemic caused by the novel coronavirus.

**“Data Rooms”** means data rooms containing Information in respect of the Applicants which are responsive to requests submitted by Mediation Participants, and as well as other information, which the Tobacco Monitors considered relevant.

**“Deloitte”** means Deloitte Restructuring Inc.

**“Excluded Claims”** means the claims excluded from the definition of TRW Claimants for the purposes of the relief sought herein as described in paragraph 26 of Appendix “C” to the Sixth Report.

**“EY”** means Ernst & Young Inc.

**“Fifth Report”** means the report filed by the Monitor on September 25, 2019.

**“First Amended and Restated Initial Order”** means the Initial Order, as amended and restated as of April 5, 2019.

**“First Report”** means the report filed by the Monitor on April 3, 2019 in connection with the relief sought at the Comeback Motion.

**“Forecast Period”** means the 30-week period commencing the week of September 7, 2020 through the week of March 29, 2021.

**“Foreign Recognition Order”** means an order of the US Bankruptcy Court recognizing the CCAA Proceedings as the main proceedings and staying proceedings against ITCAN in the US.

**“Fourth Report”** means the report filed by the Monitor on June 24, 2019.

**“FTI”** means FTI Consulting Canada Inc.

“**Genstar**” means Genstar Corporation, a subsidiary of ITCAN.

“**Genstar Settlement**” means the settlement entered into on April 25, 2019 between ITCAN and the Representatives in respect of the Retirement Plans.

“**Genstar Settlement Approval Order**” means an Order of this Court, approving the Genstar Settlement and the distribution of the Genstar Settlement among the Represented Parties, among other things.

“**HCCR Claims**” means the claims started by each of the Provinces under each Province’s health care cost recovery legislation, to recover health care costs associated with smoking and the use of Tobacco Products.

“**Imperial**” means collectively, ITCAN and Imperial Tobacco Company Limited.

“**Imperial Data Room**” means a data room containing Information in respect of Imperial.

“**Information**” means common categories of information in respect of the Applicants which are responsive to requests submitted by Mediation Participants, as well as other information which the Tobacco Monitors considered relevant.

“**Initial Order**” means the initial order granted by this Court on March 12, 2019, as amended and restated as of April 5, 2019 and further amended and restated as of April 25, 2019, which authorized, among other things, the Stay of Proceedings and FTI’s appointment as Monitor of Imperial’s CCAA Proceedings.

“**ITCAN**” means Imperial Tobacco Canada Limited.

“**ITCAN Subsidiaries**” means Imperial Tobacco Services Inc., Imperial Tobacco Products Limited, Marlboro Canada Limited, Cameo Inc., Medallion Inc., Allan Ramsay and Company Limited, John Player & Sons Ltd., Imperial Brands Ltd., 2004969 Ontario Inc., Construction Romir Inc., Genstar, Imasco Holdings Group, Inc., ITL (USA) limited, Genstar Pacific Corporation, Imasco Holdings Inc., Southward Insurance Ltd., Liggett & Myers Tobacco Company of Canada Limited or entities related to or affiliated with them other than Imperial and the BAT Group.

“**JTIM**” means JTI-Macdonald Corp.

“**JTIM Group**” means the entities currently or formerly related to or affiliated with JTIM.

“**June Stay Extension Order**” means an order of the Court, dated April 5, 2019, extending the length of the Stay of Proceedings to June 28, 2019.

“**Limited Lift of Stay Order**” means an order of the Court, dated March 16, 2020, which partially lifted the Stay of Proceedings to allow ITCAN to be added as a respondent to the application brought by the City of Ottawa.



**“March Stay Extension Order”** means an order of the Court, dated October 8, 2019, extending the length of the Stay of Proceedings to March 12, 2020.

**“March Thauvette Affidavit”** means the affidavit of Eric Thauvette, Vice President and Chief Financial Officer of Imperial, sworn March 12, 2019.

**“Mediation”** means the mediation process conducted by the Court-Appointed Mediator.

**“Mediation Participants”** means the Applicants, the Consortium of Provinces, the Provinces of Alberta, Newfoundland and Labrador, Ontario, and Quebec, the Quebec Litigation Plaintiffs, the TRW Claimants represented by Wagners, the “personal injury class action plaintiffs” represented by Merchant, the “tobacco light class action plaintiffs”, and the Ontario Flue-Cured Tobacco Growers Marketing Board.

**“Merchant”** means Merchant Law Group LLP.

**“Monitor”** means FTI Consulting Canada Inc.

**“Monitor’s Reports”** means collectively, the Pre-Filing Report, the First Report, the Second Report, the Third Report, the Fourth Report, the Fifth Report, the Sixth Report and the Seventh Report.

**“NDA”** means a non-disclosure agreement for the purposes of gaining access to the Data Rooms.

**“Notice Procedure Order”** means an order of the Court, dated May 14, 2019, approving the form and manner of notice of the Settlement Approval Hearing to the Represented Parties, among other things.

**“October Stay Extension Order”** means an order of the Court, dated June 26, 2019, extending the length of the Stay of Proceedings to October 4, 2019.

**“PEI”** means Prince Edward Island.

**“PMI Group”** means Philip Morris International Inc. and all entities related to or affiliated with it, other than Rothmans.

**“Pre-Filing Report”** means the report filed by the Monitor on March 12, 2019, in its capacity as proposed Monitor of Imperial, in connection with Imperial’s initial application for relief under the CCAA.

**“Professional Fee Disclosure Order”** means an order of this Court which authorized, among other things, the disclosure of the professional restructuring fees in these CCAA Proceedings by the Monitor on or before the 15<sup>th</sup> of every month, beginning with June 2019.

**“Provinces”** means all of the provinces of Canada.

**“Quebec Appeal Judgment”** means the Court of Appeal of Quebec’s decision on the appeal of the Quebec Judgment whereby the Court of Appeal substantially upheld the Quebec Judgment with two notable modifications: (i) the total claim amount was reduced by just over \$1 million; and (ii) the interest schedule was adjusted, reducing the interest payable on the total claim amount.

**“Quebec Judgment”** means the Quebec Superior Court’s judgment on the “Letourneau action” and the “Blais action” released on May 27, 2015 in which the trial judge found the co-defendants jointly liable for \$15.6 billion, with Imperial’s share being approximately \$10.6 billion.

**“Quebec Litigation Plaintiffs”** means, collectively, the representative plaintiffs and the certified class members in each of the “Letourneau action” and the “Blais action”, as described in the March Thauvette Affidavit.

**“Report”** means this eighth report of the Monitor filed on September 22, 2020.

**“Representative Counsel Order”** means the order issued by this Court on December 9, 2019, appointing Wagners as representative counsel to the TRW Claimants.

**“Representatives”** means Vivian Brennan-Dolezar, Robert M. Brown and George A. Foster, the court-appointed representatives of the Represented Parties.

**“Represented Parties”** means all persons with entitlements under the Retirement Plans, including survivors and beneficiaries of such persons and any other person under the Representation Order.

**“Retirement Plans”** means, collectively, the following pension plans: (a) a deferred income plan for approximately 53 individuals who are either former senior management employees of Genstar or their surviving spouses; (b) a supplemental executive retirement plan for approximately 14 individuals who were either former Genstar employees or their surviving spouses; and (c) a supplementary pension plan for 3 individuals who were either former Genstar employees or their surviving spouses.

**“Rothmans”** means Rothmans Benson & Hedges Inc.

**“Second Amended and Restated Initial Order”** means the Initial Order, as amended and restated as of April 25, 2019.

**“Second Report”** means the report filed by the Monitor on April 24, 2019.

**“September Stay Extension Order”** means an order of the Court, dated February 20, 2020, extending the length of the Stay of Proceedings to September 30, 2020.

**“September Thauvette Affidavit”** means the affidavit of Eric Thauvette, Vice President and Chief Financial Officer of Imperial, sworn September 21, 2020.

**“Seventh Report”** means the report filed by the Monitor on February 13, 2020.

**“Shapiro”** means Daniel Shapiro Legal Professional Corporation.

**“Sixth Report”** means the report filed by the Monitor on November 26, 2019.

**“Stay of Proceedings”** means the stay of proceedings during the Stay Period in favour of Imperial and their non-applicant subsidiaries, including Liggett & Meyers Tobacco Company of Canada Limited, as well as a limited stay in favour of BAT and certain BAT affiliates.

**“Stay Period”** means the term of the Stay of Proceedings, to September 30, 2020.

**“Third Report”** means the report filed by the Monitor on May 13, 2019.

**“Tobacco CCAA Proceedings”** means these CCAA Proceedings, Court File No. 19-CV-615862-00CL commenced by JTIM under the CCAA and Court File No. CV-19-616779-00CL commenced by Rothmans under the CCAA.

**“Tobacco Claims”** means all claims brought or that could be brought under applicable law against the Applicants in relation to the development, manufacturing, production, marketing, advertising of, any representations made in respect of, the purchase, sale, and use of, or exposure to, the Tobacco Products.

**“Tobacco Monitors”** means, collectively, the Monitor, EY in its capacity as monitor for Rothmans, and Deloitte in its capacity as monitor for JTIM.

**“Tobacco Products”** means tobacco or any product made or derived from tobacco or containing nicotine that is intended for human consumption, including any component, part, or accessory of or used in connection with a tobacco product, including cigarettes, cigarette tobacco, roll your own tobacco, smokeless tobacco, and any other tobacco or nicotine delivery systems and shall include materials, products and by-products derived from or resulting from the use of any tobacco products, but does not include heat-not-burn tobacco products or Vapour Products.

**“Tobacco Regulations”** means *The Tobacco Products Regulations (Plain and Standardization Appearance)*, SOR/2019-17.

**“Tobacco-Related Wrongs”** means all claims or causes of action in respect of: (i) the development, manufacture, production, importation, marketing, advertising, distribution, purchase or sale of Tobacco Products; (ii) the historical or ongoing use of or exposure to Tobacco Products; or (iii) any representation in respect of Tobacco Products, including, without limitation, claims for contribution or indemnity, personal injury or tort damages,

restitutionary recovery, non-pecuniary damages or claims for recovery grounded in provincial consumer protection legislation, but does not include the Excluded Claims.

**“TRW Claimants”** means all individuals (including their respective successors, heirs, assigns, litigation guardians and designated representatives under applicable provincial family law legislation) who assert or may be entitled to assert a claim or cause of action as against one or more of the Applicants, the ITCAN subsidiaries, the BAT Group, the JTIM Group or the PMI Group, or persons indemnified by such entities, in respect of Tobacco-Related Wrongs in Canada, or in the case of the Applicants, anywhere else in the world.

**“US”** means the United States of America.

**“US Bankruptcy Code”** means title 11 of the United States Code.

**“US Bankruptcy Court”** means the United States Bankruptcy Court for the Southern District of New York.

**“US Counsel”** means Morgan, Lewis & Bockius LLP, US counsel to the Monitor.

**“Used BAT Mexico Equipment”** means that equipment purchased by Imperial from BAT Mexico at its net book value of \$6.7 million, to be used prior to the implementation of the slide and shell requirements.

**“Used Slide and Shell Equipment”** means that equipment that complies with the slide and shell requirements, purchased by Imperial from BAT Mexico at its depreciated net book value of \$2.7 million.

**“Vapour Products”** means potential reduced risk, rechargeable, battery-powered devices that heat liquid formulations – e-liquids – to create a vapour which is inhaled, and which are sold under the tradename of Vype.

**“Wagners”** means The Law Practice of Wagner & Associates, Inc.

## **APPENDIX “B” ORDERS**

Please see below for a description of the orders issued by the Court and the US Bankruptcy Court in these CCAA Proceedings.

### **1. Initial Order:**

The Initial Order of the Ontario Superior Court of Justice (Commercial List) made on March 12, 2019, as amended and restated as of April 5, 2019 and further amended and restated as of April 25, 2019, pursuant to which:

- (a) Imperial was granted an initial stay of proceedings under the CCAA until April 11, 2019; and
- (b) FTI was appointed as the Monitor.

### **2. Comeback Motion:**

The Comeback Motion was heard on April 4 and 5, 2019. Following the Comeback Motion:

- (a) the Court extended the Stay of Proceedings to June 28, 2019, pursuant to the June Stay Extension Order;
- (b) the Hon. Warren K. Winkler, Q.C. was appointed as the Court-Appointed Mediator; and
- (c) the Court issued the First Amended and Restated Initial Order, a copy of which can be found [here](#).

### **3. Foreign Recognition Order:**

The Foreign Recognition Order was granted by the US Bankruptcy Court on April 17, 2019, which recognizes these CCAA Proceedings. The Foreign Recognition Order can be found [here](#).

### **4. Second Amended and Restated Initial Order:**

The Second Amended and Restated Initial Order was issued following the continuation of the Comeback Motion on April 25 and 26, 2019, a copy of which can be found [here](#).

### **5. Notice Procedure Order:**

The Notice Procedure Order was issued on May 14, 2019 and can be found [here](#).

### **6. Professional Fee Disclosure Order:**

The Professional Fee Disclosure Order was issued on May 14, 2019 and can be found [here](#).

**7. Clarification of Insurance Lift-Stay Order**

The Clarification of Insurance Lift-Stay Order was issued on May 14, 2019 and can be found [here](#).

**8. Communication and Confidentiality Protocol Endorsement**

The Communication and Confidentiality Protocol Endorsement was released on May 24, 2019, pursuant to which the Court approved the Communication and Confidentiality Protocol as between the Court and the Court-Appointed Mediator. The endorsement can be found [here](#).

**9. October Stay Extension Order**

The October Stay Extension Order was issued on June 26, 2019 and extended the Stay of Proceedings to October 4, 2019. A copy of the October Stay Extension Order can be found [here](#).

**10. Genstar Settlement Approval Order**

The Genstar Settlement Approval Order was issued on June 26, 2019. A copy of which can be found [here](#).

**11. Order Appointing a Financial Advisor to the Court-Appointed Mediator**

The Order Appointing a Financial Advisor to the Court-Appointed Mediator was issued on June 27, 2019. A copy of which can be found [here](#).

**12. Court-to-Court Communications Order**

The Court-to-Court Communications Order was issued on July 9, 2019. A copy of which can be found [here](#).

**13. Order Recognizing the Genstar Settlement Approval Order**

The US Bankruptcy Court granted an order recognizing the Genstar Settlement Approval Order on July 18, 2019. A copy of which can be found [here](#).

**14. Order Recognizing the Court-to-Court Communications Order**

The US Bankruptcy Court granted an order recognizing the Court-to-Court Communications Order on September 5, 2019. A copy of which can be found [here](#).

**15. March Stay Extension Order**

The March Stay Extension Order was issued on October 2, 2019 and extended the Stay of Proceedings to March 12, 2020. A copy of the March Stay Extension Order can be found [here](#).

**16. Representative Counsel Order**

The Representative Counsel Order was issued on December 9, 2019 and appointed Wagners as representative counsel to the TRW Claimants. A copy of the Representative Counsel Order can be found [here](#).

**17. September Stay Extension Order**

The September Stay Extension Order was issued on February 20, 2020 and extended the Stay of Proceedings to September 30, 2020. A copy of the September Stay Extension Order can be found [here](#).

**18. Notice Protocol Endorsement**

The Notice Protocol Endorsement was issued on March 6, 2020 and further amended the Second Amended and Restated Initial Order by adding paragraphs to govern the notice protocol for moving and responding parties in the CCAA Proceedings. A copy of the Notice Protocol Endorsement can be found [here](#).

**19. Limited Lift of Stay Order**

The Limited Lift of Stay Order was issued on March 16, 2020 and partially lifted the Stay of Proceedings to allow Imperial Tobacco Canada Limited to be added as a respondent to the application brought by the City of Ottawa bearing Court File No. 19-81809. A copy of the Limited Lift of Stay Order can be found [here](#).

**20. Consultant Order**

The Consultant Order was issued on September 15, 2020 and appointed Shapiro as consultant to the Court-Appointed Mediator. A copy of the Consultant Order can be found [here](#).

**APPENDIX “C”**  
**PROTOCOL FOR MOTION BY ZOOM VIDEO CONFERENCE**

Please see attached.



## PROTOCOL FOR MOTION BY ZOOM VIDEO CONFERENCE

### Scheduling and Specific Requirements

1. Any person on the Service List that wishes to appear virtually on the motion, (“Participants”) must register by 4:00 p.m. 2 business days in advance of the hearing (Friday, September 25th, 2020 for the motion scheduled September 29th, 2020), by emailing Veritext Litigation Solutions Canada, Inc. (scheduling@neesonsreporting.com) and copying each Monitor’s counsel (mpercy@dwpv.com, msassi@casselsbrock.com, nancy.thompson@blakes.com) and also advise if they intend to make submissions. All Participants will provide contact information, including a name, who they are acting for, an email address and phone number for the counsel slip.
2. Subject to the Court’s overriding discretion over all matters, Monitors’ counsel will coordinate with Participants and the Court to develop an agenda for the hearing.
3. Participants will appear by video. Monitors’ counsel will distribute the Zoom link and the sync.com link to Participants. Participants are not permitted to forward or share either the Zoom link or the sync.com link. No person should have access to the live video of the hearing other than Participants. If a Participant is unable to attend by video, they should contact Monitors’ counsel.
4. Counsel is not required to gown for the hearing. Instead, business attire is required for all Participants appearing by video.
5. For access by the general public, a listen-only phone line will be posted on each of the Monitors’ websites by 10:00 a.m. on not less than 2 business days prior to the hearing. The listen-only phone line will be muted and no submissions can be made over this listen-only phone line.
6. No recording of any part of the hearing (including audio) may be made unless authorized in advance by the Court.
7. For greater certainty, notice and service requirements are set out in the Rules of Civil Procedure, and the various orders and endorsements in the proceedings. For ease of reference, we have included paragraphs 58-63 of the Second Amended and Restated Initial Order dated March 8, 2019 in the JTIM proceedings, attached as Appendix “A. It should be noted that similar notice and service requirements have been set out in various orders and endorsements in the parallel proceedings of Imperial and RBH. Nothing in this protocol modifies or amends Orders of the Court related to service requirements, the Rules of Civil Procedure, any Commercial List Practice Direction or other applicable rules.
8. Participants will be placed into a virtual waiting room upon entering the Zoom meeting.

## Technical Requirements

9. Participants will require a device with a working microphone and webcam. The device can be a computer (desktop or laptop), tablet or smartphone. The device must be connected to an internet connection that is sufficient to send and receive video and audio.
10. Each Participant is responsible for ensuring that they have suitable equipment to participate in the hearing and that such equipment works properly. Participants must test such equipment well in advance of the scheduled hearing to ensure:
  - (a) that they are familiar with how to use such equipment;
  - (b) the compatibility and functioning of such equipment; and
  - (c) that the remote location has adequate internet bandwidth to support the use of the Zoom without interruption.
11. Each Participant is also responsible for ensuring that they are familiar with the features and operation of Zoom. Participants must ensure that they have downloaded any necessary software, and practiced using Zoom, well in advance of the scheduled hearing.
12. Participants should log on using the Zoom link provided approximately 30 minutes before the hearing is scheduled to begin. During this time, Participants should speak to each other to determine if there are any audio/visual/connection issues.
13. It is suggested that Participants use the “gallery view” mode, rather than the “active speaker” mode, available on Zoom.
14. Should a Participant become disconnected from Zoom or experience technical difficulties during the hearing, they should immediately inform the Court by sending an email to Veritext Litigation Solutions Canada, Inc. ([scheduling@neesonsreporting.com](mailto:scheduling@neesonsreporting.com))

## APPENDIX "A"

58. **THIS COURT ORDERS** that, subject to paragraph 59, all motions in this proceeding are to be brought on not less than seven (7) calendar days' notice to all persons on the Service List. Each Notice of Motion shall specify a date (the "**Return Date**") and time for the hearing.

59. **THIS COURT ORDERS** that motions for relief on an urgent basis need not comply with the notice protocol described herein.

60. **THIS COURT ORDERS** that any interested Person wishing to object to the relief sought in a motion must serve responding motion material or, if they do not intend to file material, a notice in all cases stating the objection to the motion and the grounds for such objection in writing (the "**Responding Material**") to the moving party, the Applicant and the Monitor, with a copy to all Persons on the Service List, no later than 5 p.m. on the date that is four (4) calendar days prior to the Return Date (the "**Objection Deadline**").

61. **THIS COURT ORDERS** that, if no Responding Materials are served by the Objection Deadline, the judge having carriage of the motion (the "**Presiding Judge**") may determine:

- (a) whether a hearing is necessary;
- (b) whether such hearing will be in person, by telephone or by written submissions only; and
- (c) the parties from whom submissions are required

(collectively, the "**Hearing Details**"). In the absence of any such determination, a hearing will be held in the ordinary course.

62. **THIS COURT ORDERS** that, if no Responding Materials are served by the Objection Deadline, the Monitor shall communicate with the Presiding Judge regarding whether a determination has been made by the Presiding Judge concerning the Hearing Details. The Monitor shall thereafter advise the Service List of the Hearing Details and the Monitor shall report upon its dissemination of the Hearing Details to the Court in a timely manner, which may be contained in the Monitor's next report in the proceeding.

63. **THIS COURT ORDERS** that if any party objects to the motion proceeding on the Return Date or believes that the Objection Deadline does not provide sufficient time to respond to the motion, such objecting party shall, promptly upon receipt of the Notice of Motion and in any event prior to the Objection Deadline, contact the moving party and the Monitor (together with the objecting party and any other party who has served Responding Materials, the "**Interested Parties**") to advise of such objection and the reasons therefor. If the Interested Parties are unable to resolve the objection to the timing and schedule for the motion following good faith consultations, the Interested Parties may seek a scheduling appointment before the Presiding Judge to be held prior to the Return Date or on such other date as may be mutually agreed by the Interested Parties or as directed by the Presiding Judge to establish a schedule for the motion. At the scheduling appointment, the Presiding Judge may provide directions including a schedule for the delivery of any further materials and the hearing of the contested motion, and may address such other matters, including interim relief, as the Court may see fit. Notwithstanding the foregoing, the Presiding Judge may require the Interested Parties to proceed with the contested motion on the Return Date or on any other date as may be directed by the Presiding Judge or as may be mutually agreed by the Interested Parties, if otherwise satisfactory to the Presiding Judge.

## APPENDIX "B"

1. All Participants will have their microphones muted and may only unmute their own microphones when they are addressing the Court. When parties are not muted, they must avoid making extraneous noise (including for example, typing and shuffling papers) as these noises may interfere with the hearing.
2. Participants must ensure that they participate in the Zoom hearing from a well-lit room so that they are easily visible.
3. Participants must ensure that they participate in the Zoom hearing from a quiet location where they (and the Court) will not be interrupted or disturbed during the hearing.
4. All mobile devices must be turned off or put on silent mode during the hearing.
5. Participants must refrain from speaking over other Participants.
6. Participants should make submissions in accordance with the order set out in the agenda. If there is a need to make submissions out of sequence, Participants should make a request in a manner directed by the Court. The Court may ask Participants to signal when they intend to address the Court by raising their hand (either by physically raising their hand or by using the virtual "raise hand" feature in Zoom).
7. Participants must state their name and who they represent before addressing the Court.
8. Upon entry into the virtual waiting room, each Participant joining by video should identify themselves, including any person off camera that may be viewing the video feed. This also allows any audio or visual issues to be identified. Each Participant is obligated to immediately notify the presiding judge if any additional person joins them in viewing the video feed.
9. If a Participant intends to rely on any documents, the materials you intend to rely on must be served and shared on the Monitors' sync.com link (or subsequent platform approved by the Court i.e. Case lines) and all references during the hearing should reference the folder structure uploaded to sync.com.

10. If a party wishes to share certain documents during the hearing, the documents should be provided to the Monitors in advance so that it can be added to the agenda and a method for sharing can be set up.

**APPENDIX "D"**  
**CASH FLOW FORECAST**

Please see attached.

## Imperial Tobacco Canada Limited

CCAA Cash Flow Forecast

(CAD\$ in thousands)

Week Beginning (Monday)	7-Sep-20	14-Sep-20	21-Sep-20	28-Sep-20	5-Oct-20	12-Oct-20	19-Oct-20	26-Oct-20	2-Nov-20	9-Nov-20	16-Nov-20	23-Nov-20	30-Nov-20	7-Dec-20	14-Dec-20	
Forecast Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
<b>RECEIPTS</b>																
Trade Receipts	[2]	74,609	96,868	93,728	91,213	89,635	83,603	86,360	83,507	100,109	98,305	97,294	96,471	95,311	92,949	95,140
<b>DISBURSEMENTS</b>																
<i>Operating Disbursements</i>																
Taxes and Levies	[3]	(54)	(42,025)	(24,016)	(571,579)	-	(72,794)	(45,908)	(33,247)	(107,508)	(39,016)	(69,312)	(5,157)	(169,956)	(33,955)	(28,800)
Operations	[4]	(14,861)	(6,189)	(56,159)	(9,862)	(12,806)	(9,476)	(7,565)	(20,732)	(13,960)	(15,695)	(8,630)	(52,323)	(13,910)	(16,718)	(52,167)
<b>Total Operating Disbursements</b>		<b>(14,915)</b>	<b>(48,213)</b>	<b>(80,175)</b>	<b>(581,442)</b>	<b>(12,806)</b>	<b>(82,270)</b>	<b>(53,474)</b>	<b>(53,980)</b>	<b>(121,469)</b>	<b>(54,711)</b>	<b>(77,942)</b>	<b>(57,480)</b>	<b>(183,866)</b>	<b>(50,673)</b>	<b>(80,968)</b>
<b>OPERATING CASH FLOWS</b>																
		<b>59,694</b>	<b>48,654</b>	<b>13,553</b>	<b>(490,229)</b>	<b>76,829</b>	<b>1,333</b>	<b>32,886</b>	<b>29,528</b>	<b>(21,360)</b>	<b>43,594</b>	<b>19,352</b>	<b>38,991</b>	<b>(88,556)</b>	<b>42,276</b>	<b>14,172</b>
<i>Financing Disbursements</i>																
Interest and Related Fees	[5]	-	-	-	776	-	-	846	-	-	-	-	841	-	-	-
<i>Restructuring Disbursements</i>																
Professional Fees	[6]	(970)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)
<b>NET CASH FLOWS</b>																
		<b>58,724</b>	<b>48,304</b>	<b>13,203</b>	<b>(489,803)</b>	<b>76,479</b>	<b>983</b>	<b>32,536</b>	<b>30,023</b>	<b>(21,710)</b>	<b>43,244</b>	<b>19,002</b>	<b>38,641</b>	<b>(88,065)</b>	<b>41,926</b>	<b>13,822</b>
<b>CASH</b>																
Beginning Balance		1,921,468	1,980,192	2,028,496	2,041,700	1,551,896	1,628,375	1,629,358	1,661,894	1,691,918	1,670,208	1,713,451	1,732,453	1,771,094	1,683,029	1,724,956
Net Cash Inflows / (Outflows)		58,724	48,304	13,203	(489,803)	76,479	983	32,536	30,023	(21,710)	43,244	19,002	38,641	(88,065)	41,926	13,822
Other (FX)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>ENDING CASH</b>		<b>1,980,192</b>	<b>2,028,496</b>	<b>2,041,700</b>	<b>1,551,896</b>	<b>1,628,375</b>	<b>1,629,358</b>	<b>1,661,894</b>	<b>1,691,918</b>	<b>1,670,208</b>	<b>1,713,451</b>	<b>1,732,453</b>	<b>1,771,094</b>	<b>1,683,029</b>	<b>1,724,956</b>	<b>1,738,778</b>

### Notes to the CCAA Forecast:

- [1] The purpose of this cash flow forecast is to estimate the liquidity requirements of the Company during the forecast period.
- [2] Forecast Trade Receipts include collections from the sale of tobacco-related products and other categories, net of returns, and inclusive of sales taxes. The sales forecast is based on historical sales patterns, seasonality, and current management's expectations, including the estimated impact of transition to plain-packaging regulations. The cash flow forecast includes certain 2021 price increases. The Company's ability to maintain the price increase is dependent on market conditions.
- [3] Forecast Taxes and Levies disbursements reflect the remittance of the federal excise tax, provincial tobacco taxes, sales taxes, and the Company's corporate income taxes. One-time disbursements include (i) catch-up tax payments of \$457 million that were deferred due to COVID-19 government relief measures and (ii) approximately \$198 million of the annual corporate income tax payments for fiscal 2020 that are due in early 2021.
- [4] Forecast Operations disbursements include employee-related costs, selling, general, administrative costs and intercompany costs. Intercompany costs include costs relating to the purchase of tobacco-related products and other categories, and services including: innovation fees, consulting and advisory fees, IT-related costs, product development and testing, accounting and human resources. Included in the intercompany costs is a disbursement of \$55 million to BAT Mexico for costs associated with the retirement of certain equipment and materials that are obsolete after the implementation of the Tobacco Products Regulations (Plain and Standardized Appearance).
- [5] Forecast Interest and Related Fees reflect interest income earned net of any sundry payments relating to existing facilities.
- [6] Forecast Professional Fees include fees for the Company's Counsel, the Monitor, the Monitor's Counsel, the Company's US Counsel, the Monitor's US Counsel, the US Noticing Agent, the Court-Appointed Mediator, the Court-Appointed Mediator's Counsel and the Representative Counsel for the TRW Claimants.



## Imperial Tobacco Canada Lim

CCAA Cash Flow Forecast

(CAD\$ in thousands)

Week Beginning (Monday)	21-Dec-20	28-Dec-20	4-Jan-21	11-Jan-21	18-Jan-21	25-Jan-21	1-Feb-21	8-Feb-21	15-Feb-21	22-Feb-21	1-Mar-21	8-Mar-21	15-Mar-21	22-Mar-21	29-Mar-21	30-Week Total	
Forecast Week	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30		
<b>RECEIPTS</b>																	
Trade Receipts	[2]	92,735	97,024	53,900	54,231	54,955	55,493	55,659	57,929	56,158	57,818	54,134	54,405	68,433	68,923	70,914	2,327,811
<b>DISBURSEMENTS</b>																	
<i>Operating Disbursements</i>																	
Taxes and Levies	[3]	(39,481)	(27,965)	(84,457)	(80,922)	(38,540)	(132,226)	(35,868)	(24,425)	(17,922)	(126,693)	(168,891)	(25,293)	(19,024)	(28,373)	(113,850)	(2,207,258)
Operations	[4]	(14,635)	(10,366)	(20,465)	(14,218)	(8,336)	(3,334)	(8,831)	(9,017)	(9,657)	(44,098)	(14,586)	(9,474)	(9,428)	(11,491)	(79,312)	(578,301)
<i>Total Operating Disbursements</i>		(54,116)	(38,331)	(104,921)	(95,140)	(46,876)	(135,560)	(44,699)	(33,442)	(27,579)	(170,791)	(183,477)	(34,767)	(28,452)	(39,864)	(193,162)	(2,785,559)
<b>OPERATING CASH FLOWS</b>		38,618	58,693	(51,021)	(40,909)	8,079	(80,067)	10,960	24,488	28,579	(112,973)	(129,343)	19,638	39,981	29,059	(122,248)	(457,748)
<i>Financing Disbursements</i>																	
Interest and Related Fees	[5]	-	918	-	-	-	835	-	-	-	811	-	-	-	-	729	5,755
Restructuring Disbursements																	
Professional Fees	[6]	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(350)	(11,121)
<b>NET CASH FLOWS</b>		38,268	59,260	(51,371)	(41,259)	7,729	(79,582)	10,610	24,138	28,229	(112,512)	(129,693)	19,288	39,631	28,709	(121,869)	(463,113)
<b>CASH</b>																	
Beginning Balance		1,738,778	1,777,046	1,836,306	1,784,935	1,743,676	1,751,405	1,671,823	1,682,433	1,706,571	1,734,800	1,622,288	1,492,595	1,511,883	1,551,514	1,580,224	1,921,468
Net Cash Inflows / (Outflows)		38,268	59,260	(51,371)	(41,259)	7,729	(79,582)	10,610	24,138	28,229	(112,512)	(129,693)	19,288	39,631	28,709	(121,869)	(463,113)
Other (FX)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>ENDING CASH</b>		1,777,046	1,836,306	1,784,935	1,743,676	1,751,405	1,671,823	1,682,433	1,706,571	1,734,800	1,622,288	1,492,595	1,511,883	1,551,514	1,580,224	1,458,354	1,458,354

### Notes to the CCAA Forecast:

- [1] The purpose of this cash flow forecast is to estimate the liquidity requirements of the Company during the forecast period.
- [2] Forecast Trade Receipts include collections from the sale of tobacco-related products and other categories, net of returns, and inclusive of sales taxes. The sales forecast is based on historical sales patterns, seasonality, and current management's expectations, including the estimated impact of transition to plain-packaging regulations. The cash flow forecast includes certain 2021 price increases. The Company's ability to maintain the price increase is dependent on market conditions.
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## **APPENDIX “E” REGULATION OF VAPOUR PRODUCTS**

Please see below for a summary of the vaping regulations that are being considered and implemented across Canada.

1. *British Columbia* - On July 20, 2020, the Province of British Columbia passed B.C. Order in Council No. 426 which enacted the previously announced vapour regulations. The order in council (i) created the E-Substances Regulation under the *Public Health Act*, (ii) amended the Health Hazards Regulation under the *Public Health Act* and (iii) amended the Tobacco and Vapour Products Control Regulation under the *Tobacco and Vapour Products Control Act*. The effect of these amendments was to (1) prohibit the advertising of vapour products anywhere where minors are permitted; (2) prohibit the sale of vapour products unless such products contain nicotine or cannabis, but not together; (3) define nicotine as a “public health hazard” under the *Public Health Act*, giving the Province the power to limit the amount of nicotine used in vapour products to 20 milligrams per millilitre; (4) prohibiting the sale of flavoured vapour products where minors have access to the premises; (5) require plain packaging with health warnings; and (6) creates reporting requirements for retailers and manufacturers of vapour products . The Province has also introduced legislation that made it the first province in Canada to have a specific tax rate of 20% for vapour products. This legislation came into effect on January 1, 2020.
2. *PEI* – In February of 2020, PEI issued draft regulations to ban the sale of flavoured vaping products, other than tobacco flavoured products. These regulations were enacted on August 21, 2020 and will come into force on March 1, 2021.
3. *Nova Scotia* – On March 11, 2020, Nova Scotia Bill 133 was passed and came into force on April 1, 2020. Bill 133 granted regulatory power to limit the concentration of nicotine in vaping products and to limit their capacity. Subsequent regulations limiting nicotine concentration to 20 ml/mL were enacted on May 5, 2020 and came into force on September 1, 2020.

4. *Federal* - On June 25, 2020, the federal government of Canada enacted the *Vaping Promotion Regulations*. These regulations prohibit any promotion or display of vapour products where they would be visible to young persons and require remaining advertising to display health warnings. The promotion provisions of the *Vaping Promotion Regulations* came into force on August 7, 2020 and the display provision came into force on September 6, 2020.
5. *Ontario* - On February 28, 2020 Ontario published regulatory proposals to restrict the sale of flavoured vapour products (other than tobacco, mint or menthol flavours) and those with a nicotine concentration higher than 20 mg/mL to speciality stores. These proposals were enacted as regulations on May 11, 2020 and came into force on July 1, 2020.
6. *Alberta* – On June 26, 2020, Alberta passed Bill 19, which amended Alberta’s existing tobacco legislation to add vapour products to its purview. Vapour products will be regulated in essentially the same way as Tobacco Products with respect to public use, sale to youth, display and promotion. This legislation has not yet been proclaimed into force.

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.1985, c. C-36, AS  
AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED**

Court File No. CV-19-616077-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**EIGHTH REPORT OF THE MONITOR**  
**SEPTEMBER 22, 2020**

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