

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

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

**ELEVENTH REPORT OF THE MONITOR**

**March 15, 2022**



## TABLE OF CONTENTS

|           |   |           |
|-----------|---|-----------|
| <b>A.</b> | <b>General.....</b>   | <b>1</b>  |
| <b>B.</b> | <b>Introduction.....</b>  | <b>1</b>  |
| <b>C.</b> | <b>Background .....</b>   | <b>2</b>  |
| <b>D.</b> | <b>Terms of Reference and Disclaimer .....</b>  | <b>2</b>  |
| <b>E.</b> | <b>Purpose of this Report .....</b>   | <b>3</b>  |
| <b>F.</b> | <b>Update on Court Proceedings.....</b>   | <b>4</b>  |
| <b>G.</b> | <b>Update on the Mediation .....</b>  | <b>4</b>  |
| <b>H.</b> | <b>COVID-19 Pandemic Impact Update .....</b>  | <b>4</b>  |
| <b>I.</b> | <b>Imperial’s Business Activities, Industry Developments and<br/>Trends Impacting Imperial’s Business .....</b> | <b>5</b>  |
| <b>J.</b> | <b>Receipts and Disbursements for the 25-Week Period Ending<br/>February 27, 2022 .....</b>                     | <b>7</b>  |
| <b>K.</b> | <b>Cash Flow Forecast.....</b>  | <b>9</b>  |
| <b>L.</b> | <b>New Tobacco and Vapour Regulations.....</b>  | <b>11</b> |
| <b>M.</b> | <b>Overview of the Monitor’s Activities .....</b>   | <b>11</b> |
| <b>N.</b> | <b>Stay of Proceedings.....</b>   | <b>13</b> |

### **APPENDIX “A” GLOSSARY**

### **APPENDIX “B” ORDERS**

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

### **APPENDIX “D” CASH FLOW FORECAST**

### **APPENDIX “E” REGULATION OF VAPOUR PRODUCTS**

**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

**ELEVENTH 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 U.S. 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 and 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 and the related Chapter 15 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 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 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 March 9, 2022 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 Mediation;
  - ii. an update on the continued impact of the COVID-19 Pandemic on Imperial's business, and steps taken to mitigate the effects of future business interruptions;
  - iii. Imperial's business activities, industry developments and trends impacting Imperial's business and Imperial's related business contingency plan;
  - iv. Imperial's budget to actual cash flow results for the 25-week period ending February 27, 2022;
  - v. the Cash Flow Forecast for the 31-week period commencing the week of February 28, 2022 through the week of September 30, 2022;
  - vi. the new Tobacco Regulations coming into force and regulations governing Vapour Products;
  - vii. the activities of the Monitor and its counsel since September 20, 2021, the date of the Tenth Report;
  - viii. Imperial's request for an order extending the Stay of Proceedings up to and including September 30, 2022; and
  - ix. the Monitor's comments and recommendations in respect of the foregoing matters.

**F. UPDATE ON COURT PROCEEDINGS**

13. On September 27, 2021, this Court heard a motion seeking the extension of the Stay of Proceedings and issued the March 2022 Stay Extension Order which extended the Stay Period to March 31, 2022. A copy of the March 2022 Stay Extension Order can be found [here](#).
14. Due to the continued impact of the COVID-19 Pandemic, this hearing on the motion to extend the Stay of Proceedings will proceed by Zoom Video Conference according to the protocol developed by counsel to the Tobacco Monitors. The general public will have access to the hearing via secure, dedicated YouTube livestream. This protocol has been re-served on the consolidated service list, is posted to the Monitor's website and can be found at Appendix "C" to this Report.

**G. UPDATE ON THE MEDIATION**

15. 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. The Imperial Data Room is accessible only to those advisors of Mediation Participants who have executed NDAs.
16. Since the date of the Tenth Report, the Court-Appointed Mediator, with the assistance of the Tobacco Monitors, has continued to conduct the Mediation and engage in meaningful 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.

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

17. As most recently described in the September 2021 Thauvette Affidavit, while Imperial experienced temporary supply chain disruptions and challenges and incurred certain additional costs as a result of the COVID-19 Pandemic, the supply chain disruptions had only a short-term impact on Imperial's business. Nonetheless, Imperial, with the assistance of BAT operations, continues to refine their business contingency plan to be better prepared for future disruptions.

18. As described in the Monitor's Tenth Report and as part of this contingency planning, the BAT Group intends to purchase and reallocate certain manufacturing and packaging equipment to be installed in the United States and Chile for Imperial's use to prevent supply chain disruption in the future. Certain of the purchased equipment will be purchased by the BAT Group directly from the manufacturer, while other equipment will be reallocated from affiliates of BAT. The total cost of the equipment is expected to be approximately \$29 million and ownership will be retained by the BAT Group. Imperial has advised the Monitor that it expects to incur development costs of \$5.8 million in connection with these contingency arrangements, although no payments have been made to date and the disbursement timeline has not yet been determined. Imperial has advised the Monitor that it expects that the equipment will be installed in the United States by April 2022 and in Chile by September 2022. Imperial will continue to maintain increased inventory levels until the equipment is installed.
19. The COVID-19 Pandemic has also had an impact on the way in which employees of Imperial work. As a result, since the date of the Tenth Report, Imperial completed certain head office renovations, including IT infrastructure upgrades, to ensure employees have more connectivity and flexibility to work from home. The total cost of these renovations was approximately \$3.7 million, in line with Imperial's estimate. The head office has officially reopened as of February 28, 2022 with plans to gradually transition to a hybrid-work model, as public health restrictions permit.

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

**(i) Tax Issues**

20. As described in the September 2021 Thauvette Affidavit, in March 2021, Imperial and its counsel engaged in discussions with DOJ in respect of a variety of issues described in the Monitor's previous reports. ITCAN continues to keep the Monitor apprised of ongoing discussions with CRA and DOJ regarding the outstanding issues.

21. With respect to the Flintkote Issue set forth in greater detail in the Tenth Report, DOJ responded by email on September 22, 2021 to ITCAN's letter of May 13, 2021 in which ITCAN suggested that the most efficient method of dealing with the Flintkote Issue would be for CRA's claim to be addressed in the CCAA Proceedings. In its response letter, DOJ reaffirmed its position that the taxpayer objection and Tax Court of Canada appeal procedures set out in the Income Tax Act would be the most appropriate method for resolving the Flintkote Issue. Nevertheless, DOJ advised that CRA Appeals will continue to hold the objections in abeyance until further notice.

**(ii) Canadian Distribution Centres Upgrade**

22. As discussed in the Tenth Report, the automated equipment in Imperial's Canadian distribution centres operated by Ryder is nearing the end of its useful life and will be replaced starting in 2022.
23. Following a request for proposals, Imperial selected the most favourable bid based on the terms of the proposal and technical feasibility. The Monitor reviewed the selected proposal and, based on the terms of agreement proposed therein and discussions with Imperial, approved the capital expenditure of approximately \$20 million in October 2021. As of the date of this Report, ITCAN has paid approximately \$9.5 million. It is expected that the project will be completed by March 2023.

**(iii) Fine Cut Tobacco Sourcing**

24. As stated in the Tenth Report, Imperial advised the Monitor that it was planning to change the source for purchasing fine cut tobacco from BAT Mexico to BAT manufacturing facilities in Germany and Hungary. As of the date of this Report, the migration is ongoing and is expected to generate cost savings of \$0.6 million over the next five years. The Monitor has reviewed and approved the business case for this sourcing change.

**(iv) Vuse Store Openings**

25. As part of Imperial's strategy to market its Vapour Products which are sold under the "Vuse" trademark, it has continued to open additional Vuse stores. As of the date of this Report, Imperial currently has four Vuse stores and anticipates opening eight additional Vuse stores across Canada by the end of the year.
26. In connection with the execution of leases on six of the above-mentioned stores, Imperial was required to post cash deposits (associated with four leases) and letters of credit (associated with two leases) totaling approximately \$0.6 million.
27. While the amounts required to be posted were not significant, Imperial sought the Monitor's approval. The Monitor and its counsel reviewed the various lease terms and the underlying business case and concurred with the posting of such deposits.

**J. RECEIPTS AND DISBURSEMENTS FOR THE 25-WEEK PERIOD ENDING FEBRUARY 27, 2022**

28. Imperial's cash balance as of the week ended February 27, 2022 was \$2,573 million, an increase of approximately \$304 million, as compared to the forecasted net cash inflow of \$323 million over the 25-week period giving a negative variance of \$19 million as explained below:

| <b>VARIANCE REPORT</b>                           | <b>Actuals</b>  | <b>Forecast</b>  | <b>Variance</b> |
|--|---|------------------|-----------------|
| <i>CAD in thousands</i>                          | <b>For the 25-week period ending<br/>Feb 27, 2022</b> |                  |                 |
| <b>RECEIPTS</b>                                  |   |                  |                 |
| Trade Receipts                                   | 2,190,076   | 2,187,885        | 2,191           |
| <b>DISBURSEMENTS</b>                             |   |                  |                 |
| <i>Operating Disbursements</i>                   |   |                  |                 |
| Taxes and Levies                                 | (1,416,214)   | (1,448,481)      | 32,267          |
| Operations                                       | (473,428)   | (417,302)        | (56,126)        |
| <i>Total Operating Disbursements</i>             | (1,889,642)   | (1,865,783)      | (23,859)        |
| <b>OPERATING CASH FLOWS</b>                      | <b>300,434</b>  | <b>322,102</b>   | <b>(21,668)</b> |
| <i>Financing Disbursements</i>                   |   |                  |                 |
| Interest and Related Fees on Existing Facilities | 5,539   | 6,184            | (645)           |
| <i>Restructuring Disbursements</i>               |   |                  |                 |
| Professional Fees                                | (3,373)   | (5,550)          | 2,178           |
| <b>NET CASH FLOWS</b>                            | <b>302,600</b>  | <b>322,736</b>   | <b>(20,136)</b> |
| <b>CASH</b>                                      |   |                  |                 |
| Beginning Balance                                | 2,268,681   | 2,268,681        | -               |
| Net Cash Inflows / (Outflows)                    | 302,600   | 322,736          | (20,136)        |
| Other (FX)                                       | 1,223   | -                | 1,223           |
| <b>ENDING CASH</b>                               | <b>2,572,504</b>                                      | <b>2,591,417</b> | <b>(18,913)</b> |

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

- i. *trade receipts*: positive permanent variance of \$2 million, or 0.1% against the forecast, as part of the ordinary course of business given the forecasted collections were approximately \$2,188 million over the current reporting period;
- ii. *taxes and levies*: positive timing variance of \$32 million, primarily driven by the schedule of importation of cigarettes into Canada that is expected to reverse in the future reporting period;

- iii. *operating disbursements*: negative timing variance of \$56 million, primarily driven by higher-than-forecast inventory purchases for Vapour Products of approximately \$34 million and lower-than-forecast reimbursement of expenses relating to the Vapour Products that is expected to reverse in the future reporting period. The lower-than-forecast reimbursement relating to the Vapour Products business is the result of the 2021 year-end accounting true up, driven by the reconciliation of the actual operating profit for the Vapour Product business against the target operating profit based on the limited risk distribution (LRD) model.
- iv. *professional fees*: positive variance of \$2.2 million that consists of a positive permanent variance of \$1.9 million and a positive timing variance of \$0.3 million that is expected to reverse in the future reporting period.

#### **K. CASH FLOW FORECAST**

- 30. Imperial, with the assistance of the Monitor, has prepared a Cash Flow Forecast for the 31-week period ending the week of September 30, 2022. The Cash Flow Forecast is attached as Appendix “D” to this Report.
- 31. During the Forecast Period, total operating receipts are forecast to be approximately \$2,930 million and total operating disbursements are forecast to be approximately \$2,402 million, resulting in a net positive operating cash flow of approximately \$528 million. In addition, Imperial forecasts interest income of approximately \$8 million in respect of cash balances on deposit in Canada and professional fee disbursements of approximately \$6 million, such that net cash inflow is forecast to be approximately \$530 million.
- 32. Although net cash flows are positive during the Forecast Period, there are nine weeks within this period which are forecasted to have negative operating cash flows. These are largely driven by the timing of the payment of taxes and government levies due at the end of each month. Cash flows in the weeks that fall

on or around month-end tax payments are expected to be negative and then offset by the receipt of the positive cash flows during the remainder of the month.

33. 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.
34. 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.
35. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, 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.
36. 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.

37. 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**

### **(i) The Tobacco Regulations**

38. As noted in previous Monitor's Reports, the majority of the Tobacco Regulations came into force on November 9, 2019. These regulations, *inter alia*, require manufacturers of Tobacco Products to use plain, unbranded packaging. The remaining Tobacco Regulations came into force on November 9, 2021, requiring manufacturers of cigarettes to package such products using a slide and shell package. The Monitor noted that the transition to slide and shell packaging has been completed with no material disruptions to Imperial's business.

### **(ii) The Regulation of Vapour Products**

39. Vapour Products continue to come under increased global scrutiny resulting in stringent regulation and, in some cases, bans. As noted in previous Monitor's Reports, the Monitor has been advised by Imperial that, due to the new vaping regulations, there continues to be a high level of uncertainty surrounding the consumer demand for Vapour Products.
40. Appendix "E" to this Report summarizes the various regulatory changes related to Vapour Products that have been considered and implemented across Canada since the date of the Tenth Report.

## **M. OVERVIEW OF THE MONITOR'S ACTIVITIES**

41. Since the date of the Tenth 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 the 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. evaluate a variety of legal and operational issues as they arise;
  - viii. attend monthly board meetings;
  - ix. review proposed capital expenditures; and
  - x. further their understanding of Imperial's business environment and the factors expected to impact its future business prospects.
42. As discussed above, the Monitor has continued to engage with Imperial to understand the supply chain disruptions to its operations caused by the COVID-19 Pandemic and review Imperial's business contingency plan.
43. 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.
44. The Tobacco Monitors and their counsel have met regularly to discuss ongoing matters including the Mediation, reviewing Information to be included in the Applicants' Data Rooms, procedural aspects of these CCAA Proceedings and the relief sought herein.

**(i) Litigation Update**

45. The Monitor is aware of and has been monitoring various ancillary litigation matters involving, and information requests posed to, Imperial following the

initiation of the CCAA Proceedings and the implementation of the Stay of Proceedings. The Monitor believes Imperial has been acting in good faith with respect to such matters, addressing the litigations on a case-by-case basis and apprising the Monitor of the action it intends to take ahead of time. The amounts at issue have been largely immaterial.

**(ii) Professional Fee Disclosure**

46. 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.

**N. STAY OF PROCEEDINGS**

47. Imperial is seeking an extension of the Stay Period up to and including September 30, 2022. 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.
48. 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; and
  - (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.

The Monitor respectfully submits this Report.

Dated this 15<sup>th</sup> day of March 2022.

**FTI Consulting Canada Inc.**

in its capacity as Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited and not in its personal capacity

## 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 Chile**” means British American Tobacco Chile Operaciones S.A.

“**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 Honduras**” means Tabacalera Hondurena S.A.

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

“**Cash Flow Forecast**” means the cash flow forecast of Imperial’s receipts and disbursements for the 31-week period commencing the week of February 28, 2022 through the week of September 30, 2022.

“**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 U.S. 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.

**“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.

**“CRA”** means the Canada Revenue Agency.

**“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.

**“DOJ”** means the Department of Justice Canada.

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

**“Excluded Claims”** means the claims excluded from the definition of TRW Claimants 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 Report”** means the report filed by the Monitor on April 3, 2019 in connection with the relief sought at the Comeback Motion.

**“Flintkote”** means the Flintkote Company.

**“Flintkote Issue”** means the lawsuit brought against ITCAN in respect of certain distributions received by ITCAN from Flintkote (a previous indirect subsidiary of a predecessor of ITCAN) and legal expenses related to same, as more fully described in the Tenth Report.

**“Forecast Period”** means the 31-week period commencing the week of February 28, 2022 through the week of September 30, 2022.

**“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.

**“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.

**“Income Tax Act”** means the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), as amended.

**“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 and updated by written endorsement on March 6, 2020, 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.

**“March 2021 Stay Extension Order”** means an Order of the Court, dated September 29, 2020, extending the length of the Stay of Proceedings to March 31, 2021.

**“March 2022 Stay Extension Order”** means an Order of the Court, dated September 27, 2021, extending the length of the Stay of Proceedings to March 31, 2022.

**“March 2022 Thauvette Affidavit”** means the Affidavit of Eric Thauvette, Vice President and Chief Financial Officer of ITCAN, sworn March 9, 2022.

**“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 ITCAN, 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 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, the Seventh Report, the Eighth Report, the Ninth Report, the Tenth Report and this Report.

“**MSA**” means the Supply of Marketing Services Agreement between ITCAN and Nicoventures.

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

“**Nicoventures**” means Nicoventures Trading Limited, a member of the BAT Group.

“**Ninth Report**” means the report filed by the Monitor on March 19, 2021.

“**October Endorsement**” means an Endorsement of the Court, dated October 18, 2019, providing reasons for the March Stay Extension Order and the deferment of the issue of certain payments to BAT Mexico.

“**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 12, 2019 Thauvette Affidavit.

**"Report"** means this eleventh report of the Monitor filed on March 15, 2022.

**"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 2021 Stay Extension Order"** means an order of the Court, dated March 30, 2021, extending the length of the Stay of Proceedings to September 30, 2021

**"September 2021 Thauvette Affidavit"** means the Affidavit of Eric Thauvette, Vice President and Chief Financial Officer of ITCAN, sworn September 17, 2021.

**"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 March 31, 2022.

**"Tenth Report"** means the report filed by the Monitor on September 20, 2021.

**"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 Growers’ Marketing Board”** means The Ontario Flue-Cured Tobacco Growers’ Marketing Board.

**“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/2019-107.

**“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.

**“U.S.”** means the United States of America.

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

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

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

**“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/Vuse.

**“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 U.S. 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.

A copy of the Initial Order can be found [here](#).

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

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

- (a) the Court issued an order dated April 5, 2019 extending the Stay of Proceedings to June 28, 2019, a copy of which can be found [here](#);
- (b) the Court issued the Insurance Lift-Stay Order dated April 5, 2019, partially lifting the Stay of Proceedings to allow the Quebec Litigation Plaintiffs to seek the approval of certain insurance settlements, a copy of which can be found [here](#); and
- (c) the Court issued an order dated April 5, 2019 amending and restating the Initial Order and appointing Hon. Warren K. Winkler, Q.C. as the Court-Appointed Mediator, a copy of which can be found [here](#).

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

On April 17, 2019, the U.S. Bankruptcy Court issued the Foreign Recognition Order recognizing the CCAA Proceedings as the main proceedings and staying proceedings against ITCAN in the United States. 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. Representation Order**

On April 25, 2019, the Court issued the Representation Order appointing Ari Kaplan of Kaplan Law as representative counsel to Robert M. Brown and George A. Foster, the court-appointed representatives of all persons with entitlements under certain retirements plans, including survivors and beneficiaries of such persons and any other person under the Representation Order. A copy of the Representation Order can be found [here](#).

**6. Order to Amend the Ontario Claim**

On April 29, 2019, the Court issued the Order to Amend the Ontario Claim, partially lifting the Stay of Proceedings to permit the Province of Ontario to seek leave to amend its Amended Fresh as Amended Statement of Claim in the proceedings related to Ontario's HCCR Claims. A copy of the Order to Amend the Ontario Claim can be found [here](#).

**7. Notice Procedure Order:**

On May 14, 2019, the Court issued the Notice Procedure Order, which among other things, appointed Vivian Bennan-Dolezar as an additional representative to the represented parties under the Representation Order and approved the form and manner of notice of the Settlement Approval Hearing to such represented parties. A copy of the Notice Procedure Order can be found [here](#).

**8. Professional Fee Disclosure Order:**

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

**9. Communication and Confidentiality Protocol Endorsement**

On May 24, 2019, the Court issued the Communication and Confidentiality Protocol Endorsement, pursuant to which the Court approved the communication and confidentiality protocol as between the Court and the Court-Appointed Mediator. A copy of the Communication and Confidentiality Protocol Endorsement can be found [here](#).

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

On May 31, 2019, the Court issued the Clarification of Insurance Lift-Stay Order which clarified the scope of the Insurance Lift-Stay Order. A copy of the Clarification of Insurance Lift-Stay Order can be found [here](#).

#### **11. 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](#).

#### **12. Genstar Settlement Approval Order**

The Genstar Settlement Approval Order was issued on June 26, 2019, approving, among other things (i) the settlement entered into on April 25, 2019 between ITCAN and Robert M. Brown and George A. Foster, as representatives in respect of those certain retirement plans; and (ii) the distribution of the proceeds of such settlement among all persons with entitlements under certain retirements plans, including survivors and beneficiaries of such persons and any other person under the Representation Order. A copy of the Genstar Settlement Approval Order can be found [here](#).

#### **13. 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, which appointed Alvarez & Marsal Canada Inc. as the financial advisor to the Court-Appointed Mediator. A copy of the Order Appointed a Financial Advisor to the Court-Appointed Mediator can be found [here](#).

#### **14. Court-to-Court Communications Order**

On July 9, 2019, the Court issued the Court-to-Court Communications Order, approving court-to-court communications between the Court, the U.S. Bankruptcy Court and any other court in any province or territory of Canada. A copy of the Court-to-Court Communications Order can be found [here](#).

#### **15. Order Recognizing the Genstar Settlement Approval Order**

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

#### **16. Order Recognizing the Court-to-Court Communications Order**

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

#### **17. March Stay Extension Order and October Endorsement**

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](#). Justice McEwen released the October Endorsement on October 18, 2019 providing reasons for the March Stay Extension Order and the deferment of the issue of certain payments to BAT Mexico. A copy of the October Endorsement 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 ITCAN 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](#).

**21. March 2021 Stay Extension Order**

The March 2021 Stay Extension Order was issued on September 29, 2020, extending the Stay of Proceedings to March 31, 2021. A copy of the March 2021 Stay Extension Order can be found [here](#).

**22. September 2021 Stay Extension Order**

The September 2021 Stay Extension Order was issued on March 30, 2021, extending the Stay of Proceedings to September 30, 2021. A copy of the September 2021 Stay Extension Order can be found [here](#).

**23. March 2022 Stay Extension Order**

The March 2022 Stay Extension Order was issued on September 27, 2021, extending the Stay of Proceedings to March 31, 2022. A copy of the March Stay Extension 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. three (3) business days in advance of the hearing (Thursday, March 17, 2022 for the motion scheduled Monday, March 22, 2022), by emailing Veritext Litigation Solutions Canada, Inc. (scheduling@neesonsreporting.com) and copying each Monitor’s counsel (tbarbiero@dpvp.com, msassi@casselsbrock.com, nancy.thompson@blakes.com). In their email, Participants should provide contact information, including a name, who they are acting for, an email address and phone number for the counsel slip, along with a statement regarding whether they intend to make submissions.
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. All material for use on the motion is to be posted on CaseLines, as more fully described in Appendix “B”.
4. Participants will appear by video. Monitors’ counsel will distribute the Zoom link to Participants. Participants are not permitted to forward or share the Zoom link. No person should have access to the hearing on Zoom other than Participants. If a Participant is unable to attend by video, they should contact Monitors’ counsel. Participants should carefully review the technical requirements below.
5. Counsel is not required to gown for the hearing. Instead, business attire is required for all Participants appearing by video.
6. For access by the general public, a YouTube link will be posted on each of the Monitors’ websites by 10:00 a.m. not less than two (2) business days prior to the hearing. The YouTube link will allow the general public to view a livestream of the hearing, but not participate in the hearing. For greater clarity, individuals viewing the livestream via YouTube will not be heard or seen by the Court, Judge or Participants.
7. No recording of any part of the hearing (including audio) may be made unless authorized in advance by the Court.
8. 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.

9. Participants will be placed into a virtual waiting room upon entering the Zoom meeting.

Technical Requirements for Zoom Participants

10. Participants will require a device with a working microphone and camera. 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.

11. 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 Zoom without interruption.

12. 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.

13. Counsel on Zoom should identify their display name in the following format: [First Name] [Last name], for [Client].

14. 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.

15. It is suggested that Participants use the “gallery view” mode, rather than the “active speaker” mode, available on Zoom.

16. It is suggested that only counsel who are making submissions turn on their cameras during the hearing.

17. 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)).
18. Further participant information is included in Appendix "B."

## 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. Participants must also ensure that no filters are active that may distort or otherwise conceal their appearance.
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 relevant CaseLines bundle and all references during the hearing should reference the CaseLines page numbering associated with such CaseLines bundle.
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)       |     | 28-Feb-22 | 7-Mar-22  | 14-Mar-22 | 21-Mar-22 | 28-Mar-22 | 4-Apr-22  | 11-Apr-22 | 18-Apr-22 | 25-Apr-22 | 2-May-22  | 9-May-22  | 16-May-22 | 23-May-22 | 30-May-22 | 6-Jun-22  |
|-------------------------------|-----|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Forecast Week                 |     | 1         | 2         | 3         | 4         | 5         | 6         | 7         | 8         | 9         | 10        | 11        | 12        | 13        | 14        | 15        |
| RECEIPTS                      |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Trade Receipts                | [2] | 75,336    | 77,491    | 79,176    | 81,793    | 81,470    | 84,590    | 86,206    | 83,605    | 87,224    | 87,542    | 89,767    | 94,326    | 91,470    | 105,374   | 106,081   |
| DISBURSEMENTS                 |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Operating Disbursements       |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Taxes and Levies              | [3] | (147,246) | (23,392)  | (17,867)  | (22,475)  | (96,656)  | -         | (29,797)  | (20,494)  | (24,474)  | (138,592) | (40,619)  | (62,233)  | (3,559)   | (157,226) | (39,146)  |
| Operations                    | [4] | (10,272)  | (20,168)  | (4,245)   | (22,488)  | (14,694)  | (17,824)  | (10,750)  | (10,817)  | 2,006     | (12,012)  | (14,492)  | (8,290)   | (53,279)  | (11,454)  | (16,123)  |
| Total Operating Disbursements |     | (157,518) | (43,560)  | (22,113)  | (44,962)  | (111,351) | (17,824)  | (40,548)  | (31,310)  | (22,468)  | (150,604) | (55,111)  | (70,522)  | (56,838)  | (168,680) | (55,269)  |
| OPERATING CASH FLOWS          |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
|                               |     | (82,182)  | 33,931    | 57,063    | 36,831    | (29,880)  | 66,766    | 45,658    | 52,295    | 64,757    | (63,062)  | 34,656    | 23,803    | 34,632    | (63,307)  | 50,812    |
| Financing Disbursements       |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Interest and Related Fees     | [5] | -         | -         | -         | -         | 1,094     | -         | -         | -         | 1,328     | -         | -         | -         | -         | 1,118     | -         |
| Restructuring Disbursements   |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Professional Fees             | [6] | (300)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     |
| NET CASH FLOWS                |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
|                               |     | (82,482)  | 33,731    | 56,864    | 36,631    | (28,986)  | 66,566    | 45,458    | 52,095    | 65,885    | (63,261)  | 34,456    | 23,604    | 34,433    | (62,388)  | 50,612    |
| CASH                          |     |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |
| Beginning Balance             |     | 2,572,504 | 2,490,022 | 2,523,753 | 2,580,617 | 2,617,248 | 2,588,262 | 2,654,827 | 2,700,286 | 2,752,381 | 2,818,266 | 2,755,005 | 2,789,461 | 2,813,065 | 2,847,497 | 2,785,109 |
| Net Cash Inflows / (Outflows) |     | (82,482)  | 33,731    | 56,864    | 36,631    | (28,986)  | 66,566    | 45,458    | 52,095    | 65,885    | (63,261)  | 34,456    | 23,604    | 34,433    | (62,388)  | 50,612    |
| Other (FX)                    |     | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         |
| ENDING CASH                   |     | 2,490,022 | 2,523,753 | 2,580,617 | 2,617,248 | 2,588,262 | 2,654,827 | 2,700,286 | 2,752,381 | 2,818,266 | 2,755,005 | 2,789,461 | 2,813,065 | 2,847,497 | 2,785,109 | 2,835,721 |

## 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 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. Due to a bank holiday on September 30, 2022, the cash flow forecast does not reflect approximately \$135 million of government levies and taxes due at the end of September which are now payable outside of the forecast period on October 3, 2022.
- [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 Limited

CCAA Cash Flow Forecast

(CAD\$ in thousands)

| Week Beginning (Monday)       | 13-Jun-22 | 20-Jun-22 | 27-Jun-22 | 4-Jul-22  | 11-Jul-22 | 18-Jul-22 | 25-Jul-22 | 1-Aug-22  | 8-Aug-22  | 15-Aug-22 | 22-Aug-22 | 29-Aug-22 | 5-Sep-22  | 12-Sep-22 | 19-Sep-22 | 26-Sep-22 | 31-Week Total |
|-------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|---------------|
| Forecast Week                 | 16        | 17        | 18        | 19        | 20        | 21        | 22        | 23        | 24        | 25        | 26        | 27        | 28        | 29        | 30        | 31        |               |
| <b>RECEIPTS</b>               |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Trade Receipts [2]            | 104,426   | 111,463   | 100,380   | 101,494   | 100,803   | 120,346   | 101,633   | 97,829    | 103,485   | 113,656   | 96,644    | 97,494    | 92,171    | 93,273    | 92,441    | 90,882    | 2,929,874     |
| <b>DISBURSEMENTS</b>          |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Operating Disbursements       |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Taxes and Levies [3]          | (26,602)  | (29,586)  | (183,339) | -         | (72,384)  | (33,054)  | (31,171)  | (107,084) | (51,350)  | (35,866)  | (43,567)  | (216,360) | -         | (74,966)  | (34,665)  | (55,699)  | (1,819,470)   |
| Operations [4]                | (7,190)   | (11,295)  | (37,725)  | (15,179)  | (8,823)   | (3,157)   | (39,376)  | (10,289)  | (16,719)  | (4,596)   | (57,923)  | (8,028)   | (14,498)  | (7,931)   | (8,521)   | (106,147) | (582,301)     |
| Total Operating Disbursements | (33,792)  | (40,881)  | (221,065) | (15,179)  | (81,207)  | (36,212)  | (70,548)  | (117,374) | (68,069)  | (40,462)  | (101,490) | (224,388) | (14,498)  | (82,896)  | (43,186)  | (161,846) | (2,401,771)   |
| <b>OPERATING CASH FLOWS</b>   | 70,634    | 70,582    | (120,685) | 86,315    | 19,595    | 84,135    | 31,085    | (19,544)  | 35,416    | 73,194    | (4,846)   | (126,894) | 77,673    | 10,377    | 49,256    | (70,964)  | 528,103       |
| Financing Disbursements       |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Interest and Related Fees [5] | -         | -         | 1,138     | -         | -         | -         | 1,173     | -         | -         | -         | -         | 1,238     | -         | -         | -         | 1,321     | 8,410         |
| Restructuring Disbursements   |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Professional Fees [6]         | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (200)     | (6,292)       |
| <b>NET CASH FLOWS</b>         | 70,435    | 70,382    | (119,747) | 86,115    | 19,395    | 83,935    | 32,059    | (19,744)  | 35,216    | 72,994    | (5,045)   | (125,856) | 77,473    | 10,177    | 49,056    | (69,842)  | 530,220       |
| <b>CASH</b>                   |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |           |               |
| Beginning Balance             | 2,835,721 | 2,906,156 | 2,976,538 | 2,856,791 | 2,942,907 | 2,962,302 | 3,046,237 | 3,078,296 | 3,058,552 | 3,093,768 | 3,166,762 | 3,161,717 | 3,035,861 | 3,113,334 | 3,123,511 | 3,172,567 | 2,572,504     |
| Net Cash Inflows / (Outflows) | 70,435    | 70,382    | (119,747) | 86,115    | 19,395    | 83,935    | 32,059    | (19,744)  | 35,216    | 72,994    | (5,045)   | (125,856) | 77,473    | 10,177    | 49,056    | (69,842)  | 530,220       |
| Other (FX)                    | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -         | -             |
| <b>ENDING CASH</b>            | 2,906,156 | 2,976,538 | 2,856,791 | 2,942,907 | 2,962,302 | 3,046,237 | 3,078,296 | 3,058,552 | 3,093,768 | 3,166,762 | 3,161,717 | 3,035,861 | 3,113,334 | 3,123,511 | 3,172,567 | 3,102,725 | 3,102,725     |

### 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 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. Due to a bank holiday on September 30, 2022, the cash flow forecast does not reflect approximately \$135 million of government levies and taxes due at the end of September which are now payable outside of the forecast period on October 3, 2022.
- [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.

## APPENDIX “E” REGULATION OF VAPOUR PRODUCTS

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

1. **Federal:** On September 2, 2021, consultation closed on the federal government’s proposals for a potential ban of flavoured vaping products, with the exception of tobacco, mint or menthol flavours.
2. **New Brunswick:** On June 11, 2021, two bills to amend New Brunswick’s *Tobacco and Electronic Cigarette Sales Act* received royal assent. Bill 63 came into force on September 1, 2021 and amended the *Tobacco and Electronic Cigarette Sales Act* to ban the sale or offering for sale of Vapour Products that have a noticeable flavor (including mint and menthol), other than tobacco flavour. Bill 55 came into force on January 4, 2022 and amended the *Tobacco and Electronic Cigarette Sales Act* to impose a licensing requirement for the operation of vapour shops in the province on or after April 1, 2022.
3. **Saskatchewan:** On September 1, 2021, Saskatchewan’s *Tobacco and Vapour Product Control Amendment Regulations, 2021* and section 5.2 of the *Tobacco and Vapour Product Control Act* came into force. The combined effect of both enactments is to ban the sale of products with flavours other than tobacco, menthol and mint in general retail, while permitting other flavours to be sold in adult-only vapour product stores. Saskatchewan’s *Vapour Products Tax Act* also came into effect on September 1, 2021. This Act imposes a retail sales tax of 20% on all vaping products and requires retailers to hold a license.
4. **Northwest Territories:** On December 22, 2021, the Government of the Northwest Territories released draft regulations that would ban the sale of all flavoured vaping products, except tobacco-flavoured products, in all retail channels in the Territory,

effective March 25, 2022. Consultation on this proposal closed on January 22, 2022.

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

**ELEVENTH REPORT OF THE MONITOR**  
**MARCH 15, 2022**

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
155 Wellington Street West  
Toronto, ON M5V 3J7

**Natasha MacParland** (LSO #42383G)

Tel: 416.863.5567

[nmacparland@dwpv.com](mailto:nmacparland@dwpv.com)

**Chanakya Sethi** (LSO #63492T)

Tel: 416.863.5516

[csethi@dwpv.com](mailto:csethi@dwpv.com)

Lawyers for the Monitor