

FRAMEWORK CONVENTION
ALLIANCE*Bulletin***Building Support for
Global Tobacco Control****Death Clock and minute silence****Inside this issue**

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**DEATH
CLOCK**

Since the opening of the first working group for the Framework Convention on Tobacco Control on 25 October 1999, **36,048,097** people have died from tobacco-related diseases.
(At 9am 12 February 2008)

Respecting a minute's silence, delegates commemorated the victims of tobacco-related diseases since FCTC negotiations began at 9am on 25 October 1999.

**World Customs Organisation
throws weight behind Protocol**

Speaking at yesterday's opening Plenary session, the World Customs Organisation said that, given the links with transnational crime, "countering tobacco smuggling is given a high priority" by our organisation and its Members." It went on to say that it "attaches great importance to internationally consolidated law enforcement actions with a view to preventing illicit trade in tobacco products." The WCO Secretariat is convinced that the development of the Protocol will pave the way for the "implementation of internationally co-ordinated law enforcement actions

against this global scourge." It called on customs organisations, "to take advantage of this historic opportunity with a view to strengthening their statutory powers to counter the illicit trade in tobacco products, since such strengthened Customs powers may also apply to all other types of smuggling and fraud in the long run." It summed up by saying, "We can all agree that the Protocol holds enormous potential for addressing the illicit trade epidemic. It is our hope that we can now work together for an ambitious agreement that will fully realise this potential."

Manœuvres douteuses de BAT au Niger

Depuis 1998, en manipulant les prix déclarés de ses cigarettes, BAT est arrivé à faire perdre au Niger des sommes énormes, estimées à des milliards de francs CFA. (1 € = 656 F CFA.)

La supercherie a été découverte en décembre 2005, lors de la vérification d'une importante cargaison de cigarettes par la douane Niamey Route. La direction de la lutte contre la fraude découvre de graves irrégularités dans les documents qui accompagnent la cargaison: les tarifs douaniers appliqués à la cargaison sont nettement en deçà de

Niger a réussi à préserver sa marge de profit sur ces deux grandes marques en refilant le coût de la minoration des prix à l'État nigérien.

Le fabricant tente de justifier la baisse des prix en invoquant l'ouverture de la représentation BAT-Niger, alors qu'auparavant les cigarettes Craven et London étaient importées du Bénin. De l'avis de la douane nigérienne, l'argument ne tient pas la route et il s'agit ni plus ni moins d'un cas de fraude.

Cependant, BAT n'est pas à court d'astuces. Après avoir em-

réussi à faire limoger le bouillant directeur national de lutte contre la fraude.

Non contents de tuer nos populations en leur vendant un produit mortel, les cigaretteurs utilisent le commerce illicite pour aussi gruger l'État de ses maigres ressources.

*Inoussa Saouna
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qu'ils devraient être.

Au Niger, les droits de douane applicables aux produits d'importation sont calculés sur la base de la valeur déclarée de la marchandise. De plus, il faut savoir que le prix des marques Craven et Rothman's (toutes deux de BAT) a été réduit de moitié plusieurs années auparavant. Les douaniers cherchent à comprendre ce qui pourrait justifier une baisse aussi importante de la valeur déclarée de ces marques de cigarettes: il s'avère que pratiquement rien n'a changé dans le calcul du coût des intrants.

En fait, on constate que BAT-

bauché pendant un certain temps un ancien directeur des douanes pour défendre la société, BAT-Niger porte l'affaire devant la Commission nationale des Droits de l'Homme, qui va accuser le directeur de la lutte contre la fraude d'abus de pouvoir.

Ce n'est que grâce à l'intervention de SOS Tabagisme-Niger que cette confusion de rôles est rendue publique. Accablée par les médias, la société BAT cherche une solution à l'amiable qui lui éviterait de devoir aller devant les tribunaux.

Le contentieux n'est toujours pas résolu. Cependant, BAT a

Guess what...

Japan has had some rather 'interesting' things to say about the illicit trade protocol both in its comments on the template and at yesterday's opening plenary. Among other issues it has raised, Japan is opposed to the protocol including an agreed set of criminal offences.

Agreement on a common set of criminal offences is fundamental to effective law enforcement cooperation between Parties to multilateral agreements. This is explained in the expert group's template (paras 32-34) and recognised in major multilateral treaties that Parties should look to as useful precedents for the illicit trade protocol, including the United Nations Convention against Transnational Organised Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). Both of these Conventions are highlighted in the Secretariat's Note on existing agreements and arrangements relevant to the objective of the INB.

FCTC Parties may be interested to note that UNTOC has 138 Parties and UNCAC 104. And that Japan is not a Party to either of these Conventions. Just something for Parties to bear in mind next time Japan takes the floor.

Smuggling treaty could reduce tobacco toll

The following is adapted from an article which appeared in 'The Lancet' on 9 February 2008

The negotiations on the illicit trade protocol to the WHO FCTC mark a giant leap forward for tobacco control. The global market share of the illicit trade in cigarettes is estimated at over 10 per cent, leading to losses to governmental revenue worldwide each year of about US\$40 billion to \$50 billion, which reduces the amount of money governments have available for state-funded health care. Furthermore, raising the price of tobacco is the most effective mechanism to prevent young people from starting to smoke and to persuade smokers to quit, even in poorer countries. Price increases after taxation are undermined by the illicit trade in tobacco, which makes well-known international brands available at much lower prices.

The international tobacco industry has been heavily implicated in the facilitation of smuggling. In 2000, Kenneth Clarke, British American Tobacco's deputy chairman, said that smuggling was caused by high taxation and rejected allegations that the company condoned tax evasion or exploited smuggling, but said that "where governments are not prepared to address the underlying causes of the problem...we act, completely within the law, on the basis that our brands will be available alongside those of our competitors in the smuggled as well as the legitimate market". The tobacco industry now argues that although historically smuggling by others of their products may have been an issue, that the illicit trade in counterfeit tobacco products now presents the biggest problem. However, the evidence from the UK certainly does not bear this suggestion out. Although counterfeit tobacco products now form just over half of seizures of smuggled cigarettes HM Revenue and Custom's most

recently published estimate states that only "around a quarter of the smuggled cigarette market is counterfeit.

Because this illicit trade is global and has been facilitated by the tobacco industry, strong intergovernmental measures are needed to tackle it effectively. The tobacco industry argues that illicit trade arises because of high taxation, but analyses by the World Bank have shown that high availability of illicit tobacco is linked more closely to corruption and tolerance of contraband sales. The global trade in illicit tobacco occurs in low-tax and high-tax jurisdictions, results from a lack of control on the international movement of cigarettes, is run by criminal organisations with relatively sophisticated systems for distributing smuggled cigarettes, and is used to fund terrorism. A strong protocol signed up to by the Parties to the FCTC could tackle this sophisticated international criminal trade. The 151 Parties to the FCTC cover over 80 per cent of the world population and of tobacco-leaf production, 76 per cent of cigarette production, 78 per cent of cigarette consumption, and 70 per cent of cigarette and leaf exporters. This network is truly global.

The illicit-trade protocol has a strong foundation in a template produced by a WHO expert working-group, which is supported by the Framework Convention Alliance, a coalition of over 300 civil-society organisations that represent more than 100 countries around the world which are working to support the effective implementation of the FCTC. The template includes a comprehensive set of measures that would commit Parties to the FCTC to act domestically and internationally to tackle this trade. Measures in the template include overt and covert

marking of tobacco products so they can be tracked and traced from manufacture to point of sale and thus illicit products, including counterfeit ones, can be identified. This marking would also help determine the point of diversion from the legal to the illicit market. Licensing of participants within the supply chain would ensure they can be monitored effectively and risk losing their licence if they are found to be dealing in illicit products. The template also includes obligations on manufacturers to control the supply chain for their products, with serious financial penalties for those that fail to do so. Enhanced law enforcement measures set out in the template, such as cooperation in investigation and prosecution of offences, information sharing and mutual legal assistance, would increase the ability of governments to work effectively together to overcome the illicit trade.

The plan is that there will be a draft text of a protocol for adoption by the Conference of the Parties in 2010. So the negotiations are running to a tough timetable, and the commitment of governments to a strong protocol is still to be tested. But the clock is ticking—every year 5 million people die from tobacco-related diseases, the world's major preventable cause of death and disease. The number dying is rising each year, and is expected to reach over 10 million by 2020, with 70 per cent of deaths in the developing world. Governments must recognise that such a terrible toll requires an effective solution, and act to put in place a comprehensive protocol that requires Parties to implement strong and legally enforceable measures.

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Illicit trade, illicit Money

Carlos Ronderos, trade consultant and former Colombian Minister of Trade

World trade has changed dramatically over the last 50 years.

Nations hard hit by WWII were struggling to get industries up off the ground and high tariffs proved handy instruments. In the early '60s, average tariffs were notably high and levels of 30 and 40 per cent were common. The General Agreement on Trade and Tariffs (GATT) started on a successful free trade crusade that gradually brought down tariffs in most countries and for almost all products - tobacco included. By 1994, when the old GATT became the World Trade Organisation (WTO), average tariffs were somewhere near three per cent and developing countries were lowering their customs barriers to levels never before seen in the post-war period

By bringing down prices of imported goods - including tobacco - free trade encouraged increased consumption. Although countries shared the common belief that free trade would enhance welfare, they became increasingly aware that increased consumption of certain imported items such as tobacco and alcohol would lead to increasing health problems that would threaten the very welfare that was so keenly sought. The solution was to introduce high local consumption taxes on goods that might be harmful to general health, without affecting tariffs.

Globalisation and corporate corruption opened the door for unbri-

dled competition in which all means are acceptable for conquering new markets. Simultaneously, huge sums of money were floating around the world as the result of bribes paid to corrupt government officials, proceeds from the sale of narcotics, and arms trafficking linked to terrorist activities. These funds - initially channeled through the world's financial systems - faced increased control by monetary agencies not only through the world banking system but also in traditional tax heavens across the globe.

Unfettered competition, together with the need to launder billions of dollars, brought about a new form of illicit trade not specifically related to import tariffs but one that benefits from tax evasion and exchange rate differentials and delivers vast profits to money launderers.

Rather than depositing funds into bank accounts which are closely scrutinised by authorities, they buy other goods such as cigarettes. They acquire merchandise at incredibly low prices since they are only paying for part of the face value of the currencies with which they pay. Cash funds are deposited by large corporations willing to accept these types of payments. Having been deposited by "respectable companies" for a legal sale, the money is effectively laundered.

These goods are smuggled and

sold in the United States, Europe, Asia and Latin America and local currency is collected and passed to the initial owners of the illicit money. That is, the drug dealer or the corrupt official and so the cycle is complete. Goods are offered at very low prices and this in turn fuels a growing market with increasing numbers of buyers. In the case of products such as cigarettes, which have a serious negative impact on the general health of the population, the "subsidies" through illicit trade have a devastating effect on society.

As an intergovernmental institution, the FCTC should be applauded for its effort to establish an international protocol to end the illicit trade in tobacco. It should serve as an example for other multilateral trade organisations, such as the WTO, to follow suit.

FRAMEWORK CONVENTION ALLIANCE

The Framework Convention Alliance (FCA) is a global alliance of NGOs working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the *Alliance Bulletin* are those of the writers and do not necessarily represent those of the sponsors.

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Dirty Ashtray Award

Australia for arguing, in its opening statement for a Protocol that wouldn't be worth the paper it's written on.



Orchid Award

The World Customs Organisation for calling on their member organisations to seize this historic opportunity to counter the illicit trade in tobacco products through a strong and effective protocol.

