

Briefing Note: Fourth Session of the Intergovernmental Negotiating Body on an Illicit Trade Protocol

Geneva: 14th March to 21st March 2010

DUTY FREE SALES

1. FCA believes that Article 11(bis) should include an obligation on Parties to ban duty-free sales at airports, ports, land border crossings and on ships and airplanes.
2. There is clear evidence that the existence of legal duty-free sales facilitates illicit trade in tax-exempt product, supposedly intended for duty-free stores but in fact diverted into illicit channels. This is accepted even by tobacco multinationals such as BAT ¹.
3. Cigarettes marked for duty-free sale may end up as contraband continents away. FCA members have evidence of such sales from stores or street vendors in, for example, the Philippines, Egypt, Iran, Pakistan, India and the Dominican Republic.
4. FCA would ask Parties to resist lobbying from both the tobacco industry and trade associations involved in duty free sales to prevent progress towards ending such sales.
5. In addition to reducing illicit trade, a ban on duty-free sales would also:
 - Increase government revenue, by eliminating untaxed sales
 - Reduce the ability of the tobacco industry to associate tobacco with luxury goods and International travel, and to use duty-free stores as marketing venues
 - Help reduce the social acceptability of tobacco products
 - End a source for relatively inexpensive tobacco products: lower prices increase consumption.

¹ British American Tobacco, "British American Tobacco's views on duty free in the FCTC Protocol, April 2009.

FCA Position

6. FCA supports the inclusion in the protocol of a ban on tax-reduced, tax free, duty-reduced and duty free sales of tobacco and tobacco products. These products are often diverted in large volumes into illicit supply channels.
7. FCA recommends the adoption of the first option proposed in draft Article 11 bis. To strengthen the draft provision, FCA recommends that all duty free, duty-reduced, tax free and tax-reduced sales should be covered, not only duty free sales, and not only sales occurring in free zones. All tax and duty free and tax- and duty-reduced products are at risk of diversion into illicit trade channels. FCA recommends that the prohibition apply to sales to 'international travellers' rather than to all sales, as prohibition of all tax and duty free and tax- and duty-reduced sales within a Party's territory, including, for example, sales in native reservations and on military bases, may not be practicable in all Parties.
8. FCA does not consider that the second and third options proposed in draft Article 11 bis are sufficiently strong and clear to address adequately the problem of large-scale diversion of tax and duty free and tax- and duty-reduced products into illicit supply channels