

**WHO Framework Convention on Tobacco Control (FCTC) Article 5.3**

“In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”

**British Ambassador lobbies Panama Government on behalf of BAT**

Unfortunately, the powerful tobacco industry does not always have to do its own dirty work, as the case of the British Ambassador to Panama illustrates.

A letter from the Ambassador to the Government of the Central American country made public by the Financial Times on 15 March 2012 could have been written by BAT. The Ambassador pedalled the industry line that tobacco tax increases had inevitably led to an explosion in illicit trade, causing a ‘critical situation’ for BAT, which he called ‘one of the most important British companies’. He went on to threaten losses of employment in Panama as a result and offered to work with the Government and the ‘legal industry’, that is to say BAT, to come up with solutions to the growing problem of illicit trade.

Such lobbying on behalf of the tobacco industry runs completely counter to the British Government’s public commitment in its Tobacco Control Plan to meet its obligations under Article 5.3, as a Party to the WHO Framework Convention on Tobacco Control (FCTC).<sup>i</sup> It also violates FCTC Article 5.3 Guidelines (Article 20) which say, in Recommendation 2.1: **‘Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.’**

There is a story behind this. In November 2009, Panama increased the excise tax rate from 32.5 percent to 100 percent of the declared pre-tax price, and applied it to cigars and other tobacco products. Excise taxes rose from US\$11 million in 2009 to US\$22 million in 2010, and the tax on the BAT brand Viceroy, which dominates the Panamanian market, rose from US\$1.96 to US\$3.25.<sup>ii</sup>

Panama has a strong and comprehensive tobacco control strategy, which BAT has challenged in court on a number of occasions. Most recently, a court challenge by BAT and Philip Morris against the Government’s plans to put tobacco out of sight in shops is awaiting adjudication by the Panamanian Supreme Court.

If the British Embassy wants to help Panama with its illicit trade problem, it can and should do so in line with its obligations under Article 22 of the FCTC – to provide technical, scientific and legal support. It has the expertise to do so. In the late 1990s the UK had a massive and growing problem with illicit trade in cigarettes and handrolled tobacco, and the Revenue and Customs department put in place a strong anti-smuggling strategy based on legislation and enforcement.



This has been highly effective in reducing the illicit market in cigarettes, from 21 percent to 10 percent, and in roll your own tobacco from 63 percent to 46 percent. This occurred simultaneously with the Government raising taxes on tobacco year on year.

Most recently in the Budget in March 2012 the UK government put tobacco taxes up by 5 percent above inflation, ignoring identical protests by the industry, including BAT in the UK, that this would lead to increased smuggling. The price of a packet of premium price cigarettes like Marlboro rose from £7.09 (US\$11.23) to £7.46 (US\$11.82) overnight.

So HM Revenue and Customs can provide help and support on how to increase tobacco taxes while controlling the illicit trade, rather than assist the forces devoted to derailing tobacco control.

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<sup>i</sup> DH Tobacco Plan – see chapter 10 and in particular the first paragraph:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_124960.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124960.pdf).

<sup>ii</sup> WHO report on tobacco control in Panama [http://www.who.int/tobacco/surveillance/policy/country\\_profile/pan.pdf](http://www.who.int/tobacco/surveillance/policy/country_profile/pan.pdf).

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