

BULLETIN

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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

41,788,492

PEOPLE HAVE DIED FROM TOBACCO-RELATED DISEASES. (AS OF 9AM GENEVA TIME ON 5 MARCH 2009)

SUPPORT THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: JOIN FCA

The global tobacco control movement has changed dramatically since negotiations began in October 2000 on the first global public health treaty - the WHO Framework Convention on Tobacco Control (FCTC). What had seemed unattainable at the time has now become a reality: an international treaty containing the basic elements for protecting humanity against the scourge of tobacco. And the beginning of implementation of evidence-based tobacco control policies at the national level.

To support the Treaty, civil society representatives from around the world united to form the Framework Convention Alliance (FCA) so as to speak with one voice. Through FCA, the international NGO community has had the privilege of helping to write history by supporting the FCTC's development. The efforts of civil society, both at international and national level, have changed the public health landscape and provided protection from the exposure to tobacco smoke, tobacco ads and tobacco consumption for millions of citizens around the world, so saving millions of lives.

Who, in 2000, would have thought that by now countries such as France, Great Britain, Ireland, Norway, South Africa, Thailand, Uruguay and many others would be implementing smokefree policies? Some of us still remember heated debates during FCTC negotiations in 2001 with governmental delegates from countries that are now smokefree who used to say, "It will be impossible for us to implement smokefree policies because of the legal challenges associated with smoker's rights." Now, more than 20 countries have finalised requirements for picture-based warnings on cigarette packaging.

These changes are to a large extent due to the FCTC process having truly legitimised tobacco control in the international arena, fulfilling the prediction of Dr. Gro Harlem Brundtland, the former Director General of the WHO, who stated in 1999, "The FCTC is no ordinary convention. It is potentially a public health movement."

International support for the FCTC is reflected in the number of countries that have joined since the Treaty was adopted in May 2003. Since then, 164 countries have become Parties, representing over 86 percent of the world's population. This makes the FCTC one of the most rapidly embraced UN Treaties with a greater number of Parties than many other international agreements, including the Mine Ban Treaty of 1997(156), the General Agreement on Tariffs and Trade or GATT (144) or the Rome Statute of the International Criminal Court (106).

Committed governments and NGOs share responsibility for these successes. United in support of a strong and effective FCTC, they have fought diligently during the Treaty process to protect public health. FCA and its members have worked collaboratively with governments, held

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PICTORIAL WARNINGS -A LONG WAIT IN SOUTH EAST ASIA

Under Article 11 of the Framework Convention on Tobacco Control (FCTC), Parties agree to require all packages of tobacco products to carry health warnings describing the harmful effects of tobacco use, or other appropriate messages. This information "should be 50 percent or more of the principal display areas but shall be no less than 30 percent of the display areas" and may be in the form of or include picture warnings. "Principal display areas" are the front and the back of most cigarette packs. Each Party must implement these obligations within three years of the FCTC coming into force for that Party.

Pictorial warnings on tobacco products are proven to reduce tobacco consumption are particularly applicable in some South East Asian countries where literacy levels are not especially high. Unfortunately, only one out of ten countries in the South East Asia region

which are party to the FCTC has pictorial warnings on its cigarette packs. Some of the Parties have already exceeded their deadline for implementation.

It is timely to focus here on India, one of the countries in the region, to highlight the hurdles placed in the way of pictorial warnings. Despite India having finalised its pictorial warnings the date of implementation has been postponed several times and the content of the warnings has been drastically weakened, defeating the purpose of the effort.

The recent meeting by the group of ministers responsible for deciding on India's pictorial warning failed to arrive at a conclusion, meaning another delay in implementation. Tobacco control advocates also fear further dilution of the pictorial warning.

The Indian government is under pressure from the tobacco industry to make

pictorial warnings 'milder' and more 'acceptable'. Further tampering with the already watered down images, which include a skull and bones and a scorpion, will delight tobacco industry lobbyists but would completely undermine the purpose of pictorial warnings. This is an example of the tobacco industry trying to influence the FCTC implementation process. The experience may well be repeated in other countries in the region. It is something that their governments need to be careful about.

Without a strong political commitment, implementation of pictorial warnings on tobacco will be a very frustrating process in South East Asia. It is time for the Parties concerned to take adequate steps to ensure pictorial warnings are placed on tobacco products and to educate people about the ill effects of tobacco consumption.

Shailesh Vaite, FCA

Continued from page

delegate briefings, provided educational materials, tobacco control expertise, and offered in-country and regional strategic support when needed. This work has helped to shape the public climate in which the implementation of evidence-based tobacco control measures is growing in momentum around the world. Without the scientific, educational, media and organising expertise of civil society a strong FCTC would not have been possible. The legacy of the Treaty lies in the countless number of lives it will save in the future.

Much still remains to be done. however. The fight is far from won. Despite the FCTC's adoption in 2003, the revenues of the tobacco industry have continued to increase and dwarf the gross national product of many countries. In 2005, in the US alone, cigarette companies spent US\$13.11 billion on advertising and promotion, according to the Federal Trade Commission's Cigarette Report for 2004 and 2005. Their power easily allows them to reach million of consumers, with the unfortunate result that smoking prevalence is continuing to grow and tobacco continues to kill an increasing number of people every

year. The tobacco control movement and effective tobacco control policies have yet to extend to all corners of the world. As stated in the 2008 WHO MPOWER Report, only 5 percent of the world's population is currently covered by comprehensive smokefree laws.

The FCTC provides the world with a unique and effective tool for combating the worldwide tobacco epidemic. With the Treaty continuing to evolve at a rapid pace, governments, public health advocates and members of civil society must remain active. We still need you!

The past two years have seen the second and third sessions of the Conference of the Parties (COP) of the FCTC adopt guidelines for implementation of specific Articles of the Treaty. They include guidelines on Article 8 (protection from exposure to tobacco smoke), Article 5.3 (protection of public health policy with respect to tobacco control from the commercial and other vested interests of the tobacco industry), Article 11 (packaging and labelling) and Article 13 (advertising, promotion and sponsorship). The guidelines are an effective tool to promote the implementation of best practice and evidence-based measures at the national level.

These guidelines provide tools that will help governments go beyond the basic FCTC requirements.

In the next two years we have a unique opportunity to further strengthen the FCTC and protect public health and save lives. COP3 decided that work on the Illicit Trade Protocol should be a priority and that guidelines should be developed in time for the next COP on Articles 6 (price and tax measures), 9 and 10 (product regulation and disclosure), 12 (education, communication, training and public awareness), 14 (demand reduction measures concerning tobacco dependence and cessation), and 17 and 18 (support for economically viable alternatives and protection of the environment).

Steps such as these are vital in ensuring the FCTC provides as strong a model as possible for national implementation efforts, in keeping with the spirit of Article 2.1 which states that, "Parties are encouraged to implement measures beyond..." the Treaty. The challenge for civil society in 2009 and 2010 is to ensure both the guidelines and the Illicit Trade Protocol are as strong as possible and ready for adoption by COP4. We will continue to

THE SMOKING GUN

ONE SHOCKING FACT ABOUT CIGARETTE SMUGGLING IS THAT IT HELPS TO FUND AND FUEL SOME OF THE WORLD'S MOST VIOLENT AND DESTRUCTIVE CONFLICTS.

The list of paramilitary groups with ties to cigarette smuggling is long. In a February 2004 article in *The Police Chief* (the official publication of the International Association of Chiefs of Police), William Billingslea, a senior intelligence analyst with the US Bureau of Alcohol, Tobacco, Firearms, and Explosives stated bluntly that, "illicit cigarette trafficking now rivals drug trafficking as the method of choice to fill the bank accounts of terrorists".

In 2000, the *Belfast Telegraph* newspaper reported that cigarette smuggling was a major source of funds both for Irish Republicans and Loyalist paramilitaries. At that time, the IRA and its splinter groups were believed to be raising more than US\$20 million a year through this means, while Loyalist groups were raising

encourage governments to implement the high standards set by the COP.

Today, FCA's network is a strong and respected international movement. Our Alliance, which began with about 20 NGOs in 2000 has grown dramatically and now includes a diverse membership of more than 350 NGOs representing public health, tobacco control, consumers, human rights and other civil society advocates from more than 100 countries supported by a diverse and skilled international staff. Together, we have been a powerful voice in the FCTC process.

We invite those NGO representatives at the 14th WCOTH who have not so far been involved in the FCTC process to join the movement and become members of FCA. United, we can continue to positively influence the FCTC process.

Please do not miss this important opportunity to influence the development of international law and write public health history. Together, we can combat the tobacco plague and save millions of lives!

at least US\$6 million. In 2004, the Northern Ireland Organised Crime Task Force reported that the IRA had links to large-scale smuggling and counterfeiting, and tax fraud. In 2005, the Independent Monitoring Commission, which monitors paramilitary activity under the Good Friday Agreement, reported that the Ulster Volunteer Force was still engaged in tobacco smuggling, as well trade in illegal narcotics. The year 2008 saw a number of seizures and arrests related to illicit tobacco, particularly in East Belfast, where a number of those raided had apparent links with organised Loyalism.

In October 2001, The Observer newspaper, in London, reported that British American Tobacco had made a deal over a £50 million cigarette factory in former Yugoslavia with multi-millionaire Serbian businessman Stanko Subotic. An investigation by the Croatian magazine Nacional into the alleged criminal activities of Subotic detailed his cigarettesmuggling operations. It also claimed his money helped to hide former Bosnian Serb president Radovan Karadzic, now arrested and on trial in The Hague, and Ratko Mladic, the commander in charge at the time of the Srebrenica massacre (where up to 8,000 people were killed) and who is still at large. The Observer reported that, "Balkan experts believe that throughout the last decade (1990s) cigarette-smuggling was a key instrument of the Yugoslav secret service, which used it to help finance the Balkan wars". In October 2008, the Stockholm International Peace Research Institute reported the involvement of the Serbian airline Air Tomisko in smuggling both cigarettes and arms, with weapons being supplied to the Congo, Iraq and Rwanda among other countries.

In 2002, the European Commission stated that the Kurdish paramilitary group, PKK, which has been engaged in a decades long conflict with the Turkish state, had financed its operations partly through the proceeds of cigarettes smuggled from the United States.

A report published in November 2003 by the General Accounting Office of the

US Congress (GAO-04-163) stated that contraband tobacco was a highly profitable and important source of terrorist funding. One example cited is of Hezbollah generating an estimated profit of US\$1.5 million between 1996 and 2000 by buying cigarettes in North Carolina, a low-tax US state, for resale in Michigan, a high-tax state.

In October 2008, the German magazine Der Spiegel reported that Hamas was

THE ILLICIT TRADE IN
TOBACCO IS A FUNDER
AND SUPPORTER
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VIOLENCE AND CONFLICT.

engaged in large-scale smuggling of cigarettes, among other goods, through tunnels from Egypt to Gaza, partly as a response to Israel's economic blockade.

In February 2009, the Pakistan newspaper *The Star* reported that in the border areas of Pakistan, "revenues from poppy cultivation and heroin as well as smuggling of tobacco and cigarettes have exceeded charities re-routing part of their funding for financing terrorism", including the Taliban's operations in Afghanistan.

According to Billingslea's 2004 report, paramilitaries have moved to establish a presence in internet tobacco sales, where of course operations can be based in offshore jurisdictions from Gibraltar to the Colon Free Trade Zone. Sales can be made to virtually any country in the world. This shows the clear need for a ban on both duty-free and internet sales of tobacco to be included in the Illicit Trade protocol now being negotiated under the FCTC.

The illicit trade in tobacco is a major cause of disease and premature death. It is also a funder and supporter of organised crime, violence and conflict. It is attractive because enforcement is still too weak, and by comparison to the trade in illegal drugs, the penalties for those who are caught are still too low. It is about time a tough international treaty tackled the problem.

Ian Willmore, FCA

GLOBAL PROGRESS IN SMOKEFREE LEGISLATION

Smokefree laws are making a difference to the lives of hundreds of millions of people around the world who are now protected from secondhand smoke.

Many more people will be protected in the coming years, as the global momentum for smokefree public places and workplaces continues to grow. More than 30 countries have already enacted or implemented strong and effective smokefree air laws and more than 60 countries have begun working to pass similar legislation.

LATEST NEWS

The Global Smokefree Partnership (GSP) published a report on progress worldwide with smokefree law, in 2008, highlighting the many countries and subnational jurisdictions where legislation has been enacted and enforced. Since the release of GSP's 2008 Global Voices report, Colombia, Guatemala, India, Mauritius and Taiwan have implemented smokefree laws. Several other countries, including Barbados, Guyana, and Trinidad and Tobago, are planning to enact smokefree legislation in 2009.

FCTC AND THE ARTICLE 8 GUIDELINES

Smokefree legislation is a key part of a comprehensive tobacco control policy. Success in creating smokefree public places has been helped and guided by the WHO Framework Convention on Tobacco Control (FCTC) – the first global public health treaty – which came into force in 2005 in response to the globalisation of the tobacco epidemic. Article 8 of the FCTC commits governments to protecting their

citizens from exposure to secondhand smoke. In 2007 the countries who are Parties to the FCTC unanimously adopted a set of guidelines for achieving this. The guidelines are based on lessons learned and best practices from countries that have successfully implemented smokefree laws (see Table 1) and provide a roadmap for other countries to follow suit.

The guidelines recommend laws that prohibit smoking in all enclosed public places and workplaces, including bars restaurants and public transport, and that do not allow designated smoking rooms or other similar exemptions. These 'gold standard' smokefree laws allow the best possible protection from secondhand smoke for the majority of people.

DESPITE RAPID
INTERNATIONAL
PROGRESS WITH
SMOKEFREE LAWS,
MANY MILLIONS
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SECONDHAND SMOKE

SMOKEFREE LAWS CAN BE SUCCESSFUL ANYWHERE

Rapid progress is being achieved with smokefree policies in low- and middleincome countries. Co-operation between countries has been a key feature of this. Latin American countries with successful smokefree policies, for instance, have sent delegations of policy experts to help other countries wishing to adopt similar policies. This shows that smokefree laws are not just the privilege of wealthy nations. They can be successful anywhere in the world.

The laws are popular and compliance with them is high. Many more countries are planning to implement smokefree legislation in the near future. In some countries progress is being driven by cities, states or provinces.

GSP would like to congratulate those countries and subnational jurisdictions that have adopted and enforced strong and effective smokefree policies, or that intend to do so in the near future.

NEXT STEPS

Despite rapid international progress with smokefree laws, many millions of people are still exposed to secondhand smoke. GSP urges governments to act now to adopt strong and effective legislation.

The first 40 countries to ratify the FCTC have a deadline of February 2010 for smokefree laws. Most of these countries have not yet done so. GSP strongly urges governments to meet the deadline and strive for a gold standard in implementing smokefree laws in line with Article 8 guidelines. It also recognises that a lack of resources and technical expertise can hinder progress towards implementing effective smokefree policies. For this reason GSP has produced an Article 8 toolkit which includes a variety of resources to help policy makers and advocates with their smokefree campaigns. It is available at www.globalsmokefreepartnership.org

Gillian Griffith, for the Global Smokefree Partnership

TABLE I. ARTICLE 8 GUIDELINES - CORE PRINCIPLES FOR EFFECTIVE SMOKEFREE POLICIES

- 1. Eliminate tobacco smoke to create 100% smokefree places
- 2. Protect everyone don't allow exemptions
- 3. Use legislation not voluntary measures
- 4. Provide resources for implementing and enforcing the law
- 5. Include civil society as an active partner
- 6. Monitor and evaluate smokefree laws
- 7. Be prepared to extend the law if needed

GSP is a multipartner initiative formed to promote effective smokefree air policies worldwide. The Partnership gathers information and makes it available to practitioners and advocates of smokefree policies, as well as offering expert assistance and supporting smokefree campaigns. GSP is coordinated by the American Cancer Society and the Framework Convention Alliance, and includes partner organisations from around the world.

GUIDELINES ON TOBACCO INDUSTRY INTERFERENCE: BECAUSE TOBACCO CONTROL DOESN'T HAVE TO MOVE THIS SLOWLY

How much does it cost the tobacco industry to buy the ministry of health? In the now infamous case of Mexico, in 2004, it cost all of one peso per pack – roughly US\$ 0.10.

That was the extent of the voluntary contribution Philip Morris and British American Tobacco agreed to make to the Mexican health ministry in return for the government not implementing core provisions of the FCTC. And any tobacco tax increases would result in cancellation of the "contribution".

Just a few weeks before the agreement, Mexico had become the first country in the Americas to ratify the Framework Convention. The controversy galvanised Mexican civil society, and the subsequent government quickly cancelled the compact. In 2008, Mexico City adopted and implemented 100 percent smokefree legislation and the federal Congress adopted comprehensive legislation on smokefree, advertising and pictorial health warnings.

In other countries, the industry avoids clumsy, highly visible hijacking of a ministry but achieves the same effect with lower-profile, back-room efforts that are difficult for tobacco control advocates to even detect, much less counter.

A favourite industry tactic is to secretly set up and fund so-called "front groups", purportedly representing shopkeepers, restaurant owners, hotel operators, arts festivals or athletes. These groups brand tobacco control advocates as "extremists" who threaten their economic survival or human rights. Academics are hired to produce bogus "independent" studies about the harmlessness of tobacco smoke, the irreplaceable contribution of tobacco advertising to the survival of the media, or the economic benefits of smoking for public pension plans.

Direct ways of blocking tobacco control simply involve buying influence through bribery, contributions to political parties or junkets for government officials.

One more subtle form of interference is offering to "co-operate" in drafting tobacco-control legislation, or pre-empting it altogether with superficially attractive but unenforceable voluntary codes of conduct.

GUIDELINES: SOLUTIONS TO SOME OF THE MOST COMMON PROBLEMS

Newly adopted guidelines attempt to deal with all these types of interference.

First, Guiding Principle 1 states that, "There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests". It is an essential point for governments that have a strong culture of finding compromises between competing interests. What is good for public health is generally bad for the tobacco industry, so the industry's input is of limited use.

Second, the guidelines advise countries to "reject partnerships and non-binding or non-enforceable agreements with the tobacco industry." (Binding, enforceable agreements that are the result of litigation – such as the European Union's agreement with Philip Morris on controlling smuggling – remain acceptable). Partnerships to reject explicitly include any involvement or endorsement of the industry's ubiquitous youth smoking "prevention" programmes.

With respect to front groups, and fake grassroots campaigns run by industry PR agencies, the guidelines provide two solutions. One is simply education: "all branches of government and the public" need to be told about the industry's history of overt and covert interference. The second is to impose transparency on the tobacco industry by requiring disclosure of all lobbying activities, with registration of affiliated organisations and individuals.

The guidelines also recommend that all branches of government "denormalise" and, if possible, regulate so-called "Corporate Social Responsibility" programmes by the industry: "Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements." (Recommendation 6.4.)

Countries applying these guidelines should prohibit tobacco companies from donating text books to public universities or providing equipment to a public broadcaster.

To deal with the difficult issue of outright

bribery and more subtle forms of improper influence, the guidelines include rules on *transparency* and *conflicts of interest*.

On transparency, the guidelines recommend that countries keep their interactions with the industry to a minimum, and if possible public.

A lengthy list of specific recommendations on conflicts of interest require government officials and institutions to divest themselves of tobacco company shares (except in the case of State-owned industry) and reject gifts, payments and political contributions from tobacco companies. Tobacco industry representatives should be excluded from country delegations to FCTC and more generally from "any government body, committee or advisory group that sets or implements tobacco control policy or public health policy".

DIFFICULT AREAS REMAIN

The Article 5.3 guidelines were difficult to negotiate. One of the challenges was to find language general enough to be applicable across different political systems and traditions, but specific enough to have impact.

Inevitably, some issues require further work at a future COP. One is government interactions with the tobacco industry on issues that are not part of the health ministry's remit but do have a big impact on public health.

Where health officials are strong on tobacco control, their colleagues in finance may be good friends with the industry. The guidelines specify that countries should "not grant incentives, privileges or benefits to the tobacco industry to run their businesses" (Recommendation 7.1), but that does not prevent tobacco industry involvement in determining tobacco tax levels – a frequent occurrence.

Another difficult area is the control of illicit trade in tobacco, the subject of separate protocol negotiations. Some customs authorities are very dependent on tobacco companies for basic information – on contraband levels and on possible solutions – which has sometimes made it easy for companies to run smuggling operations with impunity.

Francis Thompson, HealthBridge, Canada

MAURITIUS REQUIRES WORLD'S LARGEST WARNINGS

Rajeesh Jeetah, the Health Minister of Mauritius, announced new requirements for picture-based package warnings on 12 February 2009 and so set a world precedent for warning size. From 1 June 2009, new packages must carry one of eight rotated picture-based warnings covering 65 percent (on average) of the package's front and back.

Mauritius has taken top spot in the size of warnings by overtaking Australia, New Zealand and Cook Islands at 60 percent. Other countries where the warning size exceeds 50 percent of the package front/back are Belgium (56 percent), Switzerland (56 percent) and Finland (52 percent).

Mauritius, an island lying off Africa's east coast, becomes the first AFRO (WHO African Region) country to require picture-based warnings. If this country of 1.3 million people can adopt such measures, then so can all countries.



Mauritius Minister of Health and Quality of Life, Rajeesh Jeetah, announcing new warnings.



One of the new Mauritius package warnings: Smoking causes strokes

Continual progress has been achieved in recent years in increasing the size of warnings:

20 percent	Canada, 1989
30 percent	Poland, 1998
35 percent	Canada, 1994 (including border)
50 percent	Canada, 2001
56 percent	Belgium, 2003 (including border)
60 percent	Australia, 2006
65 percent	Mauritius, 2009

INDUSTRY CONTINUES TO OPPOSE PICTURE WARNINGS

At least 25 countries have finalised requirements for picture-based warnings, and many more countries are in the process. Regrettably, the tobacco industry often aggressively opposes government's efforts. Kyrgyzstan, for example, has twice adopted a national regulation to require picture warnings only to subsequently revoke it. In India, also under pressure from the tobacco industry, the Cabinet has repeatedly delayed implementation of picture-based warnings. Moreover, the images have been weakened, and their size has been reduced from 50 percent to 40 percent. While Health Minister Anbumani Ramadoss is to be commended for pressing forward on warnings, the Indian government as a whole deserves criticism for impeding pictorial warnings, especially given India's massive population and high rate of illiteracy. As host of the Mumbai World Conference, India has missed an opportunity to demonstrate an accomplishment on package warnings to the world. Instead, it has shown an embarrassing weakness in the face of tobacco industry lobbying.

That the tobacco industry opposes larger, picture-based warnings is a testament to their effectiveness. Indeed, India's bidi industry has opposed the new warnings precisely because sales would go down.

FCTC GUIDELINES ON PACKAGING AND LABELLING

The FCTC's Third Conference of the Parties, in November 2008, adopted important guidelines for Article 11 on packaging and labelling. The guidelines are strong, and provide excellent assistance for countries. Already, the guidelines are being cited as governments develop new requirements. The guidelines recognise that well-designed package warnings are a cost-effective means to increase awareness of tobacco's health effects, and to decrease consumption. Among their provisions, the guidelines advise governments to:

- aim, in terms of size, "to cover as much of the principal display areas as possible";
- mandate pictures in warning requirements;

- require warnings on both the front and back of the package, and at the top of these surfaces;
- consider placing warnings on the cigarette itself, and on equipment for water pipe smoking;
- not require machine yield numbers for tar, nicotine, carbon monoxide or other emissions and, further, to prohibit manufacturers from doing so voluntarily;
- prohibit not only "light", "mild", "ultra light", but also other terms in any language that might mislead consumers, citing "extra" and "ultra" as examples;
- share picture copyright with other governments.

PLAIN PACKAGING

Global efforts to achieve plain packaging received an enormous boost with the new FCTC guidelines for Article 11 and also Article 13 (advertising, promotion and sponsorship). Both of these international guidelines endorsed plain packaging - a very significant development.

The guidelines add to the renewed, substantial momentum that plain packaging has received over the last 18 months, including:

- a European Commission report identifying plain packaging as a measure to be explored (27 November 2007);
- the UK government initiating a consultation on plain packaging (31 May 2008);
- the Brazilian Health Minister stating that he is considering plain packaging (18 March 2008);
- 10 new empirical research studies completed (2007-2008).

There is no valid reason for tobacco products to be sold in attractive packages. Plain packaging is inevitable, and the sooner countries put this in place, the sooner public health will benefit.

WCTOH IN MUMBAI

The World Conference on Tobacco or Health, in Mumbai, 8-12 March 2009, provides an excellent opportunity to share the latest experiences, with several sessions focusing on packaging and labelling, including specifically on package warnings and plain packaging.

Rob Cunningham, Canadian Cancer Society

ILLICIT TRADE PROTOCOL

A CRUCIAL INTERNATIONAL AGREEMENT TO CONTROL ILLEGAL TRADE IN TOBACCO PRODUCTS IS NOW BEING NEGOTIATED UNDER THE FRAMEWORK CONVENTION ON TOBACCO CONTROL. IT IS CALLED THE ILLICIT TRADE PROTOCOL (ITP) AND THE NEXT MEETING OF NEGOTIATORS STARTS IN GENEVA ON 28 JUNE 2009.

Everyone who cares about tobacco control has a vital interest in making sure that these negotiations succeed. Why? Because the illicit trade in tobacco is a fundamental threat to tobacco control policies in every country. In particular, smuggled and counterfeit cigarettes undermine every attempt to reduce smoking rates by raising prices and increasing taxation.

Across the world, more than one in ten cigarettes sold, or perhaps 600 billion a year, are believed to be smuggled or counterfeit. Cheap cigarettes attract new smokers, particularly young people. They cost national governments perhaps \$50 billion a year in lost tax revenues. The profits from illicit trade support organised crime, and in too many countries fuel civil conflict and fund paramilitary groups.

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In the Balkans, for example, intelligence officers, politicians and journalists have been killed for trying to tackle cigarette smuggling.

Countries with the biggest markets in illicit cigarettes include Brazil, China, India, Russia, and the United States, while smaller countries including Albania, Bosnia & Herzegovina, Greece, Iran and the United Kingdom have seen illicit cigarettes take over a third of the total market.

Perhaps as much as three-quarters of the illicit trade involves large-scale smuggling and offers large profits, of as much as US\$1.5 million dollars for a container of 10 million cigarettes.

Raymond Kelly, a former head of the US Customs Service, has said that "profits from cigarette smuggling rival those from narcotics trafficking", but enforcement is often weaker and penalties for those who are caught are relatively low.

The major international tobacco firms have a long history of involvement in illicit trade. In 2008, for example, Imperial Tobacco Canada Ltd and Rothmans, Benson and Hedges pleaded guilty in Canada to aiding cigarette smugglers during the 1980s and 1990s.

In 2004, Philip Morris International made a legally-binding agreement with the European Union to introduce antismuggling measures. Three years later Japan Tobacco International reached a similar deal with the EU.

In 2008, an important investigation by the International Consortium of Investigative Journalists showed how Souza Cruz, a Brazilian subsidiary of British American Tobacco was supplying tobacco to the Baltic Tobacco Factory, in Kaliningrad, used in the production of "Jin Ling" cigarettes, now perhaps the most pervasive smuggled brand across Europe and one with no legitimate European market at all.

The elements for a successful Illicit Trade Protocol (ITP) include:

- Licensing of key participants in the supply chain, including manufacturers, importers and exporters, wholesalers and leaf dealers, manufacturers of equipment and key inputs used in the manufacture of tobacco products.
 Those shown to be involved in illicit trade, or to be negligent about what happens after sale of their products, must lose their licenses;
- Tracking and tracing of products through the supply chain, including cigarettes in individual packs, cartons,

master cases and containers.
Information from this system
must be kept confidential from
the tobacco industry but shared
between customs and law
enforcement officers around
the world;

- Effective co-operation in investigation and enforcement between all the states that sign the ITP;
- A ban on internet and duty-free sales of tobacco products;
- A strong set of criminal offences and civil penalties to fight illicit trade, including confiscation and seizure of assets and recovery of unpaid taxes.

You can help make sure that the negotiations in Geneva are a success:

- check that your country will be represented at the talks;
- make sure that customs and law enforcement officials are present as well as health experts;
- find out what your country's negotiating position on the talks is likely to be;
- check out the FCA website for materials to help in any lobbying that you are able to do.

You can contact Ian Willmore, the ITP Campaign Manager for FCA on willmorei@fctc.org. He will be happy to help share information and offer advice and support.

Action on illicit trade must be seen as a key element of tobacco control policy. If we fail to tackle it effectively, much of what we are trying to do to cut smoking rates will be undermined. Please help make the ITP negotiations a success.

Ian Willmore, FCA

TOBACCO ADVERTISING. PROMOTION AND SPONSORSHIP

AT THE RECENT THIRD SESSION OF THE CONFERENCE OF THE PARTIES TO THE FCTC, THE PARTIES ADOPTED GUIDELINES FOR IMPLEMENTATION OF ARTICLE 13 (TOBACCO ADVERTISING, PROMOTION AND SPONSORSHIP). THE GUIDELINES, AVAILABLE ON THE WEBSITE OF THE FCTC CONVENTION SECRETARIAT AT HTTP://WWW.WHO.INT/FCTC/EN/ CONTAIN PRINCIPLES AND RECOMMENDATIONS TO ASSIST PARTIES IN BEST PRACTICE IMPLEMENTATION OF ARTICLE 13. THEY SET THE STANDARD BY WHICH GOVERNMENTS SHOULD BE JUDGED IN MEETING THIS IMPORTANT INTERNATIONAL LEGAL OBLIGATION.



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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Now that the guidelines are in effect, it is time to encourage governments across the world to meet the high standard they set. Although many countries have put in place restrictions on tobacco advertising, promotion and sponsorship, none have implemented truly comprehensive bans. The guidelines will be a critical tool in moving forward to ensure that governments meet their obligations under Article 13 and act as effectively as possible to protect the public from the deadly marketing strategies of the tobacco industry.

Under Article 13, Parties to the FCTC recognise that tobacco advertising, promotion and sponsorship increase tobacco consumption, and that comprehensive bans on advertising, promotion and sponsorship decrease consumption. They commit to undertaking a comprehensive ban of all tobacco advertising, promotion and sponsorship within a period of five years (unless constitutionally prevented from undertaking a comprehensive ban, in which case they agree to apply restrictions on all tobacco advertising, promotion and sponsorship). Tobacco advertising, promotion and sponsorship are defined broadly and include all forms of commercial communication, recommendation or action and all forms of contribution to any event, activity or individual with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.

THE GUIDELINES WILL BE A CRITICAL TOOL IN **MOVING FORWARD**

The guidelines provide assistance to Parties in ensuring that their bans on tobacco advertising, promotion and sponsorship are truly comprehensive recognising that if only certain forms of advertising, promotion and sponsorship are prohibited, the tobacco industry inevitably shifts its expenditure to those that continue to be permitted, using creative, indirect ways to promote tobacco products and tobacco use. The guidelines include a general outline of the scope of a comprehensive ban

and specific advice on areas that may pose particular challenges, including consistent application of the ban to all forms of cross-border advertising, promotion and sponsorship.

A particularly useful feature of the guidelines is the indicative (nonexhaustive) list of forms of advertising, promotion and sponsorship which should be covered by a comprehensive ban. Among other forms, the list includes:

- communication across all media: print (including newspapers, magazines, pamphlets, leaflets, flyers, letters, billboards, posters, signs), television and radio, live performance, films, DVDs, videos and CDs, games, and other digital communication platforms including the internet and mobile phones;
- display of products at points of sale;
- packaging and product features (plain packaging should be required);
- promotion of discounted products;
- · competitions and loyalty schemes;
- internet sales;
- vending machine sales;
- brand stretching and brand sharing;
- product placement;
- so-called 'corporate social responsibility' activities;
- support (financial or other) to events, activities, individuals or groups (such as sporting or arts events, individual sports people or teams, individual artists or artistic groups, welfare organizations, politicians, political candidates or political parties);
- retailer incentive programmes.

The guidelines also offer guidance on a range of aspects of the enforcement of a comprehensive ban, including: placing responsibility for compliance throughout the marketing chain (including all those involved in production, facilitation or dissemination, as appropriate); applying effective penalties; monitoring and enforcing the laws; involving the public in enforcement; and engaging in international co-operation.

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