



INB-6 Thursday

ALLIANCE BULLETIN

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Consensus or Forced Capitulation?

A disturbing pattern has emerged in the FCTC process which calls into question whether these are in fact *negotiations* at all. Over the past few INBs, regional groupings like AFRO, SEARO and the Pacific Islands, representing dozens of countries and billions of people, have met and worked hard on the difficult task of redeveloping regional positions reflecting compromises between their members.

Since the start of INB6 such groupings have continued to seek a workable agreement. To try to secure the agreement, they moved from their highly progressive positions in order to accommodate the concerns of a small minority of countries. This shows negotiating flexibility and an effort in good faith to reach an agreement.

Compare that with the United States and Japan, which have responded with endless repetition, obfuscation and distracting arguments covering the spectrum from constitutional constraints to federalism to the definition of comprehensive vs. total bans. They are not negotiating

in good faith here at INB6. They arrived demanding positions that are far weaker than they need to address their own domestic constraints.

The frequent utterance of 'no' is their only negotiating style. This has been accompanied by patronizing whispers that developing country delegates' positions don't *really* represent their governments' stances on tobacco.

Obduracy as a negotiation tactic is long established at INBs. But what *is* new is the failure of some leading developed countries to take the side of the developing world and to increase

the pressure and isolation of the United States and Japan.

We are now at the stage where the key developed countries need to side unambiguously with the developing world and form agreement on a text that will work for public health. If there are a few states that can't agree, let them take their concerns home with them, and either resolve them or go to a vote at the World Health Assembly.

Apologia

Due to intense competition for the dirty ashtray, we regret to inform you that we were unable to award the US for failing to leave the negotiations as requested, and Japan for failing to follow them.

DEATH CLOCK

Since the opening of the first working group for the Framework Convention on Tobacco Control on 25 October 1999,

13,450,536
people have died from tobacco-related diseases.

(At 9 am 27 February 2003)

The Way Forward

With only two days of negotiations left, delegates are busily considering what is the best way forward.

The US NGOs telling the US delegation to go home the other day (see Alliance Bulletin #43) was not a stunt. If they, the US delegation, cannot accept some of the provisions in the draft, they should return home to undertake national consul-

tations before the WHA. The majority of the international community that wants a strong FCTC must not cave in.

This is the normal, well-established practice in international negotiations when a small minority of countries stands in the way of an otherwise broad agreement.

(Continued on page 3)

Today's Weather: Cloudy
High 8° C Low 1° C

"Health vs. Trade": Still Contentious

Throughout this negotiation, the relationship of the FCTC to the WTO international trade rules has been fiercely contentious. Most nations agree that when conflicts arise, the FCTC must take precedence over WTO rules. The world's nations have gathered to write a treaty dealing with one unique, lethal product. Surely the provisions of this treaty should be given priority over the general trade rules, applicable to all products, adopted nearly ten years ago.

Nevertheless, a number of nations have fiercely resisted this argument. Some fear any erosion or compromise of WTO rules. Others simply wish to maintain the opportunity to bring trade challenges against tobacco control measures on behalf of the companies who are

headquartered in their countries. The result of these strongly-held views by a relative handful of nations has been deadlock.

The Framework Convention Alliance has steadfastly supported a clear statement that the public health provisions of the FCTC should prevail over the general trade rules of the WTO when and if conflicts arise. Public health should prevail over commercial considerations; a subject-specific treaty should prevail over a general one; a more recent treaty should prevail over one adopted nearly ten years ago.

We see no reason to leave uncertainty that will inevitably be exploited by the tobacco companies, their inventive lawyers, and supportive governments.

It is clear that many delegates are working hard to find compromise language on this contentious issue. But the FCA has grave misgivings about the series of increasingly murky, compromise formulations that have been suggested to address an unbridgeable divide.

The subject is too important to be resolved with language that is either meaningless or likely to create even greater uncertainty.

Almost all nations want a clear prioritisation of health over trade. The treaty should reflect that strong majority. But if delegates can't get it right, then it's better to say nothing at all.

- Ira Shapiro

Corporate Social [Ir]responsibility

The International Labour Organisation (ILO) is hosting a meeting on tobacco this week. The Tripartite Meeting on the Future of Employment in the Tobacco Sector is examining such issues as the economics of tobacco, corporate social responsibility and international cigarette smuggling.

Amongst the resolutions to be considered is one concerning the strengthening of cooperation between international organisations working on issues relevant to the tobacco sector.

Dr. Derek Yach and Dr. Vera da Costa e Silva of the WHO were amongst the speakers in a panel discussion on the economics of tobacco.

Both spoke about the tactics used by the tobacco industry to influence WHO's activities in tobacco control and the pressure exerted on other UN agencies.

Antonio Abrunhosa of the International Tobacco Growers Association complained about the lack of consultation by WHO with the tobacco industry and growers.

He suggested that Indian to-

age from malaria and other diseases that the WHO was ignoring, adding that "there was a hidden agenda behind the FCTC: to support the pharmaceutical industry and NGOs."

Dr. Yach explained that the WHO was about preventing death and disease, and tobacco deaths were not only preventable, but that more people die of tobacco than of malaria, TB and measles combined. Furthermore, investment in tobacco control is woefully inadequate as compared with other issues.

Dr. Yach also stated that the tobacco companies and their surrogates cannot expect a seat at the negotiation table as they are not 'responsible' companies, given the lethality of their product and the well-documented conduct of their companies.

Dr. Yach called on the tobacco industry to stop using their political leverage to block initiatives aimed at protecting the health of workers.



From Yach's: EMPLOIS FICTIFS
Vedding 4

bacco farmers would rather die in their 60s of tobacco-related illnesses than die at a younger

NGO "Access" and "Participation"

I have spent many weeks in UN premises, including this one in Geneva, in my last 23 years as representative of Greenpeace International. I have witnessed numerous treaty negotiations regarding environment, development, trade and disarmament.

But, despite a lot of *déjà-vu*, there is something refreshing here this week: I feel two decades younger, because the INB pattern of NGO "participation" has me travelling back in time.

It is the first time I have "attended" a public health negotiation, and I am stunned by the lack of access for NGOs to the meetings proper. Frankly, the chronic lack of transparency apparent at this meeting is more reminiscent of the practices of the World Trade Organisation than of those of an organisation seeking the contribution of NGOs.

I had not seen for many years an intergovernmental forum (with the exception of the World Trade Organisation) where NGO representatives have to linger outside meeting rooms to try and find out what's going on, and to stand by the escalator to distribute their briefings.

Even the World Trade Organisation puts out Greenpeace briefings on their website. The

Parties to the Treaty on the Non-Proliferation of Nuclear Weapons hold their meetings in the presence of arms control and disarmament NGOs.

The International Atomic Energy Authority (IAEA) invites Greenpeace to speak at many of its meetings (though it took the Chernobyl accident for this to



happen). Is tobacco control more sensitive an issue than nuclear proliferation? What have you got to hide?

You know that this Convention will remain a paper tiger unless the NGOs push for its implementation, as was outlined at the "Next Steps" workshop held on 25 February. We welcome the recognition of the role of NGOs contained in the draft Conven-

tion, but the Secretariat and the Parties will need to move quickly to figure out realistic and workable rules governing the relationship of the Convention with NGOs. As with numerous other treaties, these rules must include:

- a mechanism to facilitate the circulation of NGO documents and briefings to Parties by the Secretariat,
 - rules for the participation of NGOs, including oral interventions during the proceedings (as opposed to periodic monologues),
 - and, to the extent possible, a commitment from *all* parties to consult with, and involve their national public health organisations in the determination of their FCTC policies.
- We hear through the grapevine that some governments believe that NGO interventions here are sometimes not directly relevant to the key issues being considered by delegates. May we suggest that opening your door to NGOs is the best way to avoid this. We would be delighted to replace NGO periodic monologues with practical input.

- Rémi Parmentier

(Continued from page 1)

Taking a vote at the INB would be very unusual. There is another way forward: the US (and anyone else having difficulties with the draft) can be left no choice but to announce Friday that they are no longer able to stand in the way of the vast majority of countries.

They should be invited to say that they won't oppose forwarding the draft to the WHA, but they may state for the record that they need to make further consultations at the national level back home, before the WHA takes place in May. This would be much better than allowing the US to continue to erode the text.

If the US consultations do not lead to any change, then at the WHA, the majority that sup-

ports it should propose its adoption by consensus. If the US, Japan, or someone else disagrees, it would be up to them to call for a vote. They would lose. Let them commit political suicide. This is far better than letting them get away with murder.

Every morning, delegates can see outside the *Palais des Nations* the large sculpture that was erected in the mid-1990s to celebrate the strong political will of the international community when they adopted the Ottawa Convention that banned anti-personnel landmines notwithstanding strong US opposition—a powerful reminder that humanitarianism and public health can prevail, even in the face of US opposition.

- Rémi Parmentier

What Would an Airline Safety Agreement Look Like If Everyone Operated the Same Way as FCTC Negotiators?

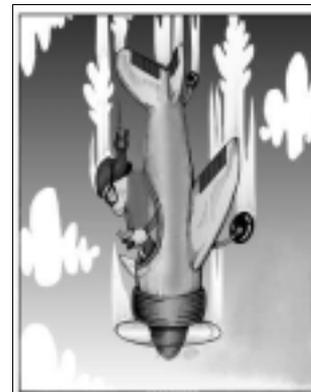
Recognizing that most people given a choice would prefer not to die in a plane crash if given the option, *Seriously concerned* that if planes lack wings and engines, they may not fly well, *We have agreed*, as follows:

- (a) "Airplane" means any metallic bird [butterfly] intended for transport.
- (b) "Safety" means the absence of danger unless it refers to something else such as the presence of danger or the absence of measures not indicating a presence of the absence of something indicating the potential of enhancing or otherwise increasing the present absence therein.

The objective of this Convention is to reduce the incidence of plane crashes and protect present and future people[s] including minors, non-minors, and all others of the species *homo sapiens*, from needlessly or at least not entirely without necessity being killed or otherwise losing their lives in plane accidents.

1. Each airline safety official shall develop, implement, visit, revisit, and otherwise attend to, matters relating to and in accordance with and otherwise connected to the issue of whatever it is that this Convention is about.
2. Towards this end, each Party shall [in accordance with its capabilities, interests, and vacation plans]:
 - (a) Establish or reinforce and finance or fund or not fund a program to make sure that planes have most [some of the most significant] [an assorted collection of] the parts that are needed to make them fly.
 - (b) Adopt and implement effective ways to ensure that there is some possibility that the plane might possibly take off and travel before landing, preferably without crashing into a cornfield.

This Convention will come into effect once there is unanimous agreement among all the interested parties.



Indigenous Peoples or People?

Indigenous peoples are made up of at least 5,000 peoples ranging from the forest peoples of the Amazon to the Inuit of the Arctic. The term indigenous may be defined as a characteristic relating the identity of a particular people to a particular area and distinguishing them culturally from other people or peoples.

The most widespread definitions of indigenous peoples are those proposed in the International Labour Organization Convention No. 169 and in the Report

for the UN Sub-Commission on the Prevention of Discrimination of Minorities (1986). A definition suggested by the Chairperson of the UN Working Group on Indigenous Populations is also widely used. Essentially all three definitions refer to 'peoples' not people.

A practical example of how this applies can be seen within the New Zealand context. Maori are recognised as the collective indigenous people of New Zealand. The reality is that this collective is actually made up of over 50 sepa-

rate indigenous peoples. Each tribe views itself as an autonomous entity that operates within its own tribal boundaries. The notion that Maori are one 'people' living in one land does not reflect the reality that we are many 'peoples' living in one land.

I would strongly encourage all delegates to consider this argument that the indigenous community is made up of peoples, not people.

- Shane Kawenata Bradbrook
Aotearoa – New Zealand

Fight Double Standards With A Strong FCTC

A decade ago Lithuania made a good start in developing tobacco control, and was awarded a WHO medal. We now have now a comprehensive law on tobacco control, a national tobacco control programme, the State Tobacco and Alcohol Control Agency; and a ban on tobacco advertising, vending machines and smokeless tobacco.

But alas, that is not the full picture. Amendments made to the law on tobacco control weakened the advertising ban. Our negotiators achieved the longest transitional period for increasing tobacco tax

among the countries gaining accession to the EU. The government did not find money to finance the national tobacco control programme.

As a result, smoking prevalence has increased steadily during the last decade, especially in youth and women.

The Ministry of Health takes no action for effective implementation of practical tobacco control measures. All initiative to prepare amendments to the law on tobacco control are left to the Ministry of Economy, which is prone to prioritise trade over health, and appears

to be in friendly relations with the tobacco industry.

Such double-standard tobacco policy is practised not only in Lithuania. In many countries, politicians and government bureaucrats are being manipulated by the tobacco industry, which has ample experience and money for doing so. Only a strong FCTC can cure and prevent this widespread problem, and force governments to take practical tobacco control measures.

- Tomas Stanikas, Lithuanian Association of Non-smokers

Cual Tiene Prioridad, la Salud o el Comercio

Durante las negociaciones, se ha discutido y debatido la relación entre el CMCT y las reglas de comercio internacional reguladas por la OMC. La mayoría de los países apoyan la idea que cuando hay un conflicto relacionado con el control de tabaco, el CMCT debe de tener prioridad sobre las reglas de la OMC.

Está claro que las disposiciones del Convenio Marco deberían de tener prioridad por encima de las reglas comerciales dirigidas por la OMC cuando se trata del comercio del tabaco.

No obstante, una minoría de países se ha opuesto energéticamente a este punto de vista. Es muy probable que algunas naciones quieren mantener el derecho de desafiar las disposiciones de control del tabaco del CMCT a favor de las compañías tabacaleras establecidas en sus fronteras.

La Alianza para el Convenio Marco (FCA) ha mantenido que, en caso de conflicto, las disposiciones a favor de la salud pública deberían de tener prioridad por encima de las reglas comerciales de la OMC.

Estamos convencidos que las

compañías tabacaleras se aprovecharán de cualquier incertidumbre o debilidad en el texto del CMCT.

Está claro que un gran número de delegados ha intentado hallarle una solución al tema.

Desgraciadamente, formulaciones poco claras o que podrían causar aun más confusión están apareciendo en el texto del CMCT.

El tema es muy importante, y es difícil resolverlo

con formulaciones que no tienen ningún sentido o que podrían crear más incertidumbre.

La mayoría de los países quieren que el CMCT establezca que la salud pública tiene prioridad por encima del comercio en caso de conflicto. Por

esta razón, el texto del CMCT debería manifestar el deseo de la mayoría. No obstante, si eso no es posible, más vale no tener nada a ese sujeto en el texto envés de texto que subordinaría al CMCT.

- Lorenzo Huber

Advertencia Sanitaria

El tabaco es la causa de una forma de atrofia cerebral lenta y progresiva, cuyas manifestaciones cardinales son la incapacidad de ver la verdad y una falta de voluntad en prestar atención a la razón. Esta enfermedad es endémica entre los miembros de los gobiernos de los Estados Unidos, Alemania y Japón, y puede transmitirse a otros inocentes.

- Alberto Munzer

Tobacco FactFile - @ccess the facts

Fact: 500 million people alive today will be killed by tobacco use.

Fact: Each year, tobacco costs the world economy US \$200 billion.

Misinformation and doubt are actively fostered by the tobacco industry to manipulate public health policy. In order to respond, the Tobacco Control Resource Centre (TCRC) of the British Medical Association (BMA) has produced an online resource to provide authoritative information on tobacco.

The database, **Tobacco FactFile**, will be launched at 12.00pm on Thursday 27th February in Room XVII at the Palais des Nations.

TCRC developed the 'Tobacco FactFile' database in response to a growing need from researchers, health professionals, educationalists and the media for an information tool with key facts about tobacco. The database is available in English, Spanish, German and French.

Bookmark FactFile@
www.tobaccofactfile.org

"Filter" – Facilitating Information Exchange Between Central and Eastern European Countries

With support of the Open Society Institute's new tobacco control programme aimed at strengthening tobacco control efforts in the former Iron Curtain countries, Filter, the English language tobacco advocacy newsletter for Central and Eastern European (CEE) countries, was re-launched at the end of January 2003.

The regularly updated electronic newsletter is available at <http://health21.hungary.globalink.org/filteronline/index.html>. The most important component is the news section, which provides two news blocks per month with the latest information

on tobacco, smoking and tobacco control in CEE. A special news block is being developed on CEE countries' participation and input to INB6.



Developments in or related to tobacco control in the European Union are also given attention. Further sections include legislation and tobacco control policy re-

view, a community programme thesaurus, training programmes and advocacy initiatives, the region in pictures, and a section for portraits of emerging tobacco control advocates from the region. Those who are interested in this region are welcome to visit the site, learn more about the latest achievements in combating the tobacco epidemic, and help to provide colleagues from CEE countries with information on best practice in tobacco control.

- Dr. Tibor Szilagyi, Editor
Filter - Tobacco Advocacy Newsletter for Central and Eastern European countries

U.S. Negotiating Brief Discovered

In a moment of carelessness, a member of the U.S. delegation temporarily left his briefing book on a table in the Serpent Cafe. Here are some highlights from their negotiating instructions:

Package Warning Size: Agree to mandatory warning size not exceeding [0%] of any external surface. Fallback position: messages to be illegible, non-contrasting colors only.

Advertising: Parties should be required to advertise tobacco products, using, as appropriate, false, deceptive and misleading messages. Fallback position: Advertising to be targeted strictly at minors.

Free Sampling: Parties shall distribute cigarettes in all maternity wards. Fallback position: primary schools.

Trade: The freedom to die an

agonizing and humiliating death from cancer is mutually supportive of the right of tobacco corporations to make unlimited profits from the sales of toxic, addictive drugs. Fallback position: Trade over health.

Liability: Tobacco corporations must have the right to sue smokers that violate their intellectual property rights by dying whilst using products advertised as enhancing youth and sexual attractiveness. Fallback position: governments shall be held legally liable for negotiating burdensome health treaties.

Agricultural Diversification: United States tobacco corporations will assist the development of alternative crops in developing countries by providing money-laundering services to the narcotics trade. Fallback position: Agent Orange.

Seen in the hallway:

Mr. L.J. Sinelnikov, described as "expert, Ministry of Agriculture, delegation of the Russian Federation".



However Mr. Sinelnikov has another occupation: BAT Russia's website profiles him as "Chairman of the Board of Directors of OJSC BAT-YAVA", the Russian subsidiary of British American Tobacco. Under his guidance, "a number of large projects were fulfilled, which enabled the [BAT] to gain leading positions in the Russian tobacco market."

When asked if he was representing London-based shareholders of BAT or Russian citizens, he replied "I don't have time to talk to you."

Health Warning

Assisting the tobacco industry causes a peculiar form of progressive cerebral atrophy, the cardinal manifestations of which are an inability to see the truth and an unwillingness to listen to reason.

It is endemic among members of the US, German, and Japanese governments, but can easily be transmitted through close contact to unsuspecting others.

International Treaties the US Has Not Ratified

EXAMPLE 6:

Persistent Organic Pollutants Treaty

Date Adopted: 22 May 2001

The Stockholm Convention on Persistent Organic Pollutants (POPs) is designed to eliminate the use of 12 chemicals that are harmful to human health and the environment. Most of the chemicals prohibited by the treaty, including eight pesticides, are no

longer used in the US. POPs are chemicals that remain intact in the environment for long periods, and are toxic to humans and wildlife.

The US signed the Convention in 2001, but has not yet ratified it.

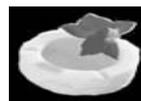
FRAMEWORK CONVENTION ALLIANCE

The Framework Convention Alliance (FCA) is an alliance of NGOs from around the world 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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Orchid Award

AFRO, EMRO, SEARO, small Pacific Islands, and the English-speaking Caribbean, for resisting pressure to compromise on public health.



Dirty Ashtray Award

The **GREEK PRESIDENCY of the EU**, for failing to show any political leadership during the negotiations.

