



ALLIANCE BULLETIN

Framework Convention on Tobacco Control • Geneva, Switzerland • 19 October 2000 • Issue Four

Today's Weather: Partly Cloudy
High 17 C Low 6 C
63 F 42 F

Exchange Rate: 20 Swiss FR =
Sucre 280,878 Loti 69.83
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Amorim calls for "Credible" Convention

As delegates spent all of Wednesday's sessions commenting on a first reading of the Proposed Draft Elements, there was growing sentiment to ensure that the Framework Convention itself address substantive issues in addition to procedural ones.

"There is a growing feeling that we need to have a convention that has credibility itself," said Intergovernmental Negotiating Body Chairman Celso Amorim at a briefing for NGOs. "It cannot be

so weak as it loses credibility. But this is a matter for negotiations so I cannot go further than that."

The wide range of views expressed by delegates – ranging from calls for prohibition to support for broad obligations only – indicated that the negotiation process could be long and difficult.

Kenya's delegate summarized the challenge to find an effective balance between broad goals and concrete, achievable objectives: "A goal

ALLIANCE BRIEFINGS DELEGATES INVITED

**Thursday
13.00-14.00
Salle XVIII**

**Advertising,
Promotions &
Sponsorship
Lunch served**

**Thursday
14.00-15.00
Salle IV**

**Dr. Thomas
Zeltner
WHO Infiltration
Report**

is broad, it is not specific, and it is not always attainable. An objective is measurable, it is achievable and it has a timeline."

Smuggling: Evidence Points to Tobacco Industry

For years, the major tobacco companies have fought cigarette excise taxes and import fees by claiming that these measures will spark massive increases in cigarette smuggling and black markets. But recent court cases and internal industry documents show that the cigarette companies themselves have been supporting – and profiting from – cigarette smuggling schemes.

- In January, two organisations – Action on Smoking and Health (ASH) in the UK and the Center for Public Integrity in the USA – publicised industry documents showing that British American Tobacco (BAT) and other tobacco companies encouraged and relied on smuggling to boost their sales in Latin America and Asia.
- The Republic of Colombia has

filed a racketeering and smuggling lawsuit against Philip Morris and BAT, alleging the companies defrauded the country of tax and other revenues.

- RJ Reynolds Tobacco Company's Canadian affiliate, Northern Brands, and its former President, Les Thompson, pleaded guilty to involvement in smuggling cigarettes from the United States into Canada. Thompson stated in a television interview that RJR set up Northern Brands expressly for the purpose of smuggling cigarettes into Canada and was fully aware of its efforts.
- In Hong Kong in 1998, a BAT executive was convicted for his role in a smuggling syndicate.

The following interview with Clive Bates of ASH details the causes and solutions of cigarette smuggling:

Why is smuggling a health problem?

Roughly one third of internationally traded cigarettes – 350 billion per year – are eventually sold illegally with the avoidance of duty. This reduces the price, increases demand, undermines national tobacco tax policies and – as a result – harms health by increasing tobacco use.

Who benefits?

Organised crime and petty criminals clearly benefit. The tobacco companies benefit because average tobacco prices are reduced and hence demand increased, and cheap smuggled cigarettes may keep people smoking who otherwise would quit. High levels of smuggling can also result in governments

(Continued on page 2)

DEATH CLOCK

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

3,965,760
people have died from tobacco-related diseases.

FACT: In Vietnam, the country with the highest rate of smoking, some advertising (print, electronic, and outdoor) is banned. Even with this partial ban, 38% of the population can recall a tobacco advertisement.

TODAY'S SCHEDULE

19 October 2000

Time of Negotiating Sessions

Morning: 10.30-13.00

Afternoon: 15.00-18.00

13.00-14.00

FCA Delegate Lunch Briefing

"Advertising, Promotion & Sponsorship"

Salle XVIII

14.00-15.00

Women's caucus mtg

Salle XV

14.00-15.00

FCA Delegate Briefing

"Tobacco Company Strategies to Undermine Tobacco Control Activities at the WHO."

Dr. Thomas Zeltner, Head of

Delegation, Switzerland

Salle IV

Check this calendar each day this week for briefings and events.

"The success of the FCTC in reducing smuggling will depend on how it improves law enforcement and how it changes the business practices of tobacco companies."

—Clive Bates,
Action on Smoking
and Health-UK

For more information
www.ash.org.uk/smuggling
or

[www.tobaccofreekids.org/
reports/smuggling](http://www.tobaccofreekids.org/reports/smuggling)

Views expressed in the *Alliance Bulletin* are those of the writers and do not necessarily represent those of the sponsors. The *Alliance Bulletin* presents views on the impact of the policies supported by the Framework Convention Alliance (FCA).

Smuggling

(Continued from page 1)

reducing tobacco taxes in an effort to deal with the problem. This keeps prices lower and demand higher in the *legal* market – again the tobacco companies benefit. The World Bank has identified price as a key health and economic policy in tobacco control, and smuggling undermines the effectiveness of this policy.

What is the tobacco companies' role in smuggling?

Tobacco companies have used smuggling as a distribution channel to launch new brands, to enter new markets and fight price wars with their competitors. Once one company is involved, the others risk losing market share if they do not effectively 'compete' to have their brands represented in illegal markets. The major companies seek to maximise their performance in the whole system – legal and illegal.

Is smuggling caused by high taxes?

Yes and no. But mostly no. The difference in duty levels between neighbouring states is only a MINOR driver of smuggling. The economic driver

of most smuggling is the difference between the duty-paid and duty-not-paid price. Most smuggled cigarettes have never had duty paid in any country and are smuggled by diversion from the transit trade. The level of cigarette smuggling in the UK has recently reached about 25 per cent of the market – but 80 per cent of this is large scale container fraud involving consignments of tens of millions of cigarettes on which duty has not been paid anywhere.

Even if all countries imposed exactly the same level of taxes and had identical prices, smuggling would still continue at a large scale. In Europe until recently the highest levels of smuggling were found in countries with some of the lowest taxes (Spain and Italy). This pattern is reflected around the world.

What drives smuggling?

Smuggling is *based on* tax avoidance, but it is *driven by* commercial activities of tobacco companies and organised crime and *mitigated* by the extent to which law enforcement creates costs and risks as a disincentive to smuggling. The success of the FCTC in reducing smuggling will depend on how it improves law enforcement and how it changes the business practices of tobacco companies.

How can the FCTC tackle smuggling?

The FCTC should contain anti-smuggling measures in BOTH the Convention itself and in a detailed smuggling protocol. Measures in the Convention would have benefits in their own right and create a basis for building the protocol. In total, the FCTC could include (but not be limited to):

- Labelling every pack with its origin (manufacturer) and destination (country) and/or a tax stamp regime.
- Ban duty free sales (already achieved within the European Union)
- Require manufacturers to mark packs and to be able to identify which wholesaler they sold a particular pack to.
- Require co-operation between law enforcement bodies.
- Commit to meaningful penalties to introduce a disincentive to smuggling.
- Introduce a liability regime in which producers and wholesalers would be liable for damages or penalties if they sold to smugglers – or sold to someone that subsequently sold to smugglers.
- A duty of care, with a view to creating a secure custody chain for tobacco.
- Licensing of participants in the distribution chain – with the threat of the loss of license if they fail to discharge their duty of care.
- Consider the possibility that tobacco products should move in transit with duty paid or with a bond redeemable at the legal sale.
- Take measures against counterfeiting, such as control the sale of used cigarette manufacturing machines and factories.

FACT: In the U.S., tobacco company expenditures for advertising have declined to 10% of total marketing expenditures. Tobacco companies now spend roughly 90% of their advertising budgets on promotions and sponsorships.

A Predator Speaks: Tobacco Industry Targets the World

The WHO projects that the number of people who die of smoking-related illness will increase from four million this year to 10 million by 2030. By 2030, 70 percent of all deaths from tobacco will occur in developing countries, up from 50 percent today.

The reason: the industry's aggressive global expansion plans, targeted especially at populations that are less informed about the risks of smoking and have traditionally low smoking rates. The industry's own words tell the story:

"Obviously there is enormous potential in all these countries. I would say that the demand for Western cigarettes is insatiable. It's a fantastic opportunity for everybody, and we're talking in any number of countries." – *Stuart Watterton, BAT Director of New Business Development, speaking of new opportunities in Eastern Europe and the former Soviet Union, 1995.*

"We are still in the foothills when it comes to exploring the full opportunities of many of our new markets." – *Geoffrey Bible, Chairman, Philip Morris, 1996*

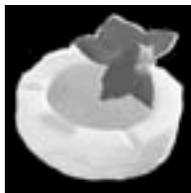
"This is a market with tremendous potential. The rate of population growth is 2.2 percent each year, and 40 percent of the population is under 18." – *Sukru Arkayin, Director of Operations for Philip Morris Turkey, 1997*

"Our primary aim is to expand the market for cigarettes. We have the responsibility, being market leader, to do so." – *Kamal Ramnath, CEO of the Indian Tobacco Company, partially owned by British American Tobacco, 1997.*

"No discussion of the tobacco industry in the year 2000 would be complete without addressing what may be the most important feature on the landscape, the China market. In every respect, China confounds the imagination." – *Rene Scull, Vice President, Philip Morris Asia, 1991.*

"The demand for Marlboro is phenomenal. It's like saying: 'What is the potential market for Levi jeans? Probably every second adult in Russia'." – *Michael Parsons, Philip Morris, 1992*

"Thinking about Chinese smoking statistics is like trying to think about the limits of space." – *Robert Fletcher, Rothmans Regional Public Affairs Manager, 1992.*



Orchid Award **Kenya**

For saying "tobacco taxes are win-win — good for health and good for revenue."



Dirty Ashtray Award **CICG Lobby Vending Machine**

Masquerades as a candy machine but also sells cigarettes. Good example to delegates of what needs to be banned!

Myth

Higher Tobacco Taxes Will Lead to Reduced Government Revenue

Increasing the price of cigarettes is the single most effective method of reducing demand since higher prices induce some smokers to quit and prevent other individuals—particularly young people and the poor, who are most price sensitive—from starting. This would translate into millions of lives saved. Yet despite these reductions, revenues would increase by about 7% according to the World Bank estimates. This is because cigarette consumption will fall by a smaller percentage than the rise in price.

The Negotiations: Quotes of the Day

Benin – "Are we going to talk about total elimination of tobacco products or are we going to be realistic and talk about reduction?"

Congo – "(Cigarette) producers know they are killing people with a toxic product, but we are only talking about the product and not the responsibility of the producers. We can compare this to a crime against humanity. At least it should be an internationally punishable crime."

Ecuador – "We want an international response of a binding character. If there is no binding character, we do not need an international response."

Jamaica – "We do have an ultimate aim to eliminate tobacco and its products and have a tobacco-free world. At the same time, moving toward that, we have to prevent and control tobacco use... by providing a framework for integrated tobacco control efforts."

Lesotho – "Africa gains too little from tobacco production except that the tobacco companies gain a lot and make a lot of dollars out of it."

Tunisia – "We must stress the need to limit exposure to secondhand smoke. We have segments of the population, children in particular, who are involuntarily exposed to secondhand smoke."

FCA MEMBER ORGANISATIONS

Action on Smoking and Health, Australia
Action on Smoking and Health Foundation, Thailand
Action on Smoking and Health, Ireland
Action on Smoking and Health, London (UK)
Advocacy Institute (USA)
African Center for Empowerment and Gender and Advocacy
Alcohol and Drug Information Center (Ukraine)
American Cancer Society
American Heart Association
American Lung Association
American Public Health Association
Asociacion Espanola contra el Cancer
Asociacion Mexicana de Estudios para la Defensa del Consumidor (Mexico)
Association of the European Cancer Leagues
ATOM-AFIS (Kenya)
Bangladesh Anti-Tobacco Alliance
British Medical Association
Campaign Against Foreign Control of Aotearoa (New Zealand)
Campaign for Tobacco Free Kids (USA)
Canadian Cancer Society
Cancer Foundation of Western Australia
Cancer Research Campaign (UK)
Chinese Progressive Association (USA)
CNCT (French Committee for Smoking Prevention)
Coalition on a Smoke-Free Environment for Kids in Japan & Tobaccoless Japan
Community Health Cell (India)
CONACTA (Honduras)
Conselho de Prevencao do Tabagismo (Portugal)
Consumers Association of Malawi
Consumers Association of Penang (Malaysia)
Environmental Rights Action (Nigeria)
European Network for Smoking Prevention
European Respiratory Society
Federation des ONGs et OCBs Luttant Contre le Tabagisme (Senegal)
German Cancer Research Centre
German Coalition Against Smoking
German Medical Action Group Smoking and Health
Heart and Stroke Foundation of Canada
INFACT (USA)
International Agency on Tobacco or Health
International Council of Women
International Network Of Women Against Tobacco
International Non Governmental Coalition Against Tobacco
International Union Against Cancer
International Union Against Cancer/
GLOBALINK
International Union Against Tuberculosis and Lung Disease (IUATLD)
Medical Women's International Association
National Council Against Smoking (South Africa)
National Heart Foundation (Australia)
National Organisation for Tobacco Eradication (India)
Network Association for the Rational Use of Medication in Pakistan
Network for Consumer Protection (Pakistan)
New South Wales Cancer Council (Australia)
Non-Smokers' Rights Association (Canada)
OxyGeneve (Switzerland)
Physicians for a Smoke-Free Canada
Public Services International
REDEH – The Network in Defense of Humankind
San Francisco Tobacco Free Coalition (USA)
Society for Research on Nicotine and Tobacco
SOS Tabagisme (Mali)
Soul City (South Africa)
Tobacco Free Las Cruces Coalition (USA)
Turkish Committee on Tobacco and Health
Women's Environment and Development Organization
World Dental Federation
World Federation of Public Health Associations
World Vision International
Zuna Women's Operation Green (Zimbabwe)

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FIRST MEETING OF THE
INTERGOVERNMENTAL NEGOTIATING BODY
OF THE FRAMEWORK CONVENTION ON
TOBACCO CONTROL
INTERNATIONAL CONFERENCE CENTRE
GENEVA (CICG)
16-21 OCTOBER 2000

Views From the Alliance Where did you buy those cigarettes?

Neil E. Collishaw, Physicians for a Smoke-Free Canada

"Where did you buy those cigarettes?" I enquire of my guide. He is puffing contentedly on Hilton cigarettes after showing me around the Forbidden City, the day after the Tenth World Conference in Beijing in 1997.

"You can buy them anywhere," he replies. "It was a little harder to get them before and during the Conference, but now that it is over they are back in the kiosks on the main streets again."

Hiltons, made by British-American Tobacco outside China, like Marlboros and all other foreign brands, are illegal in China, except for sales to foreign visitors in specific locations.

Now we are at a cigarette kiosk on a main street, just behind the Forbidden City in central Beijing. Chinese and illegal foreign cigarettes are for sale side by side. With a policeman looking on benignly, I stock up. I buy for less than a dollar a pack some legal Chinese cigarettes, some Hiltons for my guide, and several different brands of illegal foreign cigarettes from all over the world.

One package of Marlboros I buy was clearly well travelled. It bore the markings "Made in USA" "Tax-exempt, for sale outside USA only." Curiously, even though purchased in Beijing, it bore a blue sticker, upon which was written a health warning in small print, in Russian. This

package was made in Virginia, USA, travelled to a bonded warehouse in Europe, made its way under questionable circumstances through several countries of Eastern Europe, acquired a Russian stick-on health warning, crossed Central Asia before ending up behind the Forbidden City in China where it was sold to me illegally in front of a policeman.

Around the world, illegal acts like this are committed millions of times every day. Up to 40% of the cigarettes smoked in China

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are smuggled in from many locations. In many countries of Eastern Europe and Central Asia, the market is often dominated by smuggled cigarettes.

The problem is huge. Around one-third of the cigarettes in international commerce, over 300 thousand million cigarettes, 7% of global cigarette production, are smuggled. Around the world governments are losing thousands of millions of dollars in tax revenue because no taxes are collected on these smuggled cigarettes.

The problem can be solved once and for all through measures that could be included in the

Framework Convention on Tobacco Control. It is recommended that the following measures to control smuggling be included in the FCTC:

Specific Obligations

- Mandatory licensing of all tobacco manufacturers and provision to require taxes due on all tobacco products to be paid in full to the country of final destination, before the tobacco products leave the factory in the country of manufacture.

- Obligation that all legal requirements for the labelling of tobacco products in the country of destination be met in the factory in the country of origin, before the tobacco products leave the factory.

- Obligation that all tobacco product packages in international trade bear standardised, coded information (such as tax-paid markings) that will facilitate monitoring, product tracking and global smuggling control. The form and content of the standardised, coded information will be determined by the Convention Secretariat.

General Obligations

- Heightened collaboration among law enforcement officials to bring tobacco smuggling under control.

- Ready sharing of information among countries of information pertinent to tobacco smuggling control.