



ALLIANCE BULLETIN

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Today's Weather: Cloudy/Showers Exchange Rate: 20 Swiss FR =
 High 19 C Low 11 C Malaysian Ringgit 44.026 Polish Zloty 46.168
 67 F 52 F Argentine Peso 11.578 Iceland Krona 1,102.94

INB-2 TUESDAY

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TODAY'S DELEGATE BRIEFING

TRADE
 1 May 2001
 13.00-14.00
 Salle II

Speakers:
 Dr. Hatai Chitanondh
 Ira Shapiro
 Chakravathy Raghavan

Lunch will be provided

DEATH CLOCK

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

6,102,405

people have died from tobacco-related diseases.

(As of 8am 1 May 2001)

INB-2: Negotiations Begin Over Chair's Text

Negotiations began on key issues including advertising bans and passive smoking as the Intergovernmental Negotiating Body reconvened Monday and immediately broke into working groups to consider the Chair's text of the Framework Convention.

The day saw proposals to both strengthen and weaken provisions:

Advertising: African delegations, and others, continued to express strong support for a total ban on tobacco advertising, promotion and sponsorship. Public health advocates argue that only a total ban can be effective and are concerned that the current draft makes an artificial and unworkable distinction between youth-targeted marketing and other types of marketing.

Chairman Amorim told the media the current text reflected "my best judgment of what would be the possible compromises" among the Member States, but also invited efforts to revise and improve the text.



INB-2: NGOs from around the world unveil the Death Clock

Passive Smoking: Confusion arose about the Convention's eventual approach to passive smoking after the relevant section of the Chair's text was bracketed and opened to further consideration at the request of the United States.

Chairman Amorim told the media that his goal for the

second INB is the development of a text that is "collectively owned" by the Member States. He also said, "We have to have a Convention that is meaningful and that is also ratifiable by a large number of countries."

Tobacco and Trade: Put Public Health First

By Ira S. Shapiro

In late 1993, I spent three weeks in Geneva as part of the U.S. delegation helping to complete the Uruguay Round and the WTO agreements. That was an all-consuming process, with seven years of global trade talks hanging in the balance. It may seem a little unusual for me to be back in Geneva for the FCTC negotiations, this time as a member of an NGO delegation, as deep concerns about the operation of the WTO agreements form an important part of the debate.

In fact, there is a clear and important connection between my earlier work and the FCTC negotiation. Expanded trade can bring great benefits around the world, but only if it takes place consistent with things we value most, of which public health should be paramount. For this reason, I believe that it is

particularly important that the relationship between the FCTC and the WTO agreements be defined clearly to ensure that public health considerations take precedence over commercial interests.

SPECIAL REPORT

In my view, the WTO trade agreements do give governments substantial room to frame far-reaching and imaginative tobacco control policies. For example, nothing in the current trade agreements would have stopped the Nordic countries from first banning tobacco advertising, or prevented Australia, South Africa or Canada from putting in place their stringent tobacco control programs. The

recent WTO appellate body decision upholding France's right to ban the production and import of asbestos products provided a gratifyingly broad interpretation of the right of governments to take trade restrictive measures to safeguard public health. But there have been other WTO decisions suggesting that governments have a substantial burden of proof in justifying public health measures, including the requirement that the measures adopted be shown to be "the least trade restrictive" measure possible.

The final provisions of the FCTC must clearly advance the international tobacco control effort, rather than leaving the door open to uncertainty about the efficacy of measures put in place. If governments believe that the tobacco

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FACT: A World Bank study concluded that each 1,000 tons of tobacco smoked produces a net global loss of U.S. \$27 million, taking into account health care, lost productivity and other costs.

TODAY'S SCHEDULE

1 May 2001

Time of Negotiating Sessions
Morning: 10.00-13.00
Afternoon: 15.00-18.00
Evening: 19.30-22.00

9.00-10.00

FCA Women's Caucus Meeting
Salle XVI/Room 16

13.00-14.00

FCA Delegate Briefing:
Trade
Salle II/Room 2

FCA Women's Caucus

Salle XVI
9.00-10.00

More than 200 million women or about 12 percent of women are smokers in the world today. Over the next 30 years, if current trends continue, tobacco-related deaths among women will more than double. Lung cancer now outranks breast cancer as the leading cause of cancer deaths among women in countries like the US and the UK.

Join us Tuesday to discuss the new US Surgeon General's report on Women and Smoking and the forthcoming WHO Monograph on Women and Tobacco.

NATT Delegate Briefing
Salle IV
1300 hours

The Network for Accountability of Tobacco Transnationals (NATT) is organizing a briefing on "Transparency and Monitoring of the Political Activities of the Tobacco Transnationals".

Speakers include government delegates Professor Thomas Zeltner of Switzerland and Dr. Eva Fuller-Lewis of Jamaica, and NATT member Ricardo Navarro, President of Friends of the Earth International.

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.

Tobacco and Trade: Put Public Health First

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control measures they adopt will be subject to a long and costly attack and that, in the worst case, they could lose a WTO case and face the possibility of trade retaliation, it could have a chilling effect on their willingness to adopt measures that would reduce death and disease.

The sovereign right of nations to put in place strong tobacco control measures should be established beyond question.

This assurance can come in several ways. The FCTC and its protocols—a specific treaty designed to address unique health concerns about a single class of lethal products—should take precedence over other international agreements of general applicability. The uniquely harmful nature of tobacco products makes it appropriate to adopt product-specific rules that would operate as limited exceptions to the generally applicable international rules promoting free trade in goods and services. After spending years negotiating a product-specific framework, the Parties must make clear their intent that it prevails over more general trade rules to which they have agreed.

Because the lethal health consequences of tobacco use are clearly established, a lack of scientific unanimity about any particular tobacco control measure should not be used as a reason for encroaching on governments' sovereign rights to protect their citizens. Protective action to reduce tobacco use should be upheld unless there is convincing proof that the action is ineffective or otherwise unwarranted. The burden of proof should be on those who challenge tobacco control measures, not on those who promulgate them

Indeed, recognizing the special threat to public health caused by tobacco products, the ideal would be for FCTC parties to agree that they would not seek to undermine tobacco control measures in other nations. Every nation should be free to decide on the precise level of tobacco control measures it deems necessary and appropriate without fear that its decisions would be attacked by other governments acting on behalf of the tobacco companies. To ensure this flexibility, governments could also agree that they would not promote tobacco product exports or tobacco use in another country. In the U.S., the Clinton

Administration took this approach starting in 1993, dramatically reversing the policy of the first Bush Administration that had aggressively pushed cigarette exports into the developing world.

Where international trade and globalization are concerned, people sometimes speak as if we were in the grip of forces beyond our control. That is simply not the case. The nations negotiating the FCTC have the opportunity to reduce the death and disease caused by the tobacco companies. They have it in their power to ensure that where cigarettes are concerned, public health concerns will override commercial considerations. They can strike a powerful blow for public health and in the process, strengthen support for international trade by making it clear that free trade can co-exist with the things we value most.

[From 1993-97, Ira Shapiro served as General Counsel to the United States Trade Representative and chief U.S. trade negotiator with Japan and Canada. He currently practices law with Long, Aldridge & Norman, and is a consultant to the Campaign for Tobacco-Free Kids (USA).]

Big Tobacco Gets Bigger

Recent mergers and acquisitions have reduced the number of multinational tobacco companies, and today more than two-thirds of the world's cigarette market is controlled by only four companies:

1. The **China National Tobacco Corporation (CNTC)** is the state-owned Chinese monopoly. It produces 30% of the world's cigarettes — but operates only in mainland China.

2. **Philip Morris (PM)** manufactures the world's most widely smoked brand — Marlboro. PM manufactures one in six cigarettes sold around the world. International sales have helped make PM the most profitable tobacco company, with earnings of U.S. \$4.9 billion from international tobacco sales in 1999.

Philip Morris dominates the U.S. market and is a market leader in Western Europe. Between 1994 and 1997, PM increased its cigarette sales by more than one-third, with three-quarters of its sales now outside the United States.

3. **British American Tobacco (BAT)**, the second largest private tobacco company, grew significantly by merging with Rothmans International in 1999. BAT's leading brands are Lucky Strike, 555, Derby and Benson & Hedges. (BAT owns more than 250 brands world-wide.)

BAT was one of the first multinational companies to move into emerging markets in Asia, Africa and Latin America, and is the market leader in more than 50 countries. Although headquartered in the United Kingdom, most of BAT's business is in less developed countries.

4. **Japan Tobacco (JTI)** was a state monopoly until 1985, and the Japanese government remains the largest shareholder of the world's third-largest private cigarette company. In 1999, JTI purchased RJ Reynolds' international market. Its international brands include Camel (sold by RJR in the U.S.) and Mild Seven, which is so popular in the Asian markets that it is the world's second-best selling brand.

Source: Physicians for a Smoke-Free Canada/Commonwealth Medical Association

FACT: The same World Bank study estimates the total current economic drain of tobacco on the world's economy at about U.S. \$200 billion.

Pour Une Convention Forte Et Efficace En 2003

Les 4 millions de morts annuelles et les sombres perspectives —10 millions de morts annuelles en 2025 — ne connaissent ni frontières ni barrières linguistiques ou culturelles.

Le défi se heurte aux intérêts particuliers, et notamment aux intérêts économiques des pays qui favorisent leurs industries du tabac de manière égoïste, au mépris de la santé, du développement social des pays les plus pauvres et de l'environnement global.

Nous agirons avec force tout au long de cette semaine pour que les dispositions les plus efficaces ne soient pas repoussés aux protocoles, et qu'elles figurent dans le texte de la Convention. Nous serons vigilants sur deux dispositions majeures, qui du fait de leur dimension internationale doivent constituer la base de la Convention:

l'interdiction de toutes les formes de publicité et de promotion pour tous les produits du tabac;

la mise en place des mesures s'opposant à la contrebande et au trafic international organisés par l'industrie du tabac et notamment celles assurant la traçabilité des produits.

La semaine qui s'ouvre sera capitale: si l'on veut que le tabagisme cesse d'être la première cause de mortalité prématurée, et nous en avons tous les moyens. Militons pour une convention contenant des dispositions efficaces par leur dimension globale. Les repousser serait déjà un échec.

Allen Hirsh, Président du programme de prévention du tabagisme de l'UICC.

Views from the Alliance

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b. following the proposal of Dr. David Kessler by transforming Tabacalera Nacional and Empresa Nacional del Tabaco, now protected national companies whose purpose is to sell more and more cigarettes, into a single regulated monopoly, protected from foreign competition, but whose dramatically transformed purpose would be to sell fewer and fewer cigarettes.

By taking these measures, Peru could vault to a world leadership position on tobacco control and public health protection. But it could not be done without help from the rest of the world. To help out Peru, and everyone else, the global community needs to adopt a strong and effective FCTC as soon as possible.

It needs to be done soon enough to ensure that public health protection will have primacy over trade liberalization, as the WTO dispute settlement process considers Chile's complaint about tobacco trade protectionism in Peru.

The march of the transnational tobacco juggernaut across the nations of the world can be stopped. To do so requires a strong, effective Framework Convention for Tobacco Control. Will it be built in time for Peru to use it to protect the health of its citizens? For the sake of the future good health of Peru's children and, eventually, everybody's children, let us all hope so.

Orchid Award



South East Asian Region (SEARO) Health officials from eight Asian countries have agreed to support a total ban on cigarette advertising.

Dirty Ashtray

Continued efforts by some delegations to exclude NGOs from working groups when specific texts are discussed.



The Negotiations: Quotes of the Day

Lesotho to Chairman Amorim on his decision to quit smoking: "You lead by example."

Chairman Amorim in response: "That's what my wife says as well."

Chairman Amorim to the media: "We have to have a Convention that is meaningful and that is also ratifiable by a large number of countries."

Kenya: "The time to take action on the tobacco epidemic is now and we should not wait until we find ourselves in a public health epidemic like HIV/AIDS in Sub-Saharan Africa."

St. Lucia: "The Framework Convention on Tobacco Control should protect vulnerable states from multinational corporations that will attempt to dump cigarettes on them. The FCTC will establish a strong foundation so future generations can enjoy an environment with less pollution from tobacco smoke."

Guatemala: This Convention must not forget those countries that are small and vulnerable to tobacco trafficking. We have many problems with drug trafficking and tobacco trafficking."

Sweden: "Tobacco use has health, but also social and economic considerations. An overall approach must be taken."

Guinea: "Tobacco is a killer. We should not make publicity for it or subsidize it or glamorize it. Tobacco use should not be allowed in buildings or public transport."

Jamaica, during debate over who should set standards for tobacco products: "I'm concerned because the public is going to be confused when they see tobacco products that state 'manufactured under standards set by the World Health Organization'."

Views from the Alliance

Making Sure Lucky Strike Strikes Out in Peru

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

"The tobacco industry, as currently configured, needs to be dismantled," said Dr. David Kessler, doctor, lawyer and Dean of the Yale School of Medicine. From 1990 to 1997, Dr. Kessler was Commissioner of the United States Food and Drug Administration, the official who sought to regulate tobacco. After a decade of analyzing the tobacco epidemic and how it could be controlled in the United States, Dr. Kessler concluded that half-measures were no longer enough. In his book, *A Question of Intent*, (New York: BBS, Public Affairs, 2001), he proposes, "Congress should charter a tightly regulated corporation, one from which no one profits, to take over manufacturing and sales (of tobacco)."

Peru's dominant national tobacco company, Tabacalera Nacional, is a nationally chartered, privately held company that has about two-thirds of the tobacco market in Peru. Most of the remaining third of the market is accounted for by the state-run company Empresa Nacional del Tabaco. The two companies operate with a degree of government protection. Together, they come as close as any other existing model to the new kind of tobacco corporation proposed by Dr. Kessler. But, like other tobacco companies, they exist to sell cigarettes and make money. They are not instruments to help control the tobacco epidemic. But they could be.

Perversely, however, the forces of global trade liberalization threaten these Peruvian companies. In March 2001, Chile filed a complaint with the World Trade Organization (WTO), claiming that Peru's higher tax on cigarette brands sold in

three or more countries was an unfair restraint of trade. If the dispute cannot be resolved between the two countries, the matter will go the World Trade Organization for resolution. Previous WTO decisions make it seem likely that a dispute settlement panel would side with Chile and oblige Peru to rescind this tax.

So what's in it for Chile? Perhaps a few more export sales to Peru. Perhaps a few more jobs in the highly automated tobacco industry. At best, some short-term gain.

But the real winner if Chile were to prevail in this tobacco trade dispute with Peru would be British-American Tobacco (BAT), the giant transnational that owns 100% of Chiletabacos, which, in turn, controls nearly 100% of the Chilean tobacco market. Does BAT wish to turn Peru into another Andean profit center? Does BAT wish to flood the Peruvian market with imported Lucky Strikes, cripple the Peruvian companies through competition, and then step in to buy them for a song, thus turning them into yet another BAT subsidiary? It seems not unlikely. That is, after all, approximately how BAT has acquired other companies in Latin America.

And what of Peru? If Chile were to win its case at the WTO, Peru would lose more just a trade dispute. Cigarette prices would fall and Peru would be flooded with Lucky Strikes and other international cigarette brands. BAT and other transnational tobacco companies would move in with mass marketing techniques honed to perfection through decades of experience in other countries. Tabacalera Nacional and Empresa

Nacional del Tabaco would be no match for the big-time international operators who could put more brands in the marketplace at cheaper prices and whet demand by out-advertising the Peruvian companies.

If Tabacalera Nacional and Empresa Nacional del Tabaco were to pass into the hands of BAT or another transnational, Peru would have lost this golden opportunity to become a leader in global tobacco control by adopting the corporate tobacco control strategy proposed by Dr. David Kessler.

Can victory for public health be snatched from the jaws of looming defeat in Peru? Yes, it can. Here is what would be needed:

1. The Intergovernmental Negotiating Body (INB) and the World Health Organization (WHO) need to adopt the Framework Convention on Tobacco Control (FCTC) sooner rather than later.

2. The FCTC needs to contain:

a. a strong assertion that sound national tobacco control measures cannot be neutralized by international trade considerations;

b. a strong assertion that the FCTC takes precedence over other international agreements, including trade agreements.

3. Peru would have to demonstrate sincere resolve to control its tobacco epidemic by:

a. adopting comprehensive tobacco control measures, as recommended by the World Health Organization

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FCA MEMBER ORGANISATIONS

Member Organisations as of April 2001

Action Council Against Tobacco - India
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
Action on Smoking and Health New Zealand
Action on Smoking and Health Scotland
Action on Smoking and Health USA
Adventist Development and Relief Agency (Cambodia)
Advocacy Institute
African Centre for Empowerment and Gender Advocacy
Alcohol and Drug Information Centre (Sri Lanka)
Alcohol and Drug Information Centre (Ukraine)
American Cancer Society
American Heart Association
American Lung Association
American Public Health Association
Argentine Union Against Tobacco
Asociación Española Contra el Cáncer (Spanish Cancer Association)
Asociación Mexicana de Estudios Para la Defensa del Consumidor (Mexico)
Association for Consumer Action on Safety and Health (ACASH)
Association of the European Cancer Leagues
ATOM-AFIS Tobacco Control Commission for Africa
Bangladesh Anti-Tobacco Alliance
British Medical Association
Campaign Against Foreign Control of Aotearoa (NZ)
Campaign for Tobacco-Free Kids (USA)
Canadian Cancer Society
Cancer Foundation of Western Australia
Cancer Institute (India)
Cancer Society of Finland

Chinese Progressive Association
CNCT (French Committee for Smoking Prevention)
Comité Nacional Sobre Control del Tabaquismo - CONACTA (Honduras)
Commonwealth Medical Association
Community Health Cell (India)
Conselho de Prevenção do Tabagismo (Portugal)
Consumer Education and Research Centre (India)
Consumers Association of Malawi
Consumers Association of Penang (Malaysia)
Consumers International Regional Office for Asia and the Pacific (CI-ROAP)
Czech Committee of European Medical Association Smoking OR Health
Environmental Rights Action (Nigeria)
Essential Action
European Medical Association on Smoking and Health
European Network for Smoking Prevention
European Respiratory Society
FDI World Dental Federation
Forum for Development Association (FFDA)
Georgian National Counter Tobacco Center
German Cancer Research Centre
German Coalition Against Smoking
German Medical Action Group Smoking and Health
German Medical Association
Grupo Universitario Anti-Tabaquico
Health 21 Hungarian Foundation
Heart and Stroke Foundation (Canada)
Hong Kong Council on Smoking and Health
Hungarian National Tobacco Control Forum
Indonesian Association of Pulmonologists
Indonesian Smoking Control Foundation ('LM 3')
INFACT (USA)
InterAmerican Heart Foundation

International Council of Women
International Agency on Tobacco or Health
International Network of Women Against Tobacco
International Non Government Coalition Against Tobacco
International Union Against Tuberculosis and Lung Disease
IOGT Regional Council for South and South East Asia
Japan Association Against Tobacco
Japan Coalition on a Smokefree Environment
Japan Medical-Dental Association on Tobacco Control
Korean Association on Smoking and Health (KASH)
Maori Smokefree Coalition - Aparangi Tautoko Auahi Kore
Medical Women's International Association
National Committee for the Control of Tobacco Consumption (Sudan)
National Council Against Smoking (South Africa)
National Heart Foundation (Australia)
Network for Consumer Protection (Pakistan)
New South Wales Cancer Council (Australia)
Non-Smokers' Rights Association (Canada)
Pakistan Society for Cancer Prevention
PATH (Canada)
Physicians for a Smoke-free Canada
Public Services International
REDEH-CEMINA - The Network in Defense of Humankind (Brazil)
Robert Wood Johnson Foundation
San Francisco Tobacco Free Coalition (USA)
Saudi Charitable Anti-Smoking Society
Senegal Anti-Tobacco Movement
Smokefree Coalition
Society for Research on Nicotine and Tobacco

SOS Tabagisme (Mali)
Soul City
Southeast Asian Tobacco Control Alliance
The Environmental Action Network (Uganda)
Tobacco Free Coalition (USA)
Tobacco Law Project
Tobacco-Free Las Cruces Coalition (USA)
Transnational Resources and Action Centre (USA)
Turkish Committee on Tobacco or Health
UICC and ECL
UICC Globalink
UICC International Union Against Cancer
Uruguay Anti-tobacco Commission
Vietnam Standard and Consumer Association
Women's Environment and Development Organisation
World Federation of Public Health Associations
World Vision International
Zuna Women's Operation Green (Zimbabwe)

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