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DEATH CLOCK
39,776,437

PEOPLE WILL HAVE DIED
FROM TOBACCO RELATED
DISEASES BY 9AM ON THE
OPENING DAY OF THE NEXT
INTERGOVERNMENTAL
NEGOTIATING BODY ON A
PROTOCOL ON ILLICIT TRADE
IN TOBACCO PRODUCTS, 20TH
OCTOBER, 2008, GENEVA,
SINCE FCTC NEGOTIATIONS
BEGAN IN OCTOBER 2000.

FCA CALLS FOR GLOBAL SOLUTION TO GLOBAL PROBLEM

Parties to the FCTC recognised the global nature of the problem of illicit trade in tobacco products by deciding to negotiate a protocol on the issue. Now is the time for them to agree on a global solution. The FCA calls on Parties to negotiate constructively at the next meeting in Geneva this month mindful of the projection of one billion tobacco related deaths this century.

From October 20-25, Parties to the FCTC will meet in Geneva for the second session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products (INB-2). The illicit trade protocol is the first FCTC protocol to be negotiated. The Parties' decision to negotiate this protocol recognizes the serious threat posed to public health by illicit trade in tobacco products – primarily through the undermining of tax policy – and the cross-border nature of illicit trade, which means that no state can effectively address the problem on its own.

The Chairperson of the Intergovernmental Negotiating Body has produced a strong text for negotiation at INB-2. FCA broadly supports the Chairperson's text, and has prepared detailed comments (<http://fctc.org/dmdocuments/INB-2%20Policy%20Briefing%20FCA%20comments%20on%20Chairpersons%20text.pdf>) with specific recommendations on how the text can be improved.

FCA considers that an effective protocol on illicit trade should contain strong measures relating to:

- *Control of the supply chain*, including: licensing; customer identification and verification

requirements; tracking and tracing; record-keeping; security and preventive measures; a ban on the sale of tobacco products to consumers via the internet and other telecommunication-based modes of sale; and a ban on tax-free and tax-reduced sales of tobacco products to international travelers;

- *Enforcement*, including: the creation of offences, including criminal offences; the application of effective sanctions; and the use of a range of effective enforcement tools; and
- *International cooperation*, including: sharing of information; assistance and cooperation in training and in scientific, technical and technological matters; and cooperation in law enforcement.

FCA hopes that Parties negotiate constructively at INB-2 with a view to the adoption of the strongest possible protocol as soon as possible. FCA's briefing papers for INB-2 are available at http://fctc.org/index.php?option=com_content&view=category&id=147&Itemid=171.

FCA TO COP-3 PARTIES: MEET OWN COP-2 MARK

Parties to the FCTC set themselves a high standard last year at COP-2 in Bangkok, Thailand in the battle against tobacco-related death and disease. The FCA and the Parties' constituents at home will be watching closely to see this standard is met next month in Durban, South Africa through the adoption of strong guidelines on three key issues.

From 17-22 November, Parties to the FCTC will meet in Durban, South Africa for the third session of the Conference of the

KEEP UP THE FIGHT TO PROTECT PUBLIC HEALTH

The global tobacco control movement has changed dramatically since the FCTC negotiations first began in October of 2000. What had seemed unattainable at the time has become a reality: an international treaty that contains the basic elements to protect humanity against the scourge caused by tobacco and the beginning of implementation of evidence based tobacco control policies at the national level.

Through the FCTC, you members of the FCA have had an opportunity to write history. The work and efforts you, the members of the FCA have devoted to the FCTC process, both at international and national level, have changed the public health landscape, and provided protection for millions of citizens of the world from exposure to tobacco smoke, tobacco ads and tobacco consumption, hence saving millions of lives.

Who would have thought in 2000 that by 2008 countries such as France, Ireland, Norway, Great Britain, Uruguay and many others would become smoke free? Some of us can still remember heated debates during FCTC negotiations in 2001 with governmental delegates from countries that are now smoke free who used to say "it will be impossible for us to implement smoke free policies because of the legal challenges associated with a smoker's right to smoke."

These many changes are to a large extent thanks to the FCTC process, which has truly legitimized 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 that "the FCTC is no ordinary convention. It is potentially a public health movement."

The international support for the FCTC can be seen in the number of ratifications/accessions that have occurred since the Treaty was adopted in 2003. In the five years since its

adoption, the FCTC has been joined by 160 Parties, representing over 84% 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) to name a few.

You, FCA representatives have been responsible for these successes around the FCTC process. United in your support for a strong and effective FCTC, you have dutifully fought to protect public health in all treaty negotiations and meetings, working collaboratively with governments, holding delegate briefings, providing educational materials, tobacco control expertise, and offering in-country and regional strategic support. The work that you have done has helped to shape the public climate that is providing momentum for implementation of evidence-based tobacco control measures around the world. Without the scientific, educational, media and organizing expertise from you FCAers around the world a strong FCTC would not have been possible. Your efforts have not been in vain; you have been able to directly influence history through the Treaty process and your initiatives will save countless lives in the future.

And our network is getting stronger. Our Alliance, which began with a handful of NGOs in 1999, 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 and a diverse and skilled international staff. United, we will be able to continue to positively influence the FCTC process.

In addition, we can all welcome the injection of new funding into international



tobacco control. Historically, according to the WHO, while tobacco causes more deaths than AIDs, tuberculosis and malaria, the tobacco control movement was grossly under-funded. With the recent announcement of funding from major donors such as the Bloomberg and Gates foundations and the continuing support from dedicated donors such as ASH, CRUK, and NCS amongst others, the public health community has much needed resources to carry on its fight for life.

This being said, much remains to be done and the fight is far from being won.

Since the FCTC was adopted in 2003, the revenues of the tobacco industry have continued to increase, totaling billions and billions of US dollars, and in some cases the revenues of tobacco companies dwarf the gross national product (GDP) of many countries. In 2005, in the US alone, cigarette companies spent US\$13.11 billion on advertising and promotional expenses (Federal Trade Commission, Cigarette Report for 2004 and 2005). This power allows them to easily reach million of consumers with the unfortunate result that smoking prevalence is continuing to grow. While, tobacco continues to kill millions of people every year, the tobacco control movement and effective tobacco control policies have not reached all corners of the world. As stated in the 2008 WHO MPOWER Report, only 5 % of the world's population is covered by comprehensive smoke free laws while tobacco-related deaths are continuing to grow.

However, the FCTC continues to provide the world with a unique tool to combat the tobacco epidemic worldwide and you, FCAers, must remain active as the Treaty continues to evolve at a very rapid pace.

Last year, the first set of guidelines for implementation of specific articles of the FCTC was adopted by the 2nd session of the Conference of the Parties (Article 8, Protection from Exposure to Tobacco

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Smoke). The Article 8 Guidelines are an effective tool to promote the implementation of best practice, evidence based measures at the national level.

In addition, a protocol to combat the illicit trade of tobacco products is currently underway. These guidelines and protocols provide tools that will help governments go beyond the minimal FTC requirements.

As you already know, at the upcoming Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products in Switzerland, the Chair's Text will be used as the basis for negotiations and a report will be submitted to COP3 in South Africa. In addition, at COP 3, three sets of draft guidelines on implementation will be up for discussion and adoption: Article 11 on Packaging & Labeling; Article 13 on Advertising, Promotion and Sponsorship; and Article 5.3 on Tobacco Industry Interference in Public Health Policy. Adoption of strong guidelines by the Conference of the Parties will be a vital step in ensuring that the FCTC provides as strong a model as possible for national implementation efforts, hence keeping with the spirit of Article 2.1 of the FCTC which states that "Parties are encouraged to implement measures beyond..." the Treaty. The COP will also review reports on Cessation; Alternative Livelihoods; Product Regulation; Education & Communication; Financial resources and technical assistance; and Parties' reporting on implementation.

To be successful in the next steps of the FCTC process, we need your full involvement, before and during the INB and COP negotiations. Whether you will be attending in person, or from your home countries or elsewhere in the world, you can still have a major influence in this process. Do not miss this opportunity to influence an international treaty and write history public health history. Together we can do it!!!

I look forward to working with all of you to continue FCA's record success in being the effective civil society voice in the FCTC, the world's first global public health treaty.

Laurent Huber
FCA Director

TOBACCO MARKETING CAUSES SMOKING

Tobacco advertising and promotion are causally related to tobacco use, according to a recent report released by the National Cancer Institute of the United States.

The Role of the Media in Promoting and Reducing Tobacco Use report also found that educational mass media campaigns about the hazards of tobacco use, and comprehensive bans on tobacco advertising, are effective at reducing tobacco use.

Partial advertising bans do not reduce tobacco use because the tobacco industry simply moves its promotional strategies from the banned media into areas where it is still permitted to promote tobacco.

For Australia, this means that point-of-sale cigarette display bans and tobacco packaging, and closing the loop on any remaining avenues for tobacco promotion, need to be in the line of fire for policy attention.

Cultivating a favourable image of tobacco companies

The report also found the tobacco industry uses sponsorship, corporate advertising and public relations advertising to enhance its image of corporate social responsibility.

Corporate social responsibility initiatives like corporate philanthropy, community involvement, cause-related marketing and support for minority programs are particularly increasing. The industry uses these initiatives to raise its profile and influence the public to view it more positively.

Generally, public perceptions of the industry are negative. According to the research, studies show the public thinks the industry lies when communicating information about its products, the products' addictiveness and entices adolescents to start smoking through attractive advertisements.

For example, Australian data published in 1999 shows that 80 per cent of 800 adults thought tobacco companies

mostly do not or never tell the truth about smoking and its addictiveness.

Corporate sponsorship of events and activities helps a tobacco company promote its name and logo, plus: increase perceptions that it is socially responsible rather than socially irresponsible; be more likeable; set itself apart from competitors; be associated with a particular target market or lifestyle; show support for a particular cause, social issues or community; increase favour for its products;



Israel: Pall Mall super slims

strengthen its brand with particular audiences; and increase its promotional and merchandising opportunities.

However, as the report points out, more positive perceptions of the industry can lead the public to being less critical of the industry, mitigate jurors' negative views of the industry, and weaken public or legislative support for tobacco control policies.

REPORT FINDINGS

The report is based on a review of more than 1,000 scientific worldwide studies into the media's role in encouraging and discouraging tobacco use.

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The report's main findings show that:

- tobacco marketing causes tobacco use to increase, particularly among adolescents because it targets psychological needs such as popularity, peer acceptance and positive self-image;
- tobacco use in movies encourages adolescent smoking; and
- mass media education campaigns that discourage tobacco use help curb and stop smoking.

IMPLEMENTING THE FINDINGS

The findings provide a valuable tool for countries in implementing the World Health Organization's (WHO) international tobacco control treaty,

the Framework Convention on Tobacco Control. The treaty requires countries to implement measures to reduce tobacco use.

For countries to do this the report recommends:

- imposing comprehensive bans on tobacco advertising and promotion;
- adequately funding mass media campaigns to discourage tobacco use; and
- using research to inform tobacco control policy and program decisions.

THE IMPORTANCE OF FIGHTING TOBACCO USE

Reducing tobacco use is vital in the fight against the death and disease caused by smoking, which according to the WHO, is the world's leading cause of preventable death. Already, tobacco use kills 5.4 million people a year and the epidemic is worsening – especially in the developing world where more than 80 per cent of tobacco-caused deaths will occur in the coming decades.

MORE INFORMATION

Download the full report and related materials

www.cancercontrol.cancer.gov/tcrb/monographs/19/index.htm

HOW TOBACCO COMPANIES FIGHT LEGISLATION

Tobacco companies are among the world's most sophisticated and successful lobbyists. They spend billions of dollars to influence and prevent governments from protecting their people from tobacco use. They mislead government officials, tobacco users and the general public about the impact of tobacco products on one's health, though tobacco kills five million people in the world each year, and is set to kill one billion people this century unless action is taken.

There are a variety of methods the tobacco industry employs to mislead, interfere and influence the government and the public, and stop the implementation of effective tobacco control. Though the industry interferes in all aspects of tobacco control, their influence on legislation regarding advertising, promotion and sponsorship is well documented. They have used their resources to kill effective legislation, water it down if it is passed, and undermine its enforcement.

What tactics will the tobacco industry use? You can expect them to:

ARGUE FOR CONSUMER CHOICE

The industry will seek to portray advertising, promotion and sponsorship of tobacco products as a 'consumer choice' issue, arguing – contrary to the experience of countries which have implemented bans – that these activities do not influence demand for tobacco products, impacting only consumers' brand preferences.

WARN OF ECONOMIC IMPACT

Tobacco companies will exaggerate any economic impact of bans or restrictions on tobacco advertising and promotion to companies engaged in these activities, such as advertising agencies, publishers, and broadcasters, and will enlist these companies to lobby against the legislation.

DENY ROLE OF PROMOTION

The tobacco industry will argue, contrary to fact, that tobacco advertising, promotion and sponsorship simply provide 'information' to consumers, rather than promote tobacco products, the tobacco industry and tobacco use.

CLAIM THE RIGHT TO FREE SPEECH

Expect tobacco companies to portray tobacco advertising, promotion and sponsorship as a 'free speech' issue, and threaten to bring unfounded legal or constitutional challenges to the imposition of comprehensive bans.

PROPOSE VOLUNTARY AGREEMENTS

Be prepared for the tobacco industry to argue that voluntary agreements or other informal arrangements, which are known to be ineffective, should be implemented, rather than strong, effective legislation.

*Marina Carter
Campaign for Tobacco Free Kids*

CÓMO LAS EMPRESAS TABACALERAS SE OPONEN A LA LEGISLACIÓN

Las empresas tabacaleras se encuentran entre los grupos de presión más sofisticados y exitosos del mundo. Gastan miles de millones de dólares para ejercer influencia e impedir que los gobiernos protejan a la gente frente al consumo de tabaco. Engañan a los funcionarios del gobierno, a los consumidores de tabaco y al público en general sobre el impacto que los cigarrillos causan a la propia salud; sin embargo, el tabaco mata cinco millones de personas anualmente en todo el mundo y se determinó que este siglo matará a mil millones de personas.

Existen diferentes métodos que utiliza la industria tabacalera para engañar, interferir e influenciar al gobierno y al público y para detener la implementación de un control efectivo del tabaco. Si bien la industria interfiere en todos los aspectos del control del tabaco, su influencia sobre la legislación de publicidad, patrocinio y promoción se encuentra bien documentada. Han utilizado sus recursos para matar a la legislación efectiva, aguarla en caso de su aprobación y menoscabar su aplicación.

¿Qué tácticas utilizará la industria tabacalera? Podemos esperar lo siguiente:

Que argumente una elección de los consumidores

La industria buscará describir a la publicidad, la promoción y el patrocinio de los productos de tabaco como un asunto de "elección de los consumidores" argumentando (contrariamente a la experiencia de los países que han implementado prohibiciones) que estas actividades no influyen sobre la demanda de productos de tabaco y que sólo impactan sobre las preferencias de marca de los consumidores.

Que alerte sobre el impacto económico

Las empresas tabacaleras exagerarán el impacto económico de las prohibiciones o restricciones a la publicidad y la promoción del tabaco para las empresas que realizan dichas actividades, tales como agencias de publicidad, publicistas y emisoras de difusión y alistarán a estas empresas para que ejerzan presión contra la legislación.

Que niegue el rol de la promoción

La industria tabacalera argumentará, contrariamente a los hechos, que la publicidad, la promoción y el patrocinio del tabaco simplemente brindan "información" a los consumidores y que no promocionan a los productos de tabaco, a la industria tabacalera y al consumo de tabaco.

Que alegue el derecho a la libertad de expresión

Podemos esperar que las empresas tabacaleras describan a la publicidad, la promoción y el patrocinio del tabaco como un asunto de "libertad de expresión" y que amenacen con presentar impugnaciones legales o constitucionales sin fundamento alguno ante la imposición de prohibiciones totales.

Que proponga acuerdos voluntarios

Debemos estar preparados para que la industria tabacalera argumente que se deben implementar los contratos voluntarios u otros acuerdos informales (cuya ineficacia ya se conoce) en lugar de la legislación fuerte y efectiva.

*Marina Carter
Campaign for Tobacco Free Kids*

LE CANADA SIGNE A SON TOUR UN ACCORD AVEC L'INDUSTRIE DU TABAC

Le 31 juillet 2008, les gouvernements provinciaux et fédéral du Canada ont signé un accord avec les sociétés Imperial Tobacco du Canada (BAT) et Rothmans, Benson & Hedges (Philip Morris).

En vertu de cet accord, le gouvernement obtient:

- Un aveu de culpabilité pour violations de la Loi sur l'accise, avec versement d'une amende de 300 millions \$;
- Un paiement civil de 815 millions \$ sur 15 ans ;
- La coopération des deux cigarettiers en ce qui concerne la vente de cigarettes aux distributeurs, avec des obligations concernant le marquage et la traçabilité.

L'accord, qui n'est pas sans rappeler le règlement hors cour entre l'Union européenne et Philip Morris en 2004, a été critiqué par plusieurs ONG et éditorialistes, qui considèrent que le montant versé par les cigarettiers ne représente qu'une toute petite partie des pertes subies par la population et les gouvernements canadiens durant la crise de la contrebande de la première moitié des années 1990.

À l'époque, les cigarettiers canadiens envoyaient un pourcentage important de leur production aux États-Unis alors que les marques canadiennes ne s'y vendaient à peu près pas, du moins sur le marché légal. Ces cigarettes revenaient ensuite au Canada en contrebande, ce qui a fini par provoquer une baisse très importante des taxes sur le tabac en 1994.

*Francis Thompson
Healthbridge*

INCREASING TOBACCO SMUGGLING HARMS PUBLIC HEALTH IN AFRICA

Tobacco smuggling in Africa is a major and growing problem that is undermining public health efforts to reduce rising smoking rates across the continent, new research has found.

Recent research titled *British American Tobacco and the insidious impact of illicit trade in cigarettes across Africa*, found that smuggling abetted by the tobacco manufacturers has occurred in at least 40 of the 54 African countries.

The research will support the Conference of the Parties (COP) to the World Health Organization's Framework Convention on Tobacco Control (FCTC) in preparing a protocol on illicit tobacco trade, which should be developed by 2010.

SMUGGLING HARMS HEALTH AND ECONOMIC DEVELOPMENT

Tobacco smuggling is a problem throughout the world and in 2006 about 10.7 per cent of global cigarette sales were attributed to illicit trade. Such trade, mostly smuggling and counterfeiting, significantly harms public health by making cigarettes cheaper, more accessible and harder to regulate.

Besides public health, African countries are also vulnerable to losing customs revenue from cigarette smuggling and therefore have an even more limited capacity to achieve broader economic development goals. The Commission for Africa says that customs revenues provide up to 25 per cent of government income.

SMUGGLING A BOON FOR TTCS

Africa includes many of the world's poorest countries, and according to the research tobacco smuggling in the continent allows transnational tobacco companies (TTCs) to:

- gain leverage in negotiations with governments in relation to market access and foreign investment;
- argue for minimized taxation;
- compete amongst each other to gain more market share and establish their brand; and
- circumvent barriers to market access posed by government restrictions or local conditions.

BRITISH AMERICAN TOBACCO UNDER SCRUTINY

The research focuses on internal company documents from British



Flow and volume of Batuke cigarette via the contraband trade in West Africa (1987)

American Tobacco (BAT), which has had a huge market presence in Africa – at times having a market share of over 90 percent in 11 sub-Saharan African countries and an overall market share of about 15 percent across the continent.

According to the research, BAT relied on illegal channels to supply markets across Africa and smuggling was important for the company's market entry strategy, which was not driven only by short term financial gain but often longer term corporate objectives.

Although BAT has denied that its companies smuggle tobacco products, the research found that: "While distributors and local agents ran day-to-day operations, [internal company] documents describe how BAT knowingly supplied cigarettes to such parties for

contraband purposes while simultaneously relying on legal exports as cover for larger-scale smuggling."

Also, the research says that for some years BAT's sales figures showed that contraband represented a high proportion of the total market in some African countries. For example, Lucky Strike (a BAT cigarette brand) sales for 1993 suggest that contraband comprised 45 per cent of the market in Nigeria, 14 per cent in Zaire and 12 per cent in Ghana.

The published report highlights BAT's hypocritical claim to corporate social responsibility by depicting itself as working with governments worldwide to combat tobacco smuggling by signing agreements with customs authorities in around 35 countries. In 2007 the company said that: "It looks forward to partnering with governments in the development, negotiation and implementation of an effective illicit trade protocol."

However, BAT's proposals intend to advance its corporate interests and undermine an effective global response to tobacco smuggling. For example BAT has prioritized the problem of counterfeit cigarettes, which protection and redress already exists through trade agreements.

DESIGNING TOBACCO CONTROL POLICY LEGISLATION

Understanding cigarette smuggling organization and logistics in Africa provides essential insights for designing effective legislation and administrative responses.

Tobacco smuggling is very dynamic in terms of supply routes and modes of transport – it is not primarily a result of price differentials. Policy responses cannot focus entirely on current mechanisms of smuggling.

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Parties (COP-3). COP-3 has a large program of critical work to get through. COP-2, held in June-July last year in Bangkok, Thailand, was widely recognized as a success. At the top of its achievements, the COP adopted its first set of implementation guidelines. These guidelines – on Article 8 of the Convention (protection from exposure to tobacco smoke) – are universally regarded as strong guidelines, and as providing the kind of practical guidance that Parties need to effectively implement the FCTC. In adopting the Article 8 guidelines, the COP made a loud statement in support of best-practice treaty implementation.

At COP-3, another three sets of guidelines, all critical to effective FCTC implementation, will be up for adoption. These include the two Articles with implementation deadlines (3 and 5 years respectively) – Article 11 (packaging and labelling of tobacco products) and Article 13 (tobacco advertising, promotion and sponsorship) – and Article 5.3 (protection of public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry). Draft guidelines on each of these three Articles have been developed inter-sessionally by working groups of Parties.

FCA strongly supports the adoption of guidelines on both Article 11 and Article 13, without any change to the drafts. Both sets of draft guidelines follow the high standard example set by the Article 8 guidelines. They offer clear guidance to Parties for best-practice implementation of their obligations.

The draft Article 11 guidelines offer very useful guidance to Parties in implementing health warning requirements, bans on misleading information, and requirements with respect to information on constituents and emissions, based on a vast body of scientific evidence and Party experience.

The draft Article 13 guidelines recognize the need for truly comprehensive bans on advertising, promotion and sponsorship, and are grounded in Parties' experiences of the realities of modern marketing techniques and of the tobacco industry's never-ending attempts to find new ways to market its products.

The draft guidelines that have been developed on Article 5.3, however, fall short of the standard set at COP-2. Article 5.3 is a critical provision, the significance of which cuts across the entire Convention. The greatest obstacle to effective implementation of the FCTC

is the tobacco industry and its attempts to delay, weaken and subvert tobacco control. Guidelines on Article 5.3 must provide Parties with clear guidance in resisting tobacco industry influence and interference. Clear recommendations must be provided with respect to matters such as interactions between governments and the tobacco industry, conflicts of interest, and transparency of tobacco industry operations. The draft guidelines fail to offer the required guidance and must be significantly improved for adoption by COP-3.

After a successful COP-2, civil society will be expecting COP-3 to live up to the standard the COP has so far set, and the standard demanded by the terrible facts that underlie the FCTC: 5.4 million deaths a year, estimated to rise to over eight million deaths a year by 2030; and the possibility of one billion deaths this century.

*Jonathan Liberman,
FCA Policy Director*

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When designing effective legislation for tobacco control policy, the research suggests that laws must be expansive, and the process for amendment be flexible to ensure smuggling means not yet exposed be either captured or quickly added to the regulatory response.

Also, measures that only deter contraband by removing immediate economic gain will fail to address

how the tobacco industry uses smuggling tactically.

Large fines applied at the corporate level and actively enforced criminal penalties that include imprisonment for corporate officials are also necessary.

Sharing information across borders and reciprocal enforcement of judgments will also be essential to control transborder cigarette smuggling.

MORE INFORMATION

Download the research paper: British American Tobacco and the insidious impact of illicit trade in cigarettes across Africa.

<http://tobaccocontrol.bmj.com/cgi/rapidpdf/tc.2008.025999v1>

NORWEGIAN CANCER SOCIETY FIGHTS TOBACCO INDUSTRY INVESTMENTS

Norwegian Cancer Society has for many years lobbied to have the Norwegian public oil fund to disinvest from the tobacco industry. Now a new round of lobbying activities are picking up as the Ministry of Finance are running an evaluation process of the Fund's Ethical Guidelines¹.

BACKGROUND

The Norwegian Government Pension Fund – Global is a Sovereign Investment Fund (SWF) where surplus revenue from the Norwegian petroleum industry is put. Although not receiving its finances from pensioners, it is considered to be the world's second largest pension fund with a total value of 263,3 billion EUR.

According to its annual report, the Norwegian Government Pension Fund had invested 1.73 billion EUR in tobacco stocks and bonds pr. 31.12.2007. The major investments were distributed amongst Altadis, Altria Group (prior to the PMI spin-off), British American Tobacco, Japan Tobacco and Imperial Group.

THE EVALUATION PROCESS

The existing Ethical Guidelines for the Fund were made in 2004 and the Ministry of Finance is now carrying out an evaluation process with goal to see if the Guidelines have worked as intended, to ensure overall political consensus and to intercept new views and ideas in the area which can strengthen the ethical

profile of the Fund. The evaluation process will end with the presentation of a white paper in Parliament in the spring of 2009.

Disinvestment of tobacco from the Fund was discussed at Parliament level in 2004, but did not pass the vote. Norwegian Cancer Society is now using the evaluation process as an opportunity to raise the question once more. The main argument for excluding

profile has made many of the involved stakeholders aware of our position, and the Minister of Finance has since January changed opinion from first denying a second round of tobacco discussion during the evaluation process, to now stating it probably should be part of the evaluation process. The Norwegian Cancer Society prepared its arguments for the public hearing on the 15th of September 2008².



Moses Ndirangu Muriuki – Trainee, International Affairs; Marianne Hammer – Lawyer; Sverre Berg Lutnæs – Adviser, International Affairs; John Stigum – Adviser, Documentation and Analysis

EXPERIENCES LEARNED

The representatives from the Norwegian Cancer Society engaged in the efforts have experienced that a bureaucratic body like the Norwegian Ministry of Finance to a minimal extent is affected by "emotional arguments" like the death tolls of tobacco or the cynical marketing tactics used by tobacco companies. To affect the evaluation process, we are rather in need of arguments where we can show

tobacco investments from the Fund will be that the FCTC has made it into force since the Ethical Guidelines were created in 2004.

MEASURES TAKEN

So far, the Norwegian Cancer Society has, in collaboration with other national NGOs, addressed the media with the issue and has held a meeting with the State secretary at the Ministry of Finance. These efforts have resulted in coverage from national TV, radio and newspapers. The relatively high media

direct connection between the investments and how this will be contrast to the obligations Norway has committed itself to through the ratification of the FCTC, especially given by article 5.3.

1. <http://www.regjeringen.no/en/dep/fin/Selected-topics/andre/Ethical-Guidelines-for-the-Government-Pension-Fund---Global-/The-Ethical-Guidelines.html?id=434894&epslanguage=EN-GB>

2. <http://www.regjeringen.no/en/dep/fin/Selected-topics/The-Government-Pension-Fund/Evaluation-of-the-Ethical-Guidelines-for.html?id=498363>

CANADIAN GOVERNMENTS SIGN SMUGGLING AGREEMENT WITH BAT, PHILIP MORRIS SUBSIDIARIES

In late July, in return for payment of \$1.15 billion over 15 years, Canadian federal and provincial governments agreed to release two of the country's three big tobacco companies from criminal and civil liability for their role in the smuggling crisis of the early 1990s.

Criminal proceedings continue against Canada's number three company, Japan Tobacco subsidiary JTI-Macdonald.

The agreement, which includes a series of smuggling-control measures, puts an end to many years of investigation into the involvement of Imperial Tobacco Canada (BAT) and Rothmans, Benson & Hedges (Philip Morris) in the smuggling of Canadian cigarettes back into Canada. In the early 1990s, all three major manufacturers began shipping a large proportion of their production to the United States, in full knowledge that there was virtually no market for Canadian brands in that country and that their shipments would be smuggled back into Canada.

In early 1994, in the face of widespread publicity about rising contraband and a concerted tobacco industry campaign against cigarette taxation, governments in much of Canada gave in: taxes were slashed drastically and the price of cigarettes dropped by about 50% in the two largest provinces, Ontario and Québec. It took another seven years before the federal government raised taxes again and took effective measures to prevent a recurrence of big company-driven smuggling.

The July 2008 agreement includes:

- Guilty pleas to (criminal) violations of the Excise Act, for a total of \$300 million Can. in fines.
- Payment of \$850 million over 15 years in civil amounts, as (partial) compensation for tax revenues lost due to smuggling.
- A binding "Tobacco Compliance Measures Protocol", which includes manufacturer liability for taxes on seized contraband (but no supplementary penalties).

- Measures to improve tracing of contraband, in particular barcodes on master cases that identify date of manufacture, factory of origin, machine of origin, production shift and identity of first purchaser. This is in addition to identifiers on packs and cartons of date/factory/machine of manufacture.
- Prohibition on cash payments for purchase from manufacturers, except where not "commercially feasible".
- Know-your-customer rules for customers who purchase more than 1,000 master cases (=1,000,000 cigarettes).

The reaction from tobacco control groups was generally negative. They pointed out that the amount of money the companies agreed to pay is a small fraction of the revenues governments lost through smuggling and the resulting 1994 tax rollback. There is also no compensation for the numerous young people who began to smoke as a result of low cigarette prices from 1994 to 2001. Finally, no tobacco company executive from the two companies will go to jail, despite considerable evidence of a concerted conspiracy to defraud the government and force a tax rollback.

To add insult to injury, on the day following the smuggling agreement, the federal government announced a buy-out programme for the small number of remaining tobacco growers in Canada – with a price tag of \$300 million, the total amount of tobacco company fines for smuggling.

A month later, the government also announced a new secure tax stamp system.

*Francis Thompson
Healthbridge*

CANADA'S NEW SMUGGLING PROBLEM

Even as the Canadian government attempts to close the books on the smuggling crisis of the early 1990s, a new type of illicit trade in cigarettes has grabbed public attention. Smaller illicit manufacturers, operating mostly in the United States, have grabbed up to one third of the Canadian cigarette market.

Most of the illegal factories are concentrated on the US side of Akwesasne, a Mohawk (aboriginal) territory that straddles the US-Canada border and the St. Lawrence River. Because of its location and the community's lack of acceptance of Canadian and US police and enforcement agencies, Akwesasne was an ideal crossing point for the illegal cigarette trade of the 1990s.

At the time, executives from large tobacco companies even visited Akwesasne to better acquaint themselves with the warehousing and border-running operations in the community.

However, what once looked like a great business opportunity for Canada's large manufacturers has now turned into a nightmare for their commercial interests – and for public health. Yesterday's "runners" accumulated enough capital to become manufacturers in their own right. In some cases, they produce their own (illegal) brands, with distinctive packaging; in other cases, cigarettes are sold unmarked, in plastic bags of 200 cigarettes, for as little as 10% of the legal price.

Presumably because the illegal operators have been careful to sell only into the Canadian market, US authorities have been unwilling to take decisive action to shut down the illegal factories, which Canadian police estimate account for about 90% of the illicit trade in Canada.

*Francis Thompson
Healthbridge*



DIRTY ASHTRAY AWARD

We are taking votes for the next round of awards at the INB 2, Geneva, October 20-25., 2008

Please send suggestions to editor@fctc.org.



ORCHID AWARD

We are taking votes for the next round of awards at the INB 2, Geneva, October 20-25., 2008

Please send suggestions to editor@fctc.org.



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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THE FRAMEWORK CONVENTION ALLIANCE AND ITS EFFORTS IN BUILDING SUPPORT FOR TOBACCO CONTROL

TOBACCO USE IS THE NUMBER ONE CAUSE OF PREVENTABLE DEATH, DISEASE, AND DISABILITY IN THE WORLD TODAY. OVER 5 MILLION PEOPLE DIE EACH YEAR FROM TOBACCO-RELATED DISEASES - EQUIVALENT TO ONE DEATH EVERY 5.4 SECONDS.

IF CURRENT TRENDS CONTINUE, SEVENTY PER CENT OF THESE DEATHS WILL OCCUR IN DEVELOPING COUNTRIES.

WITHOUT SWIFT ACTION, TOBACCO WILL SOON BECOME THE LEADING CAUSE OF DEATH WORLDWIDE, CAUSING MORE DEATHS THAN HIV, TUBERCULOSIS, MATERNAL MORTALITY, AUTOMOBILE ACCIDENTS, HOMICIDE AND SUICIDE COMBINED.

BUT THE BENEFITS TO BE REAPED BY EFFECTIVE MEASURES ARE ENORMOUS, MEASURED IN TERMS OF PREVENTABLE DEATHS AND DISEASE, ENHANCED QUALITY OF LIFE FOR MILLIONS OF PEOPLE WORLDWIDE AND BILLIONS OF DOLLARS SAVED IN LOST REVENUE AND HEALTH CARE COSTS.

The Framework Convention Alliance is made up of more than 350 organisations from over 100 countries which are working to support the signing, ratification and effective implementation of the Framework Convention on Tobacco Control (FCTC) and related protocols.

The Alliance includes individual non-governmental organisations (NGOs) and organisations working locally and nationally, as well as existing coalitions and alliances operating at national, regional, and international levels.

WHY WAS THE FCA FORMED?

The FCA was formed out of the need for improved communication among groups already engaged with the FCTC process and the need for a more systematic outreach to NGOs not yet engaged in the process. Particularly developing countries stand to gain from and contribute to the creation of an effective FCTC.

The Framework Convention on Tobacco Control represents an historic opportunity for global action to curtail the tobacco epidemic and save billions of dollars.

The FCA has been a major player in positively influencing the outcome of international governmental negotiations on the FCTC.

The strength in the FCA comes from its core principle of inclusivity. This principle has driven the participation of many

developing country NGOs, ensuring breadth and depth of global experience and advice throughout the negotiations.

When it came time to sign and ratify the treaty the FCA played a key role in obtaining 168 country signatures and in a substantial number of countries ratifying in record time.

The work of the FCA does not end with FCTC negotiation meetings. Its work extends to supporting members of the Alliance throughout all of the WHO regions via strategic planning and advocacy workshops.

When necessary the FCA also provides financial and technical support for members campaigning on ratification, implementation and the monitoring of the FCTC.

A major part of the FCA's work is a monitoring and reporting role in holding governments accountable for their commitments under the Convention.

The FCA has positively influenced the development and adoption of guidelines for best practice, evidence-based implementation of the FCTC's Articles.

And, at the next meeting – the INB-2 of the Illicit Trade Protocol – the FCA looks forward to working with delegates to develop a strong protocol which will save lives and save money.