



FRAMEWORK CONVENTION  
**ALLIANCE**  
BUILDING SUPPORT FOR TOBACCO CONTROL

# BULLETIN

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## TODAY

SECRETARIAT  
LUNCHTIME BRIEFING  
ON COP-3 LOGISTICS

## DEATH CLOCK

SINCE THE OPENING OF THE  
FIRST WORKING GROUP FOR  
THE FRAMEWORK CONVENTION  
ON TOBACCO CONTROL ON 25  
OCTOBER 1999

# 39,835,615

PEOPLE HAVE DIED FROM  
TOBACCO-RELATED DISEASES

(AT 9 AM 24 OCTOBER 2008)

## WHERE DO WE GO FROM HERE?

As the INB struggles with the difficulties of developing a good text for the protocol, it is easy to lose heart and take our eyes off the prize.

Price increases through tobacco taxation are the single most effective way to reduce consumption and reduce the horrendous death toll from tobacco. And the biggest obstacle to tax increases in many countries is the worry that illicit trade in their region will grow uncontrollably.

However confusing some parts of this week's discussions have been, let's not lose sight of the big picture: over the last few years, governments have made considerable progress in controlling the international tobacco industry. Criminal investigations and civil court cases stemming from smuggling into the European Union, Canada, Colombia and other countries, the development of supply chain controls in countries such as Brazil, Turkey and within the EU, and the commitment to the development of a strong illicit trade protocol, have all made it harder for the transnational tobacco industry to use large-scale smuggling as a marketing and tax-defeating tool.

But these gains need to be spread more evenly throughout the world, in particular to low-income countries. For all its imperfections, this forum is the only one in the world that brings together health ministries, customs, revenue, justice and enforcement agencies to discuss this crucial issue.

### SHARING EXPERTISE AND RESOURCES

Because illicit trade in tobacco is a finance, law enforcement, justice and public health issue which requires action

by many types of agencies, many countries cannot easily bring all relevant expertise to Geneva for these negotiations. Moreover, the FCTC Secretariat, unless its resources are increased significantly, will never be in a position to deal in detail with issues such as extradition, mutual legal assistance or special investigative techniques.

The solution to this is not to muddle our way through all issues on our long agenda, but to ask ourselves what technical issues can be better dealt with through collaboration with other agencies. The UN has an extensive infrastructure to deal with organised crime and there are several international instruments that can help us to combat illicit trade.

Working with other agencies and treaties, such as the UN Office on Drugs and Crime and the UN Convention on Transnational Organized Crime does not mean simply referring large parts of the Chairperson's text to other bodies. This remains the only forum with the big picture on the importance of controlling the tobacco trade.

### FOCUSING ON THE ESSENTIAL

On many important issues, this is clearly the forum for deciding on strong, mandatory obligations. In particular, measures to control the supply chain are essential. To maintain momentum, we need commitment to:

- *Licensing requirements extending as far through the tobacco supply chain as possible* to ensure that participants in the tobacco trade can be monitored effectively and risk losing their licence if they are found to be dealing in illicit products.

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# PROGRESS WITH TOBACCO CONTROL IN NEPAL

## POLITICAL SITUATION & FCTC RATIFICATION

Nepal, famous for its scenic beauty and peaceful people, faced a threat from a Maoist armed movement. An armed struggle lasting over a decade ended with the success of the mass movement in 2006. Following the historic Constituent Assembly election, Nepal is moving towards drafting a new constitution for the Democratic Republic of Nepal. Without bloodshed, the Nepalese people have altered the course of their history after being a monarchy for 240 years.

Political uncertainty delayed the process of implementing the Tobacco Control Law, as the government's commitment to the FCTC. After continued pressure from a variety of NGOs and civil society, the Nepalese government finally ratified the FCTC in November 2006.

## TOBACCO CONTROL LAW

RECPHEC organised an inter-ministerial meeting, in August 2007, on the Tobacco Control Law and its implementation to develop a consolidated and co-ordinated effort by policymakers for implementing the FCTC. The meeting focused on strengthening the efforts of Members of Parliament in formulating the law. A sub-committee of legal consultants from relevant ministries was convened to finalise the law. It developed a draft and the Ministry of Health and Population has recently submitted the "Tobacco Control and Regulation Law" to the Council of Ministers (Cabinet) for its endorsement prior to discussion and debate in Parliament. Other issues affecting the political agenda of Nepal, however, have overshadowed the FCTC.

## ADVOCACY BY POLITICAL PARTIES

After the announcement of the Constituent Assembly election, RECPHEC and a group of 12 elected regional health rights activists representing 31 district networks travelled to Kathmandu to hand over the Peoples' Concern and Agenda on health and tobacco control issues to all leading political parties. The parties

responded positively to the demand that they should take on board the agenda and incorporate it into their manifestos and political strategy.

## ELECTED GOVERNMENT'S RESPONSE

As a result, the Maoist government has initiated efforts to discourage the marketing, sales and import of alcohol and tobacco products in Nepal. The first step involved banning their sale in duty-free shops at the international air terminal.

Airport authorities have started confiscating alcohol and tobacco products brought into Nepal from duty-free shops abroad. An increase in the level of tax on tobacco products is also one of the welcome steps taken by the government. The government is moving towards licensing special shops for the exclusive sale of alcohol and tobacco products.

National Trading, the agency authorised to operate duty-free shops in Nepal, has confirmed the loss of 300 million rupees in income from alcohol and tobacco products, according to a press release.

RECPHEC, as a founder of the National Pressure Group Against Tobacco, is pressing the Maoist government and leading political parties to table the Tobacco Control Bill in the Constituent Assembly, which functions as Nepal's parliament.

## MEETING WITH THE PRIME MINISTER

RECPHEC met the Prime Minister in early September to submit a memorandum requesting implementation of the Tobacco Control Act.

Nepal is making progress with the tobacco control agenda but still has a long way to go.

Shanta Lal Mulmi  
RECPHEC, Kathmandu

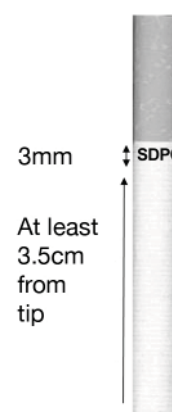
## SINGAPORE TO REQUIRE TAX MARKING DIRECTLY ON CIGARETTES

On 10 September 2008, the Singapore government announced that a tax marking will be required directly on all cigarettes sold in the country after 1 January 2009. The marking will be "SDPC", standing for Singapore Duty Paid Cigarettes. Singapore is the first government known to have introduced this kind of anti-contraband measure.

It will be illegal in Singapore to buy, sell, store or possess cigarettes without the required marking. Purchasers risk a fine of S\$500 (US\$332) for every pack without the proper markings on the stick.

Travellers and returning Singaporeans have been advised to keep their receipts for cigarettes purchased outside the country. Since 1991, Singapore has had a duty-free import limit of zero – thus all individuals entering Singapore must pay Singapore taxes on tobacco products.

Source: Singapore Customs media release, 10 September 2008. [www.customs.gov.sg](http://www.customs.gov.sg)



## SPOTLIGHT ON SMUGGLING: VIETNAM

Vietnam's tobacco industry is dominated by the state monopoly Vietnam National Tobacco Corporation (Vinataba) and provincial tobacco companies. Cigarette smuggling, however, has been a major problem for almost three decades, reaching around 19 per cent of total sales by volume in 1999.

Internal British American Tobacco (BAT) documents were reviewed in a recent publication and the findings suggest transnational tobacco companies (TTCs) have fiercely competed for market share in Vietnam as one of the world's ten fastest growing tobacco markets. Cigarette smuggling has played a strategically important role towards achieving this goal.

Since the 1980s, the Vietnamese government has sought to protect its domestic tobacco industry through a variety of economic policy measures. These include monopoly ownership, restrictions on foreign manufacturing and investment and a ban on imported cigarettes since 1990. At the same time, BAT and other TTCs identified Vietnam as a priority country for new business development, given its market size and potential profitability. From the late 1980s on, TTCs competed to establish a market presence in Vietnam. BAT, in particular, actively sought a joint venture with Vinataba, offering modern technology, capital investment and expertise in leaf production in exchange for a local manufacturing presence capable of producing billions of cigarettes annually.

Documents suggest that, as negotiations moved slowly forward, BAT opted to engage in a dual strategy of relying on both legal and illegal means of supply to penetrate the Vietnamese market. Cigarette smuggling was already a problem which had grown to an estimated 12-18 billion sticks a year prior to the government's 1990 import ban. The scale of smuggling increased dramatically during the 1990s, with BAT, or its subsidiary Singapore Tobacco Company, supplying 'transiteers' in Cambodia with cigarettes which were then "transported from warehouses in 'no man's land' at the Vietnam-Cambodia border" into Vietnam. Large consignments continue to be confiscated by customs officials in these border areas up to the present day.

Cigarette smuggling advanced BAT's market entry strategy in

two principal ways. First, smuggling supplied BAT brands to the Vietnamese market despite the import ban and slow progress with negotiations on a joint venture. Ensuring brand awareness among Vietnamese smokers was critical for building local demand prior to any opening of the market which would have involved competition among foreign brands. Second, smuggling was used by BAT to leverage negotiations for a joint venture. In 2001, BAT finally realised its ambition of a joint venture in a US\$40 million agreement with Vinataba to build a leaf processing plant. The company had built up a 14 per cent share of the legal cigarette market by 2001 (compared to Philip Morris at 1 per cent), driven by leading foreign brands Craven A and State Express 555. A further agreement was reached in 2006 for the annual production of 150 million packs of Pall Mall and Viceroy cigarettes for domestic sales, and an additional 50 million packs a year for export.

For tobacco control in Vietnam, there are important lessons to be drawn. The foremost goal of regulating the tobacco industry must be to protect public health, not protect domestic economic interests. Regulating the tobacco industry in ways that promote trade and investment can mean devoting inadequate attention to combating the contraband trade. Moreover, transnational tobacco companies have benefited enormously from the illicit tobacco trade in Vietnam, as they have elsewhere. They must be recognised as a key part of the problem. The Vietnamese government's adoption of comprehensive tobacco control measures in 2000 offers an encouraging shift in priority towards public health protection. Ongoing efforts to raise tobacco tax rates, and to introduce a wide range of additional measures, further demonstrate Vietnam's strengthening commitment to tobacco control. Effective measures to tackle the serious problem of cigarette smuggling are an integral part of tobacco control.

### REFERENCE

Lee K, Kinh HV, MacKenzie R, Gilmore A, Minh NT, Collin J, (2008). *Gaining access to Vietnam's cigarette market: British American Tobacco's to enter a 'huge market which will become enormous'*, *Global Public Health*, 3(1): 1-25.

Continued from page 1

- *Know-your-customer and record-keeping rules* to ensure that participants can be held to account if they allow products to be diverted into the illicit supply chain.
- *Developing an international system for tracking and tracing.* High-tech tracking-and-tracing systems, such as the one implemented by the EU, may appear out of reach to some countries, but this should not mean that we should collectively abandon the goal of knowing both where tobacco products are made and to whom they are sold. We urgently need an intersessional working group to look at the practical details of developing a system which will work for both low and high income countries.
- *The need to treat illicit trade in tobacco as a serious offence.* Illicit trade in tobacco has become a lucrative, lower-risk alternative to trade in illicit drugs or weapons through the global community's collective failure to take the problem seriously. We need a collective commitment to make tobacco smuggling a high-risk, unattractive activity for criminal and terrorist organisations, using all means necessary.

Tobacco kills more than five million people per year and the illicit trade costs governments approximately US\$40-50 billion per year in lost revenue: a strong protocol is the only proportionate response. In the negotiations this week, a number of Parties have raised 'technical' objections aimed at torpedoing agreement or diluting the protocol to the level of meaninglessness. It is time for the vast majority of Parties, who do want a strong protocol, to stand up and be counted.

# EL CMCT EN LA AGENDA DE LOS MEDIOS DE COMUNICACIÓN DE ARGENTINA

En Argentina, el Convenio Marco para el Control del Tabaco (CMCT) fue firmado por el Presidente Néstor Kirchner el 25 de septiembre de 2003. El Congreso argentino debía ratificarlo y en noviembre de 2005 se negó a hacerlo con una firme oposición de los representantes de las provincias tabacaleras.

Una herramienta que se ha identificado como importante para lograr la ratificación del Convenio Marco para el Control del Tabaco es la cobertura de este tema por parte de los medios de prensa escrita. La manera en que los medios de comunicación posicionan un cierto tema no sólo lo ubica en un lugar prioritario en la agenda pública, sino que también ayuda a definir el modo en que el público piensa acerca del mismo y cuales pueden ser las soluciones más apropiadas.

Para saber a quiénes hay que dirigirse y qué aspectos del mensaje van a ser más efectivos para apoyar el proceso de ratificación del CMCT, se realizó un diagnóstico de la situación en relación al Convenio Marco para el Control del Tabaco a través de la recopilación de información en las ediciones electrónicas de los diarios y periódicos pagos de la República Argentina desde el año 2003 al 2005.

En el análisis de los artículos publicados sobre el CMCT se observó diferencias en el número, contenido y tratamiento de los artículos entre el año 2003 y 2005, y también entre las distintas regiones geográficas.

En el año 2005 y en las provincias productoras de hoja de tabaco, se publicó mayor cantidad de artículos sobre el CMCT y con una inclinación mayoritariamente negativa para el control del tabaco.

Los principales actores de los artículos sobre CMCT fueron el Gobierno Nacional, los funcionarios de las provincias tabacaleras y los representantes de los productores.

En todas las regiones, se observó un reducido número de artículos que tenían como actores a las organizaciones no gubernamentales locales y también una escasa publicación de artículos de opinión (editoriales y carta de lectores).

En las provincias productoras, los artículos tenían como principal escenario el nacional y el local. A diferencia de las noticias publicadas en los diarios de Capital Federal y de las provincias no productoras, donde el principal escenario fue el internacional y el nacional.

En Capital Federal y las provincias no productoras, los enfoques temáticos asociados al CMCT fueron la prohibición de publicidad y prohibición de fumar, el tabaquismo como causa de mortalidad y morbilidad e impuestos e ingresos fiscales.

En cambio, los principales enfoques temáticos en las provincias productoras fueron la pérdida de fuente de trabajo e ingresos, debate sobre la posición del gobierno y el impacto en la economía y los cultivos. La prohibición de publicidad y la prohibición de fumar en lugares públicos, también se encontraron entre los principales temas asociados al CMCT.

Los artículos publicados sobre CMCT ocuparon un espacio poco destacado en los diarios.

Un reducido número de artículos publicados aparecieron en la tapa del diario. Y en todos los casos los titulares fueron menores al 25% del tamaño total de la tapa.

Menos de la mitad de los artículos estaban acompañados de fotografías y de elementos gráficos como infografías. El contenido de las fotografías mostraba mayoritariamente imágenes vinculadas al cultivo de tabaco (cultivadores, planta de tabaco y productores) y a fumadores.

Esta información es de utilidad para organizaciones no gubernamentales, comunicadores sociales y quienes ocupan puestos de toma de decisión, para poder armar un plan estratégico de comunicación que ejerza presión en los niveles gubernamentales y de este modo se acelere el proceso de ratificación del Convenio Marco de Control de Tabaco.

Si se pretende reducir el daño causado por el tabaco en el país tratando de aumentar el conocimiento del público sobre el tema y de conseguir que el gobierno apruebe leyes más rigurosas, los medios de difusión son un instrumento valioso que ayudarán a lograr estos objetivos.

Cuanto más se informe sobre un tema en las noticias, más personas se interesaran en él y de esta manera, se logrará incrementar el apoyo del público a un control más riguroso del consumo de tabaco y ejercer presión sobre el gobierno para que actúe.

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*Este trabajo se llevó a cabo con la ayuda de fondos asignados por el Centro Internacional de Investigaciones para el Desarrollo, Ottawa, Canadá*

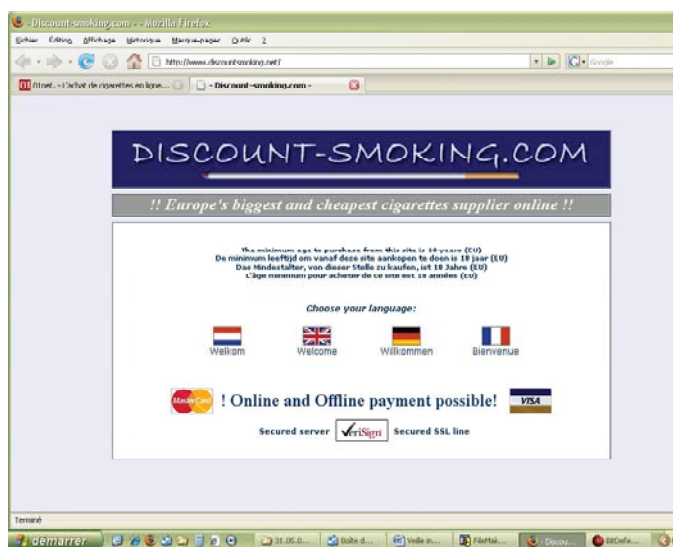


# UNE SIMPLE RÉGLEMENTATION DE LA LÉGISLATION SUR INTERNET EST INEFFECTIVE

L'usage d'internet s'est popularisé au cours de ces dernières années offrant un espace d'échanges interactifs affranchi des frontières physiques du monde réel. Internet lance un défi au contrôle jusque là exercé par chaque Etat notamment en matière de respect du contrôle de la distribution et du prélèvement des taxes du tabac.

La France a essayé d'évaluer au travers d'un observatoire dans quelle mesure les acteurs francophones offrant leurs services sur internet se positionnaient à l'égard du cadre réglementaire français ? S'auto-régulent-ils en transposant en toute logique à ce nouvel espace virtuel les règles qui régissent le territoire à partir duquel ils exercent leur activité ou auquel ils proposent leur prestation ? Ou profitent-ils de l'abolition des frontières dans le monde virtuel pour s'affranchir tous azimut et organiser un trafic des produits du tabac exonéré du contrôle de l'Etat, sans compter les violations de l'interdiction de publicité ?

En dehors des pratiques relativement anecdotiques de petits vendeurs à la sauvette, on recense surtout pléthore de véritables bureaux de tabac en ligne, commercialisant de façon continue des cartouches de cigarettes de toutes marques pour 40%, 60 % voire 80% moins cher que sur le marché français.



Afin de recruter et fidéliser leurs clients, ces sites ont recours à des pratiques commerciales offensives et élaborées (paquets gratuits, offres promotionnelles, chèques cadeaux ..) et ils récompensent ceux qui leur envoient de nouveaux consommateurs avec des avantages commerciaux ou financiers très incitatifs.

Mais le phénomène le plus alarmant réside probablement dans le fait que certains de ces marchands de tabac en ligne contribuent également à la constitution d'un réseau de cyber-contrebande, que ce soit en proposant des quantités manifestement destinées à alimenter une activité de revente, ou en engageant explicitement leurs clients à devenir riches en prenant part à un vaste réseau pyramidal international de distribution de tabac en ligne.

Il est difficile d'identifier les responsables de ces bureaux de tabac en ligne. Certains sont domiciliés en France mais les plus nombreux sont répartis entre des pays d'Europe à la fiscalité plus légère ou sont domiciliés offshore dans un paradis fiscal comme Belize. D'autres, enfin poussent le souci d'opacité jusqu'à dissimuler leur whois en passant par un prestataire écran ou en ne laissant pour seul contact qu'une adresse email.



Ces sites internationaux proposent ainsi, en toute impunité, des produits à prix détaxé, dont certains sont interdits sur le territoire européen : paquets portant des mentions « light », avec des avertissements sanitaires en langue étrangère ou dénués de toute mention réglementaire, ou encore cigarettes indonésiennes contenant des taux de goudron et de nicotine deux fois supérieurs aux maxima autorisés en Europe.

Les vendeurs de tabac en ligne proposent ainsi une offre élargie de produits et de marques, en plusieurs langues, payable aussi bien en euro, qu'en dollar ou en livre sterling.

Le recours à la domiciliation offshore des noms de domaine ou à la dissimulation de l'origine de ces sociétés leur donne à ce jour un sentiment de relative impunité. Les différences de prix et de taxation entre les Etats – notamment européens – et l'absence de coordination internationale en matière de contrôle de la circulation transfrontalière des produits du tabac offrent un terrain favorable au développement de ce commerce illicite.

Pour contrecarrer de façon efficace le développement de cette cyber-contrebande internationale, il faut appliquer une réponse coordonnée également au niveau international et poser le principe de l'interdiction de ce type de vente.

Emmanuelle Beguinot  
CNCT, France



## DIRTY ASHTRAY AWARD

Canada and Japan for consistently trying to prevent mandatory provisions for the control of the supply chain



## ORCHID AWARD

The EU and Rwanda for supporting the explicit inclusion of transit and free trade zones in the protocol



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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## TOBACCO COMPANY CAMPAIGNS TO ADDRESS ILLICIT TRADE: HOT AIR, LITTLE EFFECT

Voluntary agreements or campaigns sponsored by tobacco companies are ineffective in fighting illicit trade. Worse, they can distract governments from the real issues. BAT says it wants to partner with governments in the development, negotiation and implementation of an effective illicit trade protocol. Malaysia's experience with tobacco companies provides an example of why such a partnership is no solution to the problem.

Tobacco companies in Malaysia have sought close collaboration with the government in fighting tobacco smuggling. In 2001, the Confederation of Malaysian Tobacco Manufacturers (CMTM), of which BAT is a member, recommended to the Health Ministry how it could assist in fighting illicit trade. Among its suggestions were:

- speeding up operations of the government smoking laboratory
- testing of cigarettes for compliance on tar and nicotine content
- seizing stocks at retail outlets that do not comply with stipulations on tar and nicotine content and health warnings.

Unclear as it is how testing tar and nicotine content of cigarettes can improve Malaysian border security, CMTM's recommendations do not appear to have curbed smuggling. According to the tobacco industry's own figures, the smuggling problem in Malaysia has been increasing, hovering between 18 and 24 per cent of the market.

Malaysian authorities introduced the use of security ink in 2004. This resulted in a dramatic fall in smuggling to 14 per cent. According to data from the manufacturers, however, the share of illicitly traded cigarettes still remains high, at above 20 per cent.

In January 2008, CMTM launched an 'Anti-Illicit Trade Retailer Leaflet'

campaign claiming that illicit trade "confuses and cheats consumers, it also affects the legitimate sales of CMTM members which have a direct impact on the livelihood of local tobacco growers." Linking an issue to how it adversely affects tobacco farmers usually evokes strong sentiments among Malaysian politicians.

Notably, the launch of the campaign was strategically timed just prior to the Malaysian government's participation in INB-1 negotiations. The tobacco industry obtained government endorsement for its campaign which was launched by the Minister of Domestic Trade and Consumer Affairs. Its focus was on increasing awareness among retailers to sell only legal cigarettes.

Several industry-led campaigns have been run over the years but they have consistently been ineffective in curbing smuggling. Meanwhile, tobacco companies cite the prevalence of smuggling in attempting to dissuade the government from increasing tax on tobacco.

Last August, when the Malaysian government announced a substantial hike in tobacco tax, BAT, predictably, expressed its disappointment and warned of the impact on the illicit tobacco problem. According to BAT, highly taxed cigarettes will lead to more and more consumers who are facing inflationary pressures to turn to illegal cigarettes.

Malaysia must recognise that industry-led campaigns to address illicit trade are hot air and do not work. What will work is better tracking and tracing of the supply of tobacco and international co-operation with other governments to tackle illicit trade. Malaysia can benefit immensely from a strong protocol on illicit trade in tobacco.

Dr Mary Assunta  
FCA Board Chair