



INB-5 Thursday

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TODAY'S DELEGATE BRIEFING

The Economics of Tobacco Control

Rob Moodie, VicHealth
Bung On Ritthipakdee, Thai Health
Kenneth Warner, World Bank

Salle 3
 12:30-13:30

DEATH CLOCK

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

11,985,408 people have died from tobacco-related diseases.

(At 9 am 17 October 2002)

ALLIANCE BULLETIN

Framework Convention on Tobacco Control

Geneva, Switzerland

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Health vs. Trade: Will the Minority View Prevail?

Yesterday afternoon, country after country — from Canada to New Zealand, from Thailand to Cuba — all voiced support for the view that the FCTC should contain language that clearly states that when there is a conflict between health over trade, health should prevail.

Regional groupings — such as AFRO, ASEAN, EMRO, SEARO, the Pacific Islands and the European Commission — all joined in support of this view. Whatever the content of their specific textual proposals, all agreed that health should trump trade. This is not the first time this debate has taken place. At both INB-2 and INB-4, countries engaged in heated and lengthy debates on trade issues, with the overwhelming majority of the view that protecting public health should take precedence over commercial interests.

Yesterday's debate began with a rather lengthy (and defensive) defence of the trade-related provisions of the text by the Chair. Sadly, a small minority of countries took the view that Articles 2.3 and 4.5 of the Chair's text were fine as currently drafted.

Not surprisingly, this handful of countries included major cigarette manufacturing nations, notably Japan, Turkey and the United States.

More perplexing was the stubborn resistance to the experience and concerns of developing countries by Australia, which is among the nations with the strongest domestic tobacco control measures.

As countries move into informals, it will be interesting to see whether the majority view will prevail or whether the view of a few wealthy developed countries will dominate.

GERMANY FAILS TO EXPLAIN

Germany was yesterday left to 'explain' its constitutional problems on tobacco advertising, in typically unconvincing style.

But Germany is in no position to lecture anyone on constitutional matters until it resolves the extensive infection of German politics with funding by tobacco companies, and the brutal choices it makes between the health of its people and the health of its tobacco industry.



Until ex-Chancellor Kohl explains why he: a) was rabidly pro-tobacco industry; and b) has retired in disgrace over large undisclosed corporate donations, Germany should refrain from hiding behind the dangerously thin smoke-screen (cited also by USA and Japan) of alleged 'constitutional' difficulties.

Today's Weather: Mostly cloudy with occasional light rain.
 High 11 °C Low 6 °C

Drug Trafficking, Money Laundering, and the Transnational Tobacco Companies (Part 1)

At the ICITT in New York in July, delegates had the opportunity to hear a presentation by **Carlos Ronderos**, a former Colombian Minister of Foreign Trade. Given the relevance of his comments, we will be publishing an edited transcript of his talk in the next two issues.

Colombia is known around the world not only for coffee but for its drugs. Colombia is the main supplier of cocaine and heroin into the United States. But the narcotics trade involves much more than just cocaine and drug lords. Drug money goes back and becomes pesos again to produce even more drugs. Drugs that finance not only the drug cartels but the guerrillas involved in terrorist activities and human rights violations in Colombia.

What we have found is that U.S. cigarette companies voluntarily take part in this process. This is true not only in Colombia but also in many places around the world.

Philip Morris is one of the main actors. They have established closely monitored distribution channels for their products which are bought with drug money. They are involved in the whole clandestine network for the distribution of their cigarette shipments, from the moment the cigarettes leave the factory to the moment they hit the streets in Bogota.

In Colombia, the companies establish what we call an umbrella operation, which is legal. They pay a lot of money for advertisements in the newspapers. They sponsor good, healthy activities like sports. This umbrella operation controls the price and gives the whole company a legitimate presence in the country.

While I was in office the financial crimes enforcement network went to see Philip Morris' operation in Colombia. And they found a very strange situation for a supposedly for-profit corporation. Philip Morris had lost money for the several years that they'd been in Colombia. You could see in their balance sheets that they were losing 3-5 million dollars a year. Yet, they were spending \$10-15 million a year in advertisements. For cigarettes they apparently never sold. Spending money on advertising in order to lose a lot of money.

One might think this was very, very generous on their part, trying to sponsor the Colombian media. But you could see their cigarettes being sold in every corner, at every traffic light, in every kiosk.

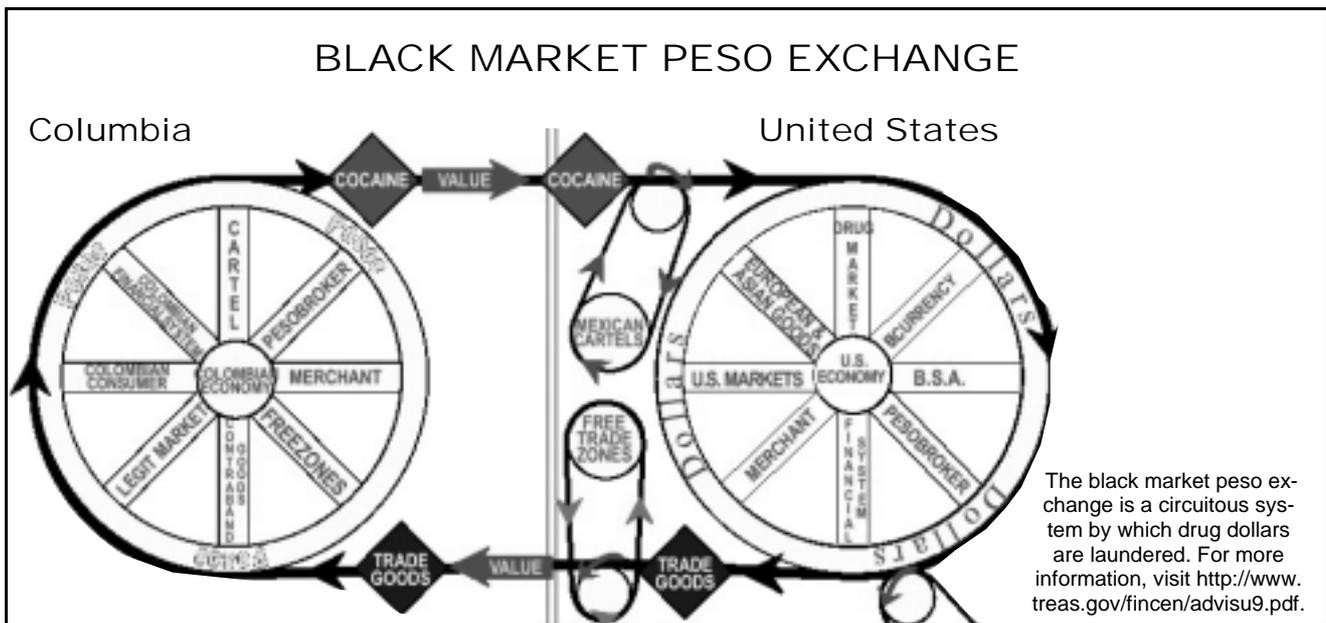
This is not that different from what you have seen in the industry documents from Europe and elsewhere showing that the tobacco companies are involved in the whole process of cigarette smuggling.

What's the difference in Colombia? The difference is money laundering. Our Colombian drug dealer brings the drugs into the streets and give them to a street vendor. They collect money, which is then shipped to agents in the Caribbean and other places in Central and South America, tax havens usually, banking institutions that have laws protecting their clients and the secrecy of the names of the corporations.

The money made by selling cocaine and heroin in the United States ends up in the bank or with the money laundering agents in the Caribbean, most of whom are agents of the tobacco companies. Indeed, there are several cases in which there have been extraditions of citizens from Caribbean islands to the United States for money laundering, and these citizens represent Philip Morris.

So these money launderers buy cigarettes, liquor and different products with the proceeds from the drug money. The cigarette companies give them cigarettes in exchange for drug money.

So now, instead of having dollars which are drug dollars, the money launderers have cigarettes. It's much better to have cigarettes than to have illegitimate dollars. Why? Because it is not illegal to have cigarettes. It is illegal to have cocaine money. So this is the first stage in the money laundering. Once the money goes into the multinational corporation, it becomes clean money.



White House rebuffs allies in cigarette smuggling cases

Observers of Canadian and EU smuggling lawsuits against US-based cigarette companies were stunned last week by a White House recommendation against giving foreign governments access to US courts in such cases.

Ironically, the news came as new allegations surfaced that US cigarette companies are involved in smuggling operations to Iraq.

In a brief requested by the US Supreme Court, the acting solicitor general of the United States said Canada should go through its own courts to recover the several billion dollars in damages it is seeking, rather than use US anti-racketeering legislation to collect from R.J. Reynolds (RJR). An RJR subsidiary has already been convicted in criminal court of tax evasion in relation to Canadian cigarettes that were exported to the United States and illegally re-imported to Canada.

Lower courts had thrown out the Canadian lawsuit against RJR on the basis of

the 'Common Law Revenue Rule', an old principle of English common law that courts of one country cannot be used to collect taxes owing in another country. Before deciding whether to hear a full appeal from Canada, the US Supreme Court asked the White House to comment as to whether the Revenue Rule is still relevant today.

The European Union and several member countries filed a similar (but larger) lawsuit against both RJR and Philip Morris, and the Supreme Court's decision is likely to affect both cases.

Helping Saddam's son

On Sunday, the *Telegraph* newspaper published details of allegations by the EU that the two US cigarette companies were also involved in supplying black-market cigarettes for Iraq. Uday Hussein, Saddam's son, allegedly controls the Iraqi end of the smuggling operation.

Thus, the curious result of the White House's decision to

close US courts to smuggling-related lawsuits may be to ensure continued flow of smuggling revenue to the Hussein family.



US cigarettes are widely available in Iraq despite economic sanctions against that country.

Stay behind your red line

A complete ban on direct and indirect advertising, sponsorship and promotion, we were informed yesterday, is "a red line" that the United States cannot cross.

Given that country after country and region after region spoke in favour of such a ban, we have a suggestion to the United States: Stay behind your red line.

Stop trying to distort the treaty to meet the bizarre constitutional position created by your Supreme Court. If the US wants to interpret its constitution as giving rapacious and predatory tobacco corporations complete freedom to market its deadly product to all-comers, then that is a definition of free speech that should be the source of private shame and reflection within the United States, and not exported to the rest of the world via a treaty.

We also suggest that others join the United

States in its isolation — Japan, Pakistan and Germany, for example. The 'red line' is really a line that protects the FCTC from the ineffective and evidence-free provisions favoured by these countries.

Heard in the corridor...

One furious European delegate complained that Germany's opposition to the statement of 24 European states in favour of a total advertising ban was simply "dishonest".

The statement had been carefully worded to accommodate the concerns of Germany (and the US) by recognising the limits imposed by a domestic constitution — but Germany still opposed it.

So what was their real agenda? "Why don't they just admit they are protecting economic interests in the form of their tobacco exporters?" opined the perplexed official — making a rather good point.

Qu'est-ce qui sépare l'industrie du tabac de celle du crime ?

Plus de 25 % des exportations mondiales de cigarettes ne sont jamais importées légalement et sont plutôt détournées vers le marché de la contrebande, a déclaré M. Luk Joossens lors de la récente Conférence internationale francophone sur le contrôle du tabac (CIFCOT).

M. Joossens, sans doute l'expert mondial le plus connu au sujet du trafic illégal de cigarettes et son impact sur la santé publique, notait que ce pourcentage avait légèrement baissé au cours des dernières années. Mais il reste beaucoup plus élevé pour les cigarettes que pour la plupart des biens de consommation vendus sur les marchés mondiaux.

Depuis plusieurs années, M. Joossens s'insurge contre un mythe largement diffusé par l'industrie du tabac, qui prétend que la contrebande de cigarettes se produirait spontanément lorsque les écarts de prix entre pays voisins dépassent un seuil critique. En réalité, ce sont souvent les pays à taxes plus faibles qui ont d'importants problèmes de contrebande. Ainsi, bien que l'Espagne ait un niveau de taxes beaucoup plus faibles que la plupart des pays européens, elle a longtemps eu un niveau élevé de contrebande (qui a depuis été résorbé).

La Banque mondiale, qui reprend en grande partie

l'analyse de M. Joossens, a noté récemment que, à l'échelle mondiale, la contrebande du tabac est plus liée au degré de corruption des pays qu'au niveau élevé des taxes. La tolérance sociale à la vente d'articles de contrebande est

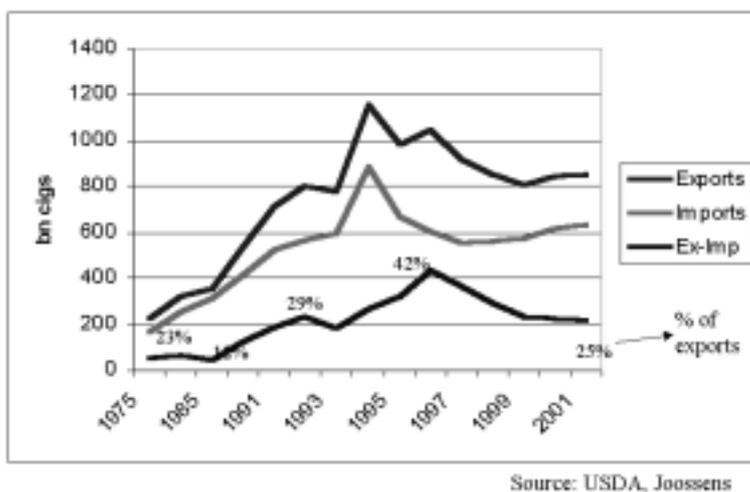
raisons :

- Les cigarettes passées en contrebande sont à bon marché. Ce faible prix provoque une nette augmentation de la consommation parmi les jeunes et les pauvres.

- Les cigarettes passées en contrebande ne portent souvent aucun avertissement sanitaire.

- La perte de recettes fiscales est souvent très importante. De plus, la contrebande contribue non seulement au financement des activités criminelles mais aussi aux activités de soutien au

Facts and evidence: smuggling volume



aussi un facteur important.

Les compagnies de tabac y voient une manière d'écouler leurs stocks, de faire baisser les taxes, et de pénétrer les marchés fermés aux importations légales.

La contrebande à grande échelle s'appuie sur des organisations criminelles et des réseaux relativement sophistiqués de distribution dans les pays destinataires.

Selon M. Joossens, la Suisse serait une importante plaque tournante de ce trafic, « *puisque ses lois en matière de secrets industriels permettent aux compagnies de tabac d'agir en toute impunité. Toutes les multinationales du tabac y ont d'ailleurs implanté leurs quartiers généraux pour l'exportation* », ajoute-t-il.

Le problème de la contrebande du tabac est délicat pour au moins trois

terrorisme.

Pour arrêter cette contrebande, M. Joossens pense qu'une réglementation forçant les entreprises de tabac à plus de transparence dans leurs exportations pourrait avoir un effet positif. « *Il faudrait forcer les cigarettiers à dévoiler publiquement la destination précise de leurs exportations* », affirme-t-il.

Les cigarettiers ne peuvent ignorer qu'ils alimentent le marché noir.

À la CIFCOT, un autre conférencier notait : « ***Ce qui sépare l'industrie du tabac de celle du crime n'est plus que l'épaisseur d'une feuille de papier à cigarette.*** »

— Inoussa Saouna
SOS Tabagisme-Niger

Ensuring the Rights of Governments to Protect Their Citizens

Since tobacco is widely traded throughout the world, is there any justification for exempting it from international treaties that govern trade of other products? The tobacco industry and some governments close to tobacco multinationals consider smoking an “article of taste for adults”; is there anything wrong with that view?

The answer is simple. First, tobacco smoke contains highly harmful substances, which lead to chronic illness and early death. Tobacco is unique in being the only consumer product which kills when used as intended.

Second, tobacco contains nicotine, a highly addictive substance. Experimentation with tobacco among youth leads to long-term physical dependence, making a free choice about tobacco use impossible for the great majority of adult smokers. Half or more of all smokers would like to give up the habit, but most of them don't succeed — due to their addiction to nicotine. Half of all regular smokers will die prematurely because of their addiction to a highly life-threatening product.

In the industrialized countries, lung cancer has become the most common form of cancer, and smoking-related heart disease the most important factor in shortening life expectancy. Years of experience have shown that strict tobacco control legislation is needed to reverse the trend.

To compensate for their reduced sales in industrialized countries, the multinational tobacco companies are engaged in an immense effort to expand their markets into the low-income countries of Africa, Asia and the former socialist world. If trends continue, the low-income countries will face the same devastating epidemic currently taking its toll in industrialized countries.

As long as tobacco products are treated as “articles of taste for adults” under the WTO and other trade liberalization treaties, even if govern-

ments wished to prevent tobacco addiction and tobacco-related disease in these countries, they would be prevented from doing so. The health budgets of low-income countries are already insufficient to cope with tuberculosis, HIV/AIDS, malaria and malnutrition, and they shouldn't be forced into yet another, even more expensive epidemic.

We know that tobacco is a uniquely dangerous and addictive consumer product, and that only legislation and taxation can reduce the death toll from tobacco. We know that other treaties take precedence over trade rules, for example, to protect the environment. What possible reason could there be not to do the same with the FCTC, and include language that prioritizes health over trade?

Many delegates are concerned about the impossibility of reaching a consensus on a strong FCTC, and thus feel that compromise language is necessary. Experience with environmental conventions has shown that more progress is reached when convention texts remain strong, even if some countries may not be willing to support them. Only a handful of countries are against a strong FCTC, and even though they are among the most powerful economically, a FCTC without them would do far more good than a watered-down compromise text.

We should not sacrifice the cause of public health over trade, and thereby greatly weaken the treaty and the autonomy of countries to protect their citizens, merely for the sake of consensus. After all, we are not here to ensure consensus, but rather to formulate a strong treaty that will reduce tobacco use and the devastating problems that result.

— *Theodor Abelin, MD, MPH,
emer. Professor
President, World Federation of
Public Health Associations*

BAT has produced a helpful side-by-side guide to its views on the text...

No doubt most delegates will have had this ridiculous document, but here's a flavour for those that placed it straight in the bin.

That the word ‘effective’ be replaced by the word ‘appropriate’.

That “to reduce with a view to gradually eliminating” be replaced with “restrict”.

The insertion of the word ‘appropriate’ before ‘tobacco sponsorship’ ... should be

left to national governments [endlessly repeated].

It also makes much of what it no doubt hopes will block the treaty: “the issue of funding viable alternatives [for tobacco growers] is so important to many of the negotiating parties that it should be elevated to form a separate part of the Convention.

CONSENSUS – a modern evil

It seems such a nice word. Such a comforting idea, that we can all somehow get along. "Achieving consensus" — the goal, the purpose of negotiation and a test of the diplomats and their Delphic art.

But wait... when dozens of countries speak in favour of a total advertising ban and a few pro-tobacco states speak against, what is the meaning of consensus? The danger is that language will be finessed that departs from the evidence base and renders the measure meaningless.

The Chair's text has already shown how easy it is for the search for consensus to generate

meaningless language. It is time to recognise that a consensus that includes Japan, Germany, US and Pakistan is unlikely to result in a treaty that means very much.

The real diplomatic skill at INB-5 and beyond will be to identify the core majority of countries that want a progressive meaningful FCTC and to ignore or exclude the blocking minority. We think that well over 150 countries could sign a progressive FCTC, and that the rest should be left to consider why they can't participate.



INB 5 Intervention World Bank 16th October 2002

The World Bank's evaluation of effective tobacco control concluded that a complete ban on all forms of tobacco advertising and promotion is an essential component of a comprehensive tobacco control programme. The Bank's findings on this subject were characterised accurately early in today's proceedings.

- A complete ban will decrease cigarette consumption by 6 - 7%

- Partial bans do not work

In addition to its substantive importance to the effectiveness of the FCTC, a complete ban has considerable symbolic importance. The tobacco industry has thrived on its successful use of symbolism to the pre-

sent day. Tobacco control can and should now do the same.

While today's discussion indicates that a sizable majority of delegates strongly support a complete ban, a few countries have expressed an inability to accept a complete ban due to constitutional limitations.

In response, a delegate recommended calling for a complete banning on all forms of tobacco advertising and promotion, to the extent permitted by a nation's constitutional law.

In the interest of maximising the effectiveness of the FCTC, this proposal would enunciate a crucial aspect of comprehensive tobacco control, while respecting the integrity of national law.

Thank you

IMPORTANT NOTICE #1

The USA regrets that it will be unable to attend the sessions tomorrow, as it is already booked on a tour of the Red Line District of Geneva. We hope that their absence from the negotiations will not be too sorely missed.

IMPORTANT NOTICE #2

Yesterday's news piece about impending war was suddenly broken off by a censor from an unnamed country. We are now free to inform you that, given the US stance of stopping countries from producing products of mass destruction, it will ~~may~~ be invading itself.



Seeing track & trace in action — For delegates who are interested in seeing track & trace technology in action, SICPA are demonstrating their SICPATRACE system at the Geneva Airport Conference Centre. The system shows how covert markings can help combat smuggling and diversion.

See John Thorpe or Nigel Wagstaff in the reception area to arrange participation. A coach is available to transport delegates.

FRAMEWORK CONVENTION ALLIANCE

The Framework Convention Alliance (FCA) is an alliance of NGOs from around the world working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the *Alliance Bulletin* are those of the writers and do not necessarily represent those of the sponsors.

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Dirty Ashtray Award

Germany and USA, for using their constitutions to inflict tobacco advertising on the rest of the world.



Orchid Award

Ireland, for voicing other European countries' support of a complete advertising ban, despite the German veto on a total advertising ban.

