



FRAMEWORK CONVENTION
ALLIANCE
BUILDING SUPPORT FOR TOBACCO CONTROL

BULLETIN

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TODAY

13.00–14.00

FCA briefing on key decisions for the week

14.00

Unveiling of the Death Clock

DEATH CLOCK

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

40,190,684

PEOPLE HAVE DIED FROM TOBACCO-RELATED DISEASES. (AS OF 9AM ON 17 NOVEMBER 2008)

HIGH STANDARD DEMANDED FOR THE WEEK AHEAD

During the closing plenary session of COP-2 in Bangkok, Thailand, last year, FCA presented a bunch of orchids to the outgoing first President of the COP, Ambassador Martabit, of Chile, to mark the conclusion of a truly successful conference. To loud ovation, Ambassador Martabit received the orchids on behalf of all Parties present at the COP.

Heading the list of achievements at COP2 was adoption of the first set of guidelines for implementing the FCTC. These guidelines – concerning Article 8 (protection from exposure to tobacco smoke) – are universally regarded as providing the strong, practical guidance that Parties need to effectively implement their obligations. In adopting them, the COP made a strong statement in support of best-practice treaty implementation.

This week, as the Parties come together in Durban, South Africa, for COP-3, FCA will be watching closely to see that the same high standard is met. Three sets of guidelines, all critical to effective FCTC implementation, are up for adoption. These include the two Articles with implementation deadlines – Article 11 (packaging and labelling of tobacco products) and Article 13 (tobacco advertising, promotion and sponsorship) – as well as Article 5.3 (protection of public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry).

FCA strongly supports adoption of

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

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 whose significance cuts across the entire Convention. COP-3 must revise the draft guidelines and adopt guidelines which provide Parties with the clear guidance they need to resist tobacco industry influence and interference in tobacco control.

FCA is also calling on Parties to provide a budget sufficient to enable the COP and the Secretariat to perform all the work that needs to be done at this critical period for FCTC implementation. The budgets adopted by the COP so far have not matched its needs.

Civil society will be expecting COP-3 to live up to the high standard the COP has so far set – a standard demanded by the terrible facts that bring us all here this week: 5.4 million deaths from the tobacco epidemic each year, estimated to rise to over eight million deaths each year by 2030, and the possibility of one billion deaths from tobacco this century.

MOMENTO CRUCIAL PARA EL CONTROL DEL TABACO EN MÉXICO

México cuenta hoy con avances importantes en materia del control del tabaco. Si bien aun queda mucho por avanzar, lo logrado en el último año, abre esperanzas de que es factible lograr impulsar el Convenio Marco a plenitud. El momento que se vive es crucial para México y todo el continente americano, en virtud de los grandes intereses de la industria tabacalera que están en juego.

Recientemente en México, se aprobaron dos instrumentos jurídicos que buscan retomar el liderazgo que se dejó de ejercer en la materia. El 26 de febrero de 2008, la Cámara de Senadores aprobó la Ley General para el Control del Tabaco, la cual recientemente entró en vigor. Esta ley establece un marco normativo general que regula la producción, comercialización, distribución, venta y consumo del tabaco. Su Reglamentación esta actualmente en proceso de debate y discusión.

Por otra parte, la Asamblea Legislativa del Distrito Federal aceptó las modificaciones planteadas a la Ley de Protección a los No Fumadores, para establecer espacios 100% libres de humo en todos los lugares públicos cerrados incluyendo restaurantes, bares, discotecas, antros, billares y boliches. Con ello, la Ciudad de México se convirtió en la ciudad más grande del mundo 100% libre del humo de tabaco. A seis meses de la entrada en vigor, ha sido notable como la sociedad capitalina

está cumpliendo con el marco normativo.

A nivel federal, si bien la Ley General para el Control del Tabaco señala el establecimiento de espacios 100% libres de humo, la posibilidad de establecerlos en todo el país está en una etapa crucial y compleja. Diversas entidades tratan de evadir su responsabilidad en la aplicación de la Ley. Las Cámaras Restauranteras o de la Industria de la Hospitalidad adoptan la vocería de la industria tabacalera y tratan de debilitar los esfuerzos de las autoridades sanitarias y de la sociedad civil.

S. Glantz y J. Barnoya, analizando los documentos internos de las tabacaleras, explicaron las diversas estrategias empleadas por esta industria para detener y contrarrestar el establecimiento de ambientes libres de humo en Latino América (Tobacco Control 2002; 11: 305-314). Señalaron las siguientes:

- a) Cabildeo con legisladores y funcionarios para bloquear, detener o modificar iniciativas para el control del tabaco,
- b) confrontar a fumadores contra no fumadores,
- c) utilización de cámaras, asociaciones, agrupaciones y/o sindicatos afines o relacionados comercialmente con la industria tabacalera,
- d) reclutamiento, entrenamiento y manejo mediático de consultores y líderes de opinión,

e) captar o promover el apoyo por parte de líderes de opinión e "intelectuales,"

f) conformación de grupos de fumadores,

g) desviar la atención del daño producido por el humo de tabaco, hacia otros contaminantes

h) empleo de argumentación del respeto a las libertades humanas,

i) promover recursos jurídicos, y

j) no exponerse de manera pública y abierta.

Sin dudas, todas estas acciones se han utilizado en los procesos que se están viviendo en México. El poderío económico y político de la industria tabacalera es una amenaza constante para avanzar en el control del tabaco. El reciente surgimiento del Instituto Carso de la Salud, parcialmente financiado por tabacaleras, representa un riesgo a las políticas públicas para el control del tabaco. También puede representar un importante obstáculo a la autonomía de las instituciones de salud en México y en nuestro continente.

Es fundamental no detenerse ante los recientes logros y continuar impulsando el Convenio Marco y su aplicación inmediata en nuestro país para proteger a nuestras generaciones presentes y futuras de los daños causados por el tabaco.

Dr. Jesús Felipe González Roldán

NEW AFRICAN TOBACCO CONTROL INITIATIVE UNVEILED



Lanre Onigbogi, ATCRI's director

An unprecedented multinational effort to promote more aggressive tobacco control measures across Sub-Saharan African was launched at a press conference in Durban last night.

While 37 African nations are now Parties to the FCTC, smoking use is growing at over 4 per cent per year in Africa.

The Africa Tobacco Control Regional Initiative (ATCRI) aims to fill information gaps, build capacity, support coalition building on tobacco control and promote research.

ATCRI is supported by Cancer Research UK and the American Cancer Society and will be hosted by Environmental Rights Action/Friends of the Earth, Nigeria.

WALKING THE TALK



FCA congratulates the government and people of South Africa for hosting the third session of the Conference of the Parties to the FCTC. The meeting provides a fantastic opportunity to further the cause of tobacco control across the entire African continent as well as to ensure the international community agrees guidelines for key Articles and agrees to adequate funding for the Convention workplan.

Putting their best foot forward for tobacco control, hundreds of people of all ages took part in yesterday's 'health walk' across Durban whose key message was, "A World United for Tobacco Control". Prominent participants included South Africa's Health Minister, the Mayor of Durban and the head of the Convention Secretariat, Dr Haik Nikogosian.

The walk ended at the ICC, the venue for COP-3, where in front of a cheering crowd a giant model of a cigarette was snapped in two.

BE ASHAMED, BE VERY ASHAMED

The paper produced by the Secretariat for item 6.2, the interim performance report for the 2008-9 budget and workplan, may at first sight seem pretty dry. But buried in its depths are some truly shocking statistics. As of 30 June 2008, only 19 out of 153 Parties had paid in full their contributions for the budgetary period 2008-9. A further five had made partial payments.

On past performance we can hope and expect that many more Parties will have paid their dues before arriving in South Africa for the COP. There is a vast shortfall to be made up. The average payment made by these 24 Parties amounted to only US\$39,500, a total of less than a million dollars. Additional voluntary contributions amounted to a pathetic US\$268. That left over US\$7 million due at the end of June, by which time the Secretariat had already spent over US\$3 million.

The Convention Secretariat must be properly funded to ensure that the COP can fulfil its obligation to "keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation" (Article 23.5). It is understandable, given that the Parties are not living up to their current obligations, that the Secretariat is nervous about revising the budget and workplan for 2008-9. However, this is vital if sufficient resources are to be made

available for all the necessary work to be carried out between now and the fourth Conference of the Parties.

FCA is deeply concerned that the budget adopted by the COP to date has not matched the importance of its role. For the COP and the Secretariat to drive forward the ambitious programme of work it has set itself requires adequate resources. This is not currently the case.

The sums of money are tiny given the scale of the challenge we face. In England alone, for instance, smoking costs the health service the equivalent of over US\$10 million every single day of the year.

Today's unveiling of the death clock, prior to the start of the COP, revealed that over 40 million people have died from smoking since work first started on the FCTC. The FCA urges Parties to live up to the scale of the task before us and provide the funds without which we cannot succeed in our joint endeavour.

We will hear lots of fine words this week but you need to put your money where your mouth is.

SIZE MATTERS: MORE COUNTRIES ARE INCREASING SIZE OF HEALTH WARNINGS

The effectiveness of health warnings increases with size. Encouragingly, the FCTC is contributing to excellent progress in this area. Below is a listing of countries according to the size of health warnings on cigarette packages both as an average of the front and back, as well as on the front only. (The front is more important as it is more visible).

At least 25 countries have finalised requirements for warnings covering at least 50 per cent on average of the front and back of packs. Seven countries have requirements for even larger warnings.

Mexico appears set to overtake Australia, New Zealand and Cook Islands for the largest warnings as an average of the package front and back. Pursuant to a law adopted by the Mexican Congress in May 2008, pending warnings are to cover 65 per cent of the surface of packs (30 per cent front and 100 per cent back). The content of the health warnings will be finalised by late November 2008.

SIZE OF WARNING - AVERAGE OF FRONT AND BACK

60% Australia (30% of front; 90% of back)	50% Panama (100% of either front or back) (change pending to 50% of front and back)
60% New Zealand (30% of front; 90% of back)	50% Venezuela (100% of either front or back)
60% Cook Islands (30% of front; 90% of back)	48% unilingual EC countries (e.g. United Kingdom) that have properly implemented the EC Directive (43% of front, 53% of back, including border)
56% Belgium (48% of front, 63% of back, including border)	48% Norway (43% of front, 53% of back, including border)
56% Switzerland (48% of front, 63% of back, including border)	48% Iceland (43% of front, 53% of back, including border)
52% Kyrgyzstan (52% of front and 52% of back, including border)	48% Turkey (43% of front, 53% of back, including border)
52% Finland (45% of front and 58% of back, including border)	
50% Brunei (50% of front and back)	
50% Canada (50% of front and back)	
50% Chile (50% of front and back)	
50% Djibouti (50% of front and back)	
50% Egypt (50% of front and back)	
50% Iran (50% of front and back)	
50% Singapore (50% of front and back)	
50% Thailand (50% of front and back)	
50% Uruguay (50% of front and back)	
50% Albania (50% of front and back)	
50% Bolivia (50% of front and back)	
50% Cameroon (50% of front and back)	
50% Eritrea (50% of front and back)	
50% Madagascar (50% of front and back)	
50% Malaysia (40% of front, 60% of back)	
50% Brazil (100% of either front or back)	

SIZE - FRONT OF PACKAGE

52% Kyrgyzstan
50% Brunei
50% Canada
50% Chile
50% Djibouti
50% Egypt
50% Iran
50% Madagascar
50% Singapore
50% Thailand
50% Uruguay
50% Albania
50% Bolivia
50% Cameroon
50% Eritrea
48% Belgium
48% Switzerland
45% Finland

Rob Cunningham
Canadian Cancer Society

A PICTURE SAYS A THOUSAND WORDS: MORE COUNTRIES REQUIRE PICTURE-BASED WARNINGS

The number of countries adopting picture-based health warnings on cigarette packages is rising rapidly. At least 25 countries have finalised requirements. Progress is excellent. Picture-based health warnings are far more effective than text-only warnings.

Below is a list of countries that have finalised requirements, together with the year of implementation, including different years where there have been two or more rounds of picture warnings.¹

1. Canada (2001)
2. Brazil (2002; 2004; 2009)
3. Singapore (2004; 2006)
4. Thailand (2005, 2007)
5. Venezuela (2005)
6. Jordan (2005)²
7. Australia (2006; rotation of Sets A, B every 12 months)
8. Uruguay (2006; 2008, 2009)
9. Panama (2006)
10. Belgium (2006)
11. Chile (2006, 2007, 2008)
12. New Zealand (2008; rotation of Sets A, B every 12 months)
13. Romania (2008)
14. United Kingdom (2008)
15. Egypt (2008)
16. Brunei (2008)
17. Cook Islands (2008)³
18. India (2008)
19. Iran (2009)
20. Malaysia (2009)
21. Peru (2009)
22. Kyrgyzstan (2009)
23. Djibouti (2009)
24. Latvia (2010)
25. Switzerland (2010, rotation of Sets 1, 2, 3 every 24 months)

Many other countries are following suit, or they have stated that picture warnings are under consideration. They include Bangladesh, France, Iceland, Ireland, Mongolia, Norway, Pakistan, Philippines, Portugal, Slovakia, South Africa, South Korea and the Caribbean Community (CARICOM, which includes Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago).

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A WINDOW ON TOBACCO INDUSTRY CORRUPTION

COP-3 delegates debating proposed guidelines for FCTC Article 5.3 may find illuminating a law journal article due to appear in the *North Carolina Journal of International Law and Commercial Regulation*. Drawing upon recently uncovered industry documents, the article details plans by tobacco industry executives to secretly provide cash and other benefits to one of Japan's most powerful political insiders and a close confidant of then-Prime Minister Yasuhiro Nakasone. The aim was to secure the Prime Minister's influence with officials at the Japan Tobacco and Salt Public Corporation (JTS), the predecessor to Japan Tobacco.

In the early 1980s, American tobacco multinationals struggling to get a foothold in Japan's lucrative tobacco market were stymied by government import restrictions. However, during a visit to Tokyo in early 1983, executives of Brown and Williamson (BWT) connected with a senior parliamentarian, Eiichi Nakao, "a key backer of Prime Minister Nakasone Yasuhiro [and] one of the most influential members of the [parliamentary] agricultural block." Nakao, at first gratis and later for a fee, was to provide political influence to grease the company's dealings with JTS.

The covert nature of Nakao's engagement was clear from the start: "Needless to say, the public independent image of [Nakao] as totally separate and apart from business involvement must be maintained and protected at all costs." At the same time, a huge payoff would go to Nakao's friend, who "would expect to receive about one-half of the royalties on Kent to be licensed by JTS," but "Mr. Y

will be our liaison with N in order to insulate N from the commercial aspects."

Plans called for arrangements to be developed at an August 1983 meeting at the Regency Hotel in New York City attended by Brown and Williamson's chairman I.W. Hughes, Nakao, and Yokoyama. Briefing notes marked "PRIVATE AND CONFIDENTIAL – SENSITIVE" laid out the details: Nakao and Yokoyama "will be discreetly collaborating in enabling BWT to improve its overall marketing position with ... JTS." This is to be based upon "a subsidy (\$62,500) to Y's company: part of these funds are passed to N for his political maneuvering with the PM [Prime Minister] and key Diet members; the remainder is used by Y in cultivating JTS officials." For this, "N will exert influence on the PM to pressure the JTS into acceding to our marketing strategy."

On 16 August 1983, just days before the meeting, Brown and Williamson's consultant added a new angle, namely, having the company help Nakao's son study in the United States. Again, secrecy was critical. The consultant wrote, "I should probably be the one to handle it since BWT should have no known connection, in order to insulate N." Someone's handwriting on a memo notes, "Very important" and "Non-open -> NO direct company connection" and "N would be very behold[ing] [sic]".

No written record could be found to clarify what transpired at the New York meeting. Later documents suggest that Hughes and Nakao established an ongoing working relationship of some kind but the paper trail is extremely limited.

In the end, Brown and Williamson's officials and agents, including the company chairman himself, knowingly waded into murky waters holding hands with corrupt Japanese players. Moreover, as the forthcoming law journal article explains, these facts strongly suggest criminal violations of the US Foreign Corrupt Practices Act.

In short, the unethical and apparently illegal activity revealed in the story demonstrates the need for clauses in Article 5.3 guidelines which specify that state-owned tobacco companies should be treated the same way as any other tobacco industry group and which bar conflicts of interest for government officials and employees through incentives offered by the tobacco industry. The lack of documentation on clandestine payments emphasises the need for transparent and publicly accessible information to be available on all aspects of tobacco industry political influence.

Mark Levin and Mary Assunta

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Levin, M (forthcoming Spring 2009), 'N will exert influence on the PM': *The Legal and Policy Implications of US Tobacco Industry Political Influence Buying in Japan*, *North Carolina Journal of International Law and Commercial Regulation*, 34(2), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1301697.

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¹ In addition, Hong Kong (Special Administrative Region, China) has required picture-based warnings covering 50 per cent of the front and back of the package (2007).

² The implementation date may have been in 2006.

³ Warnings are to either comply with the Australian or New Zealand requirements (which include pictures) or to require 50 per cent text warnings with specified messages in English and in Cook Islands Maori. In practice, packages show pictures as required in Australia/New Zealand.

Rob Cunningham
Canadian Cancer Society

DIRTY ASHTRAY AWARD



To the many Parties who have not paid their contributions for this financial period, as this will undermine effective development and implementation of the FCTC.

ORCHID AWARD



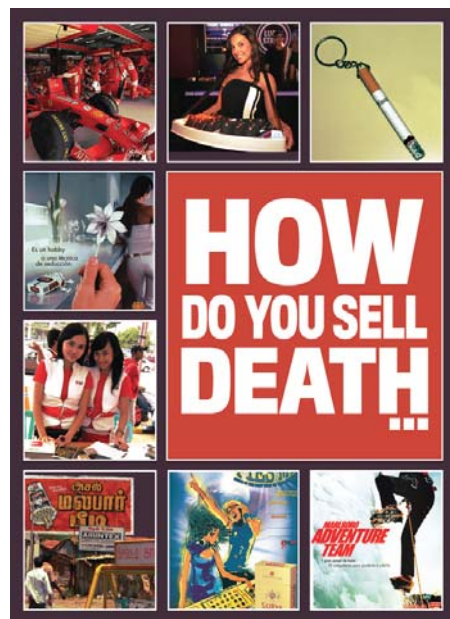
To the Key Facilitators on Article 11 (Australia, Brazil, Canada, Peru and the Philippines) and Article 13 (the European Commission, Finland and India) for developing strong comprehensive guidelines that should be adopted by the COP without change.

HOW DO YOU SELL DEATH?

The tobacco industry sells death by spending billions of dollars on advertising, promotion and sponsorship around the world each year. Its manipulative advertising tactics have led to an increase in tobacco use which, according to the WHO MPOWER report, is responsible for five million deaths every year. If current trends continue, 500 million people alive today will be killed by tobacco.

In light of the tobacco industry's aggressive media assault, the American Cancer Society, the Campaign for Tobacco-Free Kids, and the Framework Convention Alliance, have created the publication *How Do You Sell Death?* As an update to a report released in 2001, it highlights the many ways by which the tobacco industry pushes its products worldwide. The report showcases Big Tobacco's most recent tactics to lure new smokers to the habit in spite of countries' attempts to curtail advertising, promotion, and sponsorship of tobacco products.

"How Do You Sell Death?" is being released at a critical juncture. During its third session, in Durban, the Conference of the Parties will discuss the possible adoption of guidelines for Article 13 of the FCTC concerning tobacco advertising, promotion, and sponsorship. Evidence from countries around the world shows that the best strategy to combat the tobacco industry's marketing tactics is to adopt comprehensive bans on advertising, promotion and sponsorship. Well-drafted and well-enforced comprehensive bans would reduce the consumption of tobacco



products and help prevent disease and death among people of all income groups and levels of education.

How Do You Sell Death? will be launched at the lunchtime briefing on Article 13 hosted by the Framework Convention Alliance on Monday 17 November 2008. Copies of the report will also be available at the FCA booth for the duration of COP-3.

Carys Horgan
Cancer Control Science and International
Affairs
American Cancer Society

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OVERHEARD...

Virgin Airways apparently takes its responsibilities seriously. On the flight from London to Johannesburg, en route to the COP, the captain announced over the intercom, "Anyone caught smoking on tonight's flight will be asked to leave the plane immediately."



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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