

**INSIDE THIS ISSUE**

A critical moment for tobacco control .....	1
Yes to INB-5 - and yes to important preparatory work .....	2
Tobacco industry uses family farmers as a front group .....	3
It's time for all Parties to engage in Committee B .....	4
L'homme qui a bouleversé la fiscalité du tabac au Vietnam .....	5
The 350+ members of FCA poised for COP-4 .....	6

**EVENTS**

Lunchtime briefings from 13.30 - 14.45:

*Highlights and recent developments in product regulation*

Organised by WHO's Tobacco Free Initiative

Room: Montecarlo C

*Civil society on the development and implementation of the WHO FCTC*

Organised by non-governmental organisations

Room: Rio de Janeiro C

**DEATH CLOCK**

SINCE THE OPENING OF THE FIRST WORKING GROUP FOR THE FRAMEWORK CONVENTION ON TOBACCO CONTROL ON 29 OCTOBER 1999

**50,963,560**

PEOPLE HAVE DIED FROM TOBACCO-RELATED DISEASES (AS OF 09:00 ON 15 NOVEMBER 2010)

**A CRITICAL MOMENT FOR TOBACCO CONTROL****COP-4 REPRESENTS A CRITICAL MOMENT FOR TOBACCO CONTROL ACROSS THE WORLD**

The Framework Convention on Tobacco Control (FCTC), the world's first public health treaty, has been a remarkable success. Since it was adopted by the World Health Assembly in May 2003, it has gained 172 Parties, representing nearly 90 per cent of the world's population. It has prompted action by governments on important issues such as advertising, warnings on packages and smoke-free places. It has played a key part in establishing tobacco control as a global health priority.

But this success has not gone unnoticed by the tobacco industry and its allies and surrogates across the world. That is why COP-4 will see unprecedented and well-funded efforts by the industry to undermine the treaty and to weaken efforts at global co-operation on tobacco control.

Earlier this year, Philip Morris International launched a challenge at the World Bank's International Centre for the Settlement of Investment Disputes against Uruguay for its tobacco control measures, including mandatory warnings that cover 80 per cent of the front and back surfaces of cigarette packs, the largest in the world. The government of Uruguay needs and deserves strong support for resisting this pressure.

Meanwhile an organisation claiming to represent tobacco growers worldwide has been publicly lobbying against items on the COP agenda. The International Tobacco Growers Association (ITGA) is a public relations vehicle created by the tobacco industry in the 1980s to front its lobbying efforts against international tobacco control initiatives. The ITGA has been lobbying to prevent the COP from adopting guidelines under Articles 9 and 10 of the FCTC, which it inaccurately claims would effectively ban burley tobacco.

FCA believes that the most effective way to resist this industry pressure is for the COP to take resolute and clear decisions on the key issues to be discussed, including:

- the creation of a working group to draft guidelines on taxation policies – tobacco taxes are the single most effective means to reduce demand for tobacco products (Article 6)
- adopting draft guidelines on the contents of tobacco products (Articles 9 and 10)
- adopting draft guidelines on education and public awareness measures (Article 12)
- adopting draft guidelines on supporting cessation (Article 14)
- committing to further negotiations to agree a protocol on illicit trade (Article 15)
- agreeing on common action to support countries working on liability issues (Article 19)
- making the case for the inclusion of tobacco control as a critical means to reduce the burden of non-communicable diseases across the world, particularly in low-income countries, and for this to be included in development policy and in particular in the successors to the Millennium Development Goals
- supporting measures that will help develop effective reporting on implementation of the FCTC
- agreeing to provide full funding to the FCTC and its Secretariat to support this vital work and also to support Parties in implementing the treaty.

COP-4 offers the chance to take major steps forward in implementing and developing the FCTC. It is a chance that must not be missed.

# YES TO INB-5 – AND YES TO IMPORTANT PREPARATORY WORK

This Conference of the Parties faces an early and important decision: whether and when to hold further negotiations on an Illicit Trade Protocol.

Fighting the illicit trade in tobacco products is an important priority for tobacco control, and for the future of the Framework Convention on Tobacco Control (FCTC). In particular, it is necessary to complement work on Article 6 and the use of taxation to raise tobacco prices and encourage people to quit tobacco use. FCA regards an agreement to start work on Article 6 guidelines as a vital outcome of this COP.

Price rises are the single most effective means of reducing tobacco consumption. To the extent that cheap illicit tobacco products are available in any country, they reduce the impact of price rises on smoking prevalence rates. Across the world, the tobacco industry has used the threat of illicit trade to lobby governments against tax rises. This was the key justification for including Article 15 in the FCTC.

Negotiations during INB-4 did not end, as we had hoped, with agreement on the text of a protocol. But it did make substantial progress, particularly on the central issues of supply chain control. There is good reason to hope that a further round of negotiations will be successful. FCA believes that further negotiations to conclude a protocol are both justified and necessary. We hope very much that Parties agree that to abandon negotiations now would do serious damage to tobacco control and to the future success of the FCTC.

However, there also seems to be a need for further essential preparatory work before an INB-5 (or reconvened COP). FCA believes that it is more important to make thorough preparations for an INB-5 than it is to hold one early, as it would be a serious and possibly terminal setback for negotiations if an INB-5 were to end without an agreement on the text of the protocol. It could also do serious damage to the future of the whole Convention.

In particular, FCA has recommended the establishment of a working group, reporting to the next INB and involving staff and experts from relevant international agencies, to help ensure that the provisions of the protocol complement and do not duplicate the provisions of existing international agreements and the work of existing United Nations and other intergovernmental agencies. The protocol's text should focus on key supply chain controls, such as licensing of the industry, a tracking and tracing system, and a requirement on the industry to conduct "due diligence" when buying or selling tobacco products, to take responsibility for what happens to these products when they enter the supply chain.



FCA is also concerned that the cost of further negotiations could add to the existing financial problems facing the Secretariat. Parties should be prepared to provide the necessary funds through extra-budgetary contributions so that other important work of the Secretariat is not threatened by a growing deficit.

For this COP, FCA has published a legal analysis of the publicly available legally binding European Union (EU) agreements with Philip Morris International, British American Tobacco, Japan Tobacco Inc and Imperial Tobacco Ltd. This analysis raises concerns about elements of the agreements in relation to Parties' obligations under Articles 5.3, 12 and 13 of the FCTC.<sup>1</sup>

The EU agreements are not the only arrangements between governments and the tobacco industry in relation to illicit trade that give rise to such concerns. FCA will be conducting further research on other agreements known to exist between governments and the industry, some legally binding (for example in Canada and Colombia) and some not (such as the memoranda of understanding in effect in many countries).

In their efforts to develop a robust international system to control illicit trade in tobacco products, Parties will need to safeguard against tobacco industry interference, including by avoiding secret arrangements or interactions, inappropriate sharing of data and information, particularly sensitive law enforcement information and techniques, and dependence on industry funding. It is very important that the Protocol does not encourage interactions between the industry and Parties' law enforcement and other relevant agencies that are contrary to Article 5.3 or other provisions of the FCTC.

A robust and effective protocol on illicit trade is a prize worth serious efforts by all Parties. FCA believes that further negotiations offer an excellent chance of success. But Parties must be prepared to do the preliminary work necessary for agreement, and to provide the funds to back the negotiations.

<sup>1</sup> [http://www.fctc.org/index.php?option=com\\_content&view=article&id=430:legal-analysis-of-eu-agreements-with-multinational-tobacco-companies&catid=165:illicit-trade&Itemid=192](http://www.fctc.org/index.php?option=com_content&view=article&id=430:legal-analysis-of-eu-agreements-with-multinational-tobacco-companies&catid=165:illicit-trade&Itemid=192).

# TOBACCO INDUSTRY USES FAMILY FARMERS AS A FRONT GROUP

## THE FALSE DEBATE IN BRAZIL AROUND BURLEY TOBACCO AND FLAVOURINGS

Once more, the tobacco industry is using family farmers as a front group to defend its profits and undermine tobacco control policies, just as it did during negotiations during FCTC ratification in Brazil.

Now this strategy has reached the COP, linked to discussion of draft guidelines for Articles 9 & 10, which are scheduled to be adopted in coming days. We cannot ignore the geographical element of this attempt to “hijack” the COP – we are very close to the “world’s tobacco capital”, Santa Cruz do Sul, located in Rio Grande do Sul, Brazil, 700 kilometres from Punta del Este.

The debate about restrictions/prohibitions of additives in tobacco products arrived in the rural tobacco growing regions of southern Brazil in March, when the International Tobacco Growers Association (ITGA), through Afubra (its Brazilian arm), began disseminating the message that, “WHO and the Brazilian Ministry of Health intend to ban the growing of burley tobacco”.

Initially, the industry – via the ITGA – suggested that the proposal of the Article 9/10 Working Group would prohibit blending tobacco. Because of that, it continued, the American Blend (a mix of Virginia, burley and Oriental tobaccos) would be prohibited and the subsequent loss in demand for tobacco would devastate tobacco growers.

This issue began to appear in regional and national media, and to arise in meetings with the aim of pressuring the Brazilian government to oppose the adoption of Articles 9&10 guidelines.

In Brazil, when we began to examine the draft guidelines in detail, the mask of the ITGA/Afubra began to fall as we realised that the proposal focused on flavourings and additives and not on the blending of tobacco.

At the same time, the ITGA’s misinformation campaign went global – with vigorous activity in tobacco growing

countries in Asia and Africa, including the Philippines and Malawi. Its message – the guidelines would ban burley growing and wreck the livelihoods of poor farmers in developing countries. However, in the case of Brazil, in spite of very strong lobbying of various government ministries, the mandate of the country’s delegation at COP-4 is to support the FCTC.

Legitimacy is at the heart of this issue. We are convinced that there is not a single COP-4 delegate who is not concerned about the health and living conditions of tobacco growers, particularly those in developing countries. But we need to examine who speaks on behalf of poor family farmers who grow tobacco. Who has the legitimacy and credibility to do that?

Let us look at the Brazilian situation. In Brazil, farmers are linked to Afubra (ITGA) via an integrated system of production that does not give them any choices – when farmers purchase their insurance, they automatically become affiliated to Afubra. In reality, those who represent growers are those who deal with the issues that impact their day-to-day lives, such as abusive labour contracts, low prices for leaf, the debts and bondage of the integrated system, child labour, tobacco “green sickness”, among others. Afubra/ITGA defends exactly the opposite, affirming that everything is good in farmers’ lives, and in any public debate they inevitably defend the industry’s commercial interests.

There are other organisations in Brazil that do represent family farmers and peasants - Fetraf/Brasil, CONTAG (National confederation of agricultural workers) -, MPA/via campesina (Small farmers’ movement). We are talking about more than 4 million family farmers nationally and 800,000 farmers in the three Brazilian southern states.

In short, the media and PR campaign carried out by ITGA does not represent the interests of family farmers; it is a



façade for industry interests. People with a real interest in family farmers who grow tobacco must think twice and question the credibility and legitimacy of those who claim to be speaking on behalf of growers.

The main issue at this COP for family farmers who grow tobacco are Articles 17 and 18 and, at the national level in Brazil, the development of agricultural policies that can respond to the demand of the 73 per cent of farmers who want alternatives to tobacco growing. The false ‘burley versus 9&10’ issue, sponsored by the tobacco industry, is just a way to deviate the focus from what really matters for the vast majority of Brazilian family farmers who grow tobacco.

Today, just like during the difficult FCTC ratification process in Brazil, Fetraf supports the FCTC, the adoption of Articles 9&10 and the maintenance of the working groups on Articles 17&18.

*Albino Gewehr*  
Agriculture technician  
Fetraf-Sul  
Brazil

# IT'S TIME FOR ALL PARTIES TO ENGAGE IN COMMITTEE B

Many important issues such as budgets, workplans and implementation of the FCTC have yet to be extensively discussed among the Parties because the focus of past COPs evolved around the development of guidelines for specific articles. This is understandable and fully justified, since strong guidelines are a pillar of the Convention. FCA strongly encourages Parties to continue elaborating FCTC guidelines, such as for Article 6 (Price and tax measures to reduce the demand for tobacco). At the same time, FCA calls upon the Parties to focus more on these 'Committee B' issues, to ensure that their weaknesses do not threaten the FCTC's effectiveness.

Several issues are particularly urgent and need to be thoroughly discussed. These include: the budget; assistance and financial support for Parties implementing the treaty; reporting; and current challenges to the Convention on commercial grounds. These issues must be properly considered and discussed by all Parties in order for the Convention to flourish and be efficient. To date, most discussion and decisions in Committee B (including the budget and treaty implementation) are taking place among a relatively small number of Parties. Yet it is important that all Parties express their observations, share their experiences, and participate in these discussions, so that decisions made in Committee B reflect the concerns of all Parties.

For instance, during the first meeting of Committee B at COP-3, New Zealand strongly recommended that assistance and financial support should be prioritised in the discussions on the budget and work programme, ahead of other issues including work on any new guidelines. However in the end, assistance and financial support for treaty implementation were given lowest priority in the budget and workplan for 2010-2011.

Another, and related, example concerns the budget of the FCTC itself – also discussed in Committee B. The 2010-2011 budget and workplan are only partially (68 per cent) covered by the voluntary assessed contributions (VACs) paid by each Party, while the rest of the budget relies on highly unlikely extra-budgetary contributions. Unfortunately, this situation seems to have become a norm, since only 65 per cent of the proposed 2012-2013 budget and workplan<sup>1</sup> is covered by the VACs. In theory, this results in a prioritisation of activities. In reality however, it leads to a freeze of some activities, such as regional workshops, needs assessment missions and technical assistance to Parties on their reporting obligations.

The Parties that will be most strongly affected by these decisions are the developing country Parties and Parties with economies in transition. Yet, this is contrary to the spirit of the Convention. The very Preamble of the FCTC acknowledges that:

*"[T]obacco control at all levels, and particularly in developing countries and in countries with economies in transition, requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities".*

Clearly, a serious discussion on topics related to treaty financing and related operations must take place during COP-4. The Convention needs an open discussion among all Parties about sustainable funding for its future. Parties have shown their commitment to make the FCTC's Articles and guidelines strong and effective; now, they have to address the 'business' side of the Convention with the same determination. The report of the Secretariat on its activities (document

FCTC/COP/4/3) correctly points to the current challenges:

*"The analysis of Parties' reports, and needs assessments carried out in several countries have demonstrated the substantial needs and challenges faced by developing country Parties and Parties with economies in transition in meeting their obligations under the Convention".*

*(Paragraph 21)*

If no action is taken to address these shortcomings at COP-4, we risk seeing a crippled budget and lack of mechanisms and funds to support treaty implementation at the national level, as well as very weak systems for reporting and monitoring implementation. Those deficiencies will in turn threaten future progress in tobacco control and will put in jeopardy the achievements of the FCTC to date.

The FCA encourages all Parties to become engaged and actively participate in the debate on these important issues. Parties are also strongly encouraged to familiarise themselves with the FCA's positions, initiatives and recommendations on topics such as the budget, mechanisms and strategies for treaty financing and monitoring of implementation, and challenges to the FCTC from commercial interests.

*1 Option 1*

# L'HOMME QUI A BOULEVERSERÉ LA FISCALITÉ DU TABAC AU VIETNAM

En tant qu'économiste militant pour la lutte antitabac, Hoang Van Kinh a été frappé par la structure fiscale du tabac au Vietnam. Par crainte manifeste que les personnes économiquement défavorisées n'abandonnent leur habitude de consommation, le gouvernement avait fixé des taxes sur les cigarettes sans filtre (fumées principalement par ces personnes) bien inférieures à celles imposées sur les cigarettes avec filtre. Les cigarettes sans filtre étaient donc très bon marché. Malheureusement, leur prix très attractif incitait d'autant plus les personnes économiquement défavorisées à en fumer.

Conscient que les personnes au revenu le plus faible (ainsi que les jeunes) sont les plus touchées par les augmentations de prix et qu'encourager les plus économiquement défavorisés à dépenser leur argent et détruire leur santé avec les cigarettes est une politique loin d'être raisonnable, M. Kinh a décidé de prendre ce problème à bras-le-corps. Grâce au soutien financier de la Thai Health Promotion Foundation, par le biais de la fondation Rockefeller, M. Kinh et ses collègues se sont lancés dans une étude sur les effets de ces taxes différenciées et sur l'éventuel impact d'un taux fixe appliqué à toutes les cigarettes (avec ou sans filtre) sur la consommation et les recettes du gouvernement.

## LES SUCCÈS

Fort de ses connaissances – de professeur d'économie dans une université locale et de collaborateur au Vietnam National Committee on Smoking and Health (commission vietnamienne sur le tabagisme et la santé - VINACOSH) – M. Kinh a publié avec ses collègues une étude saisissante qu'il a veillé à faire parvenir au gouvernement. Il n'en était pas à sa première étude sur le tabac et l'économie au Vietnam. En effet, il avait déjà publié des recherches précieuses sur l'utilisation du tabac comme facteur aggravant des inégalités, car le gouvernement se basait sur l'argent dépensé par les familles chaque mois dans l'alimentation (les dépenses de tabac figurant curieusement dans ce chiffre) pour calculer le nombre de personnes économiquement défavorisées souffrant de la faim. M. Kinh avait démontré que si l'on soustrayait du calcul les dépenses liées au tabac, beaucoup plus de personnes passeraient en dessous du seuil de pauvreté alimentaire. Comme le taux de tabagisme est aussi le plus élevé chez les personnes économiquement défavorisées et la politique fiscale encourageait ces tendances, le tabagisme a directement creusé des inégalités, malgré les affirmations répétées de l'industrie du tabac en faveur de ses programmes de soutien aux pauvres.

En 1999, le gouvernement a décidé de mettre en place une structure fiscale où la taxe sur les cigarettes avec filtre fabriquées à partir de matières importées était la plus élevée, soit 65 %, la taxe sur les cigarettes avec filtre fabriquées à partir de matières nationales s'élevait à 45 %, tandis que la taxe sur ces mêmes cigarettes mais sans filtre n'était que de 25 %. Les résultats de la

recherche de M. Kinh ont démontré qu'en imposant une taxe uniforme fixée à 65 %, le prix des cigarettes les moins chères ferait un bond de 16 à 32 %, entraînant une chute d'environ 27 % de la consommation de tabac, en particulier chez les personnes économiquement défavorisées qui ne seraient plus en mesure de se permettre une telle dépense. De plus, cette augmentation induirait une hausse des recettes fiscales du gouvernement d'au moins 11 %. En d'autres termes, l'étude de M. Kinh a mis en évidence qu'une taxe uniforme et élevée sur le tabac profiterait non seulement aux pauvres, en réduisant leur consommation de tabac, mais augmenterait aussi les recettes du gouvernement.

## LES LEÇONS APPRISSES

Les responsables politiques se sont penchés sur l'étude de M. Kinh. De nombreux autres acteurs ont défendu une refonte de la fiscalité, mais l'étude menée par M. Kinh et ses collègues constituait la preuve la plus écrasante. Enfin, des chiffres tirés d'un tableau démontraient l'absurdité de la politique en vigueur et les avantages qu'un tel changement de politique pourrait générer. La politique existante, révélée indéfendable, a été rapidement abandonnée. Les précédentes taxes allant de 25 à 65 % ont été remplacées par une taxe fixe à 55 % sur toutes les cigarettes entre janvier 2006 et décembre 2007. En janvier 2008, la taxe est passée à 65 %.

Cependant, les données statistiques et épidémiologiques soulèvent des hypothèses. Personne ne saura dire avec certitude combien de vies l'étude de M. Kinh a sauvé jusqu'ici et combien elle en sauvera à l'avenir. Nous savons pour sûr que l'augmentation du prix aura pour effet d'aider de nombreux fumeurs à faible revenu à abandonner la cigarette et de dissuader bon nombre de personnes de fumer. Cette étude, associée à tous les autres travaux réalisés par M. Kinh et ses collègues au Vietnam dans le but de renforcer la loi antitabac, est synonyme de meilleure santé et d'un recul du nombre de maladies au sein de la population et en particulier chez les personnes économiquement défavorisées.

Malheureusement, Hoang Van Kinh est décédé le 24 février 2008. Sa perte est une tragédie pour la lutte antitabac et pour tous ceux qui ont su apprécier sa personnalité calme, aimable et généreuse et son dévouement à améliorer la vie des gens. Cet homme modeste à la voix douce a toutefois laissé un puissant héritage. Si seulement nous pouvions tous en dire autant de l'impact de nos travaux.

*Debra Efroymsen, HealthBridge  
avec Tran Thi Kieu Thanh Ha*

## DIRTY ASHTRAY AWARD



To COP Parties - watch this space; we will be watching you

## ORCHID AWARD



To Uruguay, for standing up to Philip Morris International and defending its domestic tobacco control programme

# THE 350+ MEMBERS OF FCA POISED FOR COP-4

FCA has been committed to a treaty to address the global tobacco epidemic since it emerged as an alliance from a small group of like minded civil-society organisations in 1999. Today we are a network of more than 350 health and tobacco control organisations across more than 100 countries. We choose to associate together freely at this and similar conferences in order to share expertise and resources and to discuss issues and events. At the same time, having these organisations represented under a single umbrella makes it easier for the COP to interact with civil society. All FCA member organisations retain their full independence. We are a strictly non-partisan network, being concerned only with the implementation and development of the provisions of the Convention.

Only after years of advocacy did the world's governments recognise the burden imposed by tobacco on global human health, and they decided to act by creating the FCTC, the first global public health treaty. The efforts of non-governmental organisations (NGOs), which were encouraged by the WHO to get engaged in the FCTC, were recognised in the treaty itself: its guiding principles state (Article 4.7), that "the participation of civil society is essential in achieving the objective of the Convention and its protocols".

Since 1999 FCA has grown immensely, and today we count among our members more than 350 organisations from more than 100 countries in all WHO regions. We believe our accomplishments have been substantial in the last decade. FCA and its members have: supported countries' efforts in becoming Parties to the FCTC, and provided technical expertise to government representatives involved in the treaty process; assisted countries to develop and adopt effective, evidence-based guidelines on implementation of the FCTC; ensured the presence of NGOs from across the world at all FCTC-related negotiations and meetings, and provided grants to enable participants from low- and middle-income

countries to be actively involved in all FCTC activities.

FCA, through its member representatives, has participated in all six INB sessions of the WHO FCTC, as well as the two open-ended Intergovernmental Working Group (IGWG) sessions, dozens of regional treaty meetings and several annual meetings of the World Health Assembly. Since the treaty's entry into force, FCA has participated in all three sessions of the COP, all expert working group meetings on the various WHO FCTC articles as agreed by the COP, all four negotiating sessions of the INB on a Protocol on Illicit Trade in Tobacco Products and its related meetings, and other additional regional meetings organised by the Convention Secretariat.

In its efforts to support the Convention's COP and subsidiary bodies, the FCA's Regional Co-ordinators, working closely with FCA members, organised regional, sub-regional and national trainings and workshops across the globe. These brought together government officials, WHO, and civil society representatives to raise awareness and develop capacity on issues related to the ratification, implementation, monitoring and enforcement of the WHO FCTC. In this process, FCA's civil society members across the globe have successfully worked hand-in-hand with governments, supplying educational material, holding delegate briefings, providing tobacco control expertise, and offering in-country and regional strategic support.

There is ample scope for continued success in the future. In coming years, FCA will focus on securing sustainable funding for the implementation of the FCTC, including by exploiting opportunities such as the UN summit on non-communicable diseases (NCDs, for which tobacco is the No. 1 risk factor) and by promoting access to existing funding mechanisms. We will push for stronger implementation of the FCTC at the national level, and emphasise compliance and compliance monitoring, starting with the launch later today of FCA's *Tobacco Watch* (formerly the *FCTC Monitor*).



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 Bulletin are those of the writers and do not necessarily represent those of the sponsors.

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