



IWG Tuesday

Inside this issue:

- La importancia de las ONGs 2
- Second-hand smoke beaten back around the world 3
- A word from our lawyers.. 4
- Barren harvest in Pakistan 5
- Voix d'Afrique 6

What's on today?

- 1. Rules of Procedure
 - 2. Rules of Procedure
 - 3. Rules of Procedure
 - 4. Lunch
 - 5. Rules of Procedure
 - 6. Rules of Procedure
 - 7. Dinner
 - 8. Sleep
- (Not necessarily in that order)

DEATH CLOCK

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

18,761,579 people have died from tobacco-related diseases.

(At 9 am 22 June 2004)

ALLIANCE BULLETIN

Framework Convention on Tobacco Control

Geneva, Switzerland

Issue 47

22 June 2004

Legislation need not necessarily be in place before ratification

There is a widespread myth amongst FCTC signatory countries that all implementation legislation must be in place before a country can ratify the Convention. However, this is not what the text of the Convention actually says, and is at most a matter of strictly national policy.

First, the Convention does not come into effect at all until 90 days after the 40th country has ratified.

Second, individual articles of the Convention have longer phase-in times. Article 11(1), on packaging and labelling, comes into effect three years after the Convention itself; Article 13(2), on prohibiting advertising, has five years' lag time.

Third, Article 23.5(c), amongst others, makes it clear that ratification is the start of a process, not the end. It explains that one function of the Conference of the Parties is to "keep under

regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation." ... "Towards this end, it shall ... (c) promote, as appropriate, the development, implementation and evaluation of strategies, plans and programmes, as well as policies, **legislation** and other measures."

In Article 5.2(b), ratifying countries commit to a general obligation to "adopt and implement effective **legislative**, executive, administrative and/or other measures and co-operate, as appropriate, with other parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke." [Emphasis mine]

In short, ratifying the FCTC obligates a country to review existing legislation to see if it is in compliance with

(Continued on page 2)



WHO Director-General Dr Lee Jong-Wook and FCA Chair Mary Assunta unveiled the Death Clock yesterday.

Today's Weather: Showers in the morning
High 25 °C Low 16 °C

¿Por qué buscar colaboración con las ONGs?

Las ONGs tienen más independencia política y más autonomía que los representantes gubernamentales. Eso les permite actuar rápida y eficazmente a favor de la salud pública. Como ustedes ya saben existen miles de ejemplos que demuestran el rol de la sociedad civil en el control del tabaco: en Níger, una ONG logró parar la publicidad ilícita de los productos del tabaco; ONGs en India, los EE. UU. y Canadá influenciaron municipios para que se vuelvan libres de humo, etc.

La participación de ONGs es típica en la mayoría de los tratados internacionales y fue la regla durante las sesiones del Órgano de Negociación Intergubernamental durante las negociaciones del CMCT. Existen numerosos precedentes de Tratados Internacionales en los cuales se ha reconocido el papel protagónico de la sociedad civil en el desarrollo y la puesta en práctica de tratados. Por ejemplo, sabemos que cuando se involucran las ONGs, los tratados se negocian en menos tiempo y son más fuertes (Código internacional para la comercialización de sustitutos a la leche materna, Tratado de minas antipersonales etc.)

Las ONGs han desempeñado un papel primordial en la lucha

contra la epidemia del tabaquismo a nivel nacional e internacional. Además, desde que comenzaron las negociaciones, la sociedad civil aseguró que las negociaciones del CMCT se centraran sobre la salud pública y no en las demandas de la industria tabacalera. Incluso, los gobiernos reconocieron la importancia de las ONGs a través del texto del CMCT en el Preámbulo y algunos de sus Artículos (12e, 20.3.b y 23.5.g).

Por esta razón, es sumamente importante para el CMCT que se le dé la bienvenida a la participación de las ONGs en el trabajo de la COP, pero asegurándose que no tengan ninguna relación con la industria del tabaco. En la Conferencia de las Partes se le debe de dar el estado de observador a las organizaciones acreditadas por la OMS/ AMS y permitir que estas organizaciones participen completamente.

Para la regla 30 recomendamos el siguiente texto:

1. El Jefe de la Secretaría, tomando en cuenta la guía dada por la COP, puede invitar organizaciones intergubernamentales globales y regionales e ONGs internacionales no relacionadas con, o trabajando en representación de, las compañías tabacaleras, a asistir a las sesiones de la COP, sus órganos subsidiarios y de los grupos ad hoc, en capacidad de observadores, estipulando que tales organizaciones deben estar acreditadas por, o han establecido una relación oficial con, la OMS.

2. Tales observadores pueden participar, sin el derecho a voto y estando sujetos a los mismos reglamentos internos que se aplican a las Partes, en cualquiera de las reuniones de la COP, de los órganos subsidiarios y de los grupos de trabajo ad hoc, donde se aborden temas que directamente conciernen al cuerpo o agencia que representan, a menos que un tercio de las Partes presentes en la reunión, lo objeten. (Precedentes 6, 7, 8, 10, 11)

3. Tanto las organizaciones intergubernamentales como no gubernamentales que participan como observadoras serán provistas con documentos oficiales, incluyendo la comunicación previa de las reuniones, agendas provisionales para tales encuentros y sumarios de los registros de las reuniones de la COP y sus órganos subsidiarios; de asientos apropiados y facilidades para obtener documentos durante las reuniones oficiales.

(NOTA: Estos servicios son parte regular de muchos tratados, y fueron parte de todas las seis sesiones del Órgano de Negociación Intergubernamental, durante las negociaciones del CMCT)

Ratify first, legislate later (cont.)

(From page 1)

the Convention and to amend/draft legislation as necessary to fulfil any outstanding commitments. Thus, a country such as Sri Lanka — the first in Asia to ratify — is now in the process of overhauling its legislation — *after* having ratified.

This conforms to the dictionary definition of the verb *to ratify*: "To or accept (an agreement) by formal consent, signature etc." (Oxford Dictionary).

The manner of obtaining the formal consent to an international agreement differs from country to

country. In many of the Commonwealth countries, formal approval by the Cabinet of Ministers is sufficient. Approval by the Legislature may be necessary in some countries, and in some cases ratified treaties immediately have force of law, without the need for separate implementation legislation. In other countries, the President, who is the Chief Executive, may have to formally consent or approve.

Whatever be the process, when formal acceptance, approval or confirmation is given to a treaty, agreement or convention it implies that the Party will have to abide by

the provisions of the said treaty, agreement or convention. It necessarily would mean that the first activity of a country after formally ratifying a treaty, agreement, or convention would be to review that country's current legislation and bring it in line with the provisions of the ratified treaty, agreement or convention.

But, to repeat: this can be done *after* ratification, allowing work to begin more rapidly on protocols under the Convention, for example on cross-border advertising or smuggling.

— Olcott Gunasekera,
FCA Executive Committee Member
(WHO South East Asia Region)

Enacting effective second-hand smoke laws

Ireland and Norway take the lead, India making good progress

In 2004, Ireland and Norway passed new, comprehensive smoke-free air laws banning smoking in workplaces, including restaurants and bars.

In the Irish Republic, the ban has proved a huge success: 96% of pubs and restaurants comply with the law. A fifth of smokers now choose not to smoke at all on a night out and the number of non-smokers visiting pubs and bars has increased slightly while the number of smokers visiting pubs and bars has remained the same.

When Norway expanded its smoke-free air law to protect staff in restaurants and bars, Health Minister Dagfinn Hoybraaten stated, "We looked to New York and Ireland and found that their experiences were not terrifying. It's not political suicide to impose a

lic spaces are outside the scope of the law, places in which people gather for long hours, such as stadiums, must ban smoking. Extending the smoking ban to all workplaces would take the new law to a higher realm, improving business and fire safety.

Second-hand Smoke Policy and the FCTC

The ultimate success of the Framework Convention on Tobacco Control will depend on nations following the lead of Norway, Ireland and India and taking bold action to implement strong tobacco control policies. Article 8 in the FCTC states: "Governments shall bring in **effective, evidence-based measures** to protect people from tobacco smoking in workplaces, public transport and indoor public places." The only **effective and evidence-based** smoke-free

comprehensive smoke-free air law and significantly increased the price of cigarettes.

Beware of the Tobacco Industry's Smokescreen

"I'm satisfied for the younger people growing up in Ireland today, a smoke-free workplace will be something that they will take for granted in the not-too-distant future."

Michael Martin,
Irish Minister for Health

air measure is a complete ban on smoking in workplaces and other indoor public places.

Comprehensive policies that ban smoking in public places and workplaces are effective in reducing exposure to the deadly toxic components of tobacco smoke, in encouraging smokers to quit and in discouraging youth from starting to smoke. A 1999 study found that "requiring all workplaces to be smoke-free would reduce smoking prevalence by 10 percent. Workplace bans have their greatest impact on groups with the highest smoking rates." New York City saw an 11% decline in the smoking prevalence rate just one year after the city enacted a

The tobacco industry knows that comprehensive smoke-free air policies decrease smoking. A 1992 Phillip Morris memo highlights the industry's concern: "Total prohibition of smoking in the workplace strongly affects industry volume. Smokers facing these restrictions consume 11%-15% less than the average and quit at a rate that is 84% higher than average." Phillip Morris' strategy has recently changed from outright opposition to all smoke-free air laws to pushing for "accommodation" of smokers. This strategy seeks to weaken smoke-free air laws by pushing for smoking sections or expensive, ineffectual ventilation systems.

Ireland and Norway have rejected such half-measures because they are not effective in protecting all workers from the hazards of second-hand smoke. We urge all countries to do the same and implement comprehensive smoke-free air laws. Comprehensive smoke-free workplace laws save lives, which is what the FCTC is all about.

— Cassandra Welch,
American Lung Association
and Shoba John,
PATH Canada (India)



One cartoonists' sceptical view of proposed second-hand smoke legislation in Australia

smoking ban. The Irish minister has become even more popular."

India passed its comprehensive legislation in April 2003, including a ban on smoking in all places to which the public has access — leisure settings, educational and health facilities, public transport. Hospitality venues over a certain size must provide segregated rooms, and display information about the policy. While open pub-

lic spaces are outside the scope of the law, places in which people gather for long hours, such as stadiums, must ban smoking. Extending the smoking ban to all workplaces would take the new law to a higher realm, improving business and fire safety.

A lawyer's perspective on Article 21 (Reporting requirements)

One topic that may not come up formally this week, but should be on delegates' minds, is the issue of what reporting requirements the Conference of Parties will wish to give itself.

Article 21.2 of the Convention leaves it to the COP to decide the details of reporting on implementation of the FCTC. While Article 21 mandates some form of reporting requirements, it was left purposefully vague, and the specifics of reporting will undoubtedly come up at the first COP.

Reporting mechanisms have been an integral part of most treaties, particularly scientific, environmental and human rights treaties. There have been a number of purposes for reporting in international law, including:

- compliance with treaty obligations
- demonstrating progress toward treaty goals
- identification of factors inhibiting a Party from compliance or progress
- exchange of information among Parties
- investigation into abuses or other noncompliant behaviour
- advancement of scientific knowledge.

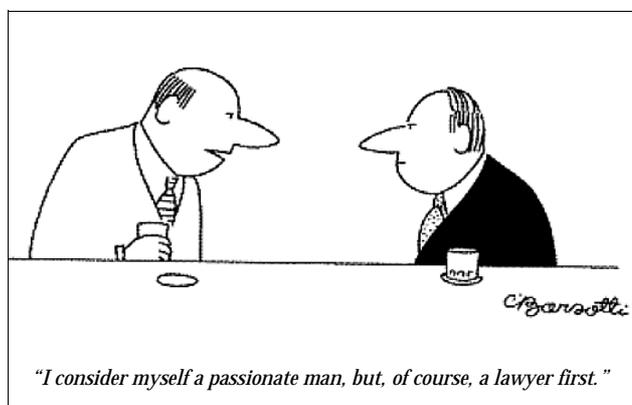
Several of the goals listed above could be included under the rubric of "enforcement." This is because most treaties have sought to address problems that either are not or cannot be addressed by national governments alone.

In most such treaties, States Parties have an interest in ensuring that other Parties are complying with their obligations, either because non-compliance gives a country an unfair advantage over complying states, such as in the case of emissions standards or trade subsidies, or because the world community has determined that certain practices should not be allowed in spite of sovereignty, such as torture or child labour.

Such factors are still important in the case of the FCTC, but perhaps in new ways. The scope for benefiting from "free rider" behav-

our is small, because it is difficult to see how a country benefits from allowing its citizens to die from tobacco consumption while a neighbour does not.

However, Parties to the FCTC, and indeed all countries of the world, face a formidable opponent — the tobacco industry. One of the rationales of the Convention is to unite in the face of a disease vector that is conscious of its role and actively seeks to expand it. The industry cannot be permitted to go 'shopping' for friendly countries or to play one country off against another with promises of economic benefit, or threats to take it away.



The COP should take this into consideration when drafting reporting requirements. While reporting should be seen as a co-operative venture, the requirements will also be in place to protect Parties from the non-compliance of others.

The FCTC is the world's first health treaty. Like any health initiative, its provisions are based on science. However, since the FCTC represents a new type of international co-operation, our knowledge of interventions in the tobacco epidemic will undoubtedly expand and evolve. For this to happen, data must be gathered and analysed. A system of reporting which includes the collection of predetermined data sets will have enormously positive ramifications for the next generation of tobacco control.

A key aspect of any reporting system is what happens to the data after it is collected. The COP will obviously be too large and cumbersome to adequately review and consider in detail the reports of each of

the Parties. Article 23.5(f) grants authority to the COP to create subsidiary bodies.

One of the first such bodies should be a group of experts in tobacco control to help develop and administer a reporting system, as well as provide expert feedback and assistance to Parties. This subsidiary body should also be charged with reporting back on overall progress to the COP.

It is also imperative that this subsidiary body be given the power to work with intergovernmental and non-governmental organizations. Much of the expertise in tobacco control is found in such institutions, and many have been working and gathering data on tobacco use for years. NGOs in particular played a key role in the FCTC negotiating process, and have been active in ratification and implementation efforts.

In addition to helping the COP with information exchange, NGOs will often be in a position to help Parties gather primary data. Furthermore, NGOs are far more independent than national governments, and can gather data and report on progress more candidly.

Finally, the reporting process should be as transparent as possible within the confines of Article 21.4 (regarding confidentiality). Since the purpose of reporting under the FCTC is co-operation rather than enforcement, there is no reason to keep information and dialogue secret.

Tobacco control is a science, in both biological and social senses. One of the hallmarks of science is to test assumptions and adjust methodologies. This is impossible without information. The FCTC is a strong weapon in the fight against the world tobacco epidemic. Meaningful reporting by States Parties will help ensure maximum success.

— Chris Bostic,
General Counsel
ASH (United States)

Cash crop? The real picture from Pakistan

For decades the tobacco industry has portrayed tobacco farmers as its natural allies with much to lose from tobacco control efforts. The truth is far from this. Despite being called a 'cash crop', tobacco farming is not as lucrative as the industry has led the governments and growers to believe.

The perception of tobacco as a cash crop lures the poor into cultivating tobacco on fertile land that could otherwise sustain food crops.



Because tobacco growing is labour-intensive, the children of farmers are often deprived of schooling.

Tobacco cultivation therefore usurps the place of food crops, and land under tobacco cultivation could feed and sustain these families. Many tobacco farmers, rather than growing rich from the crop, often find themselves in debt to tobacco companies. Furthermore, tobacco cultivation and curing can cause damage to human health, thus forcing the poor deeper into poverty.

Farmers' overall income not only depends on the production of a crop for sale but also on tenancy and marketing arrangements including other supplementary activities like growing vegetables and food items for home consumption. Typical land holdings among Pakistan's poor are less than 2 acres (0.8 hectares) — uneconomical to farm, leading

many to rent out or sell their land and undertake non-agricultural activities. In the process, the productive assets of the poor get depleted, adversely impacting their future streams of incomes and reducing the probability of getting out of poverty.

In Pakistan almost three times as much tobacco is produced as is required by the regulated sector, and this over-production of tobacco leads to competition amongst the

growers. The growers with small land holdings get sidelined and are forced to sell their crop at lower prices either to those involved in producing counterfeit cigarettes or to manufacturers of other tobacco products like chewing tobacco (niswar) and hand-rolled cigarettes (beedis). This unrecorded tobacco trade results in tax evasion and loss of revenues to the government.

Statements in the local press from the growers of North West Frontier Province of Pakistan (NWFP), where 50% of tobacco is grown in three districts i.e. Swabi, Chrsada and Mardan, stated that Pakistan Tobacco Board (PTB) was mainly responsible for the exploitation of the small growers.

According to media reports, "the growers of tobacco claimed that the

influential growers, dealers, khans and politicians of the area were confronting no problem as they had not only managed to sell their crop but had earned millions from the tobacco business. In contrast, they said, the real producers who worked hard during the crop season were ignored, harassed and exploited."

They claimed that the companies had only purchased the top quality tobacco and rejected low-grade crops which resulted in loss of millions of rupees to the peasant farmers. The rejected tobacco had however always been purchased by the companies' agents and found its way into the companies through back doors.

While some large-scale tobacco farmers have undoubtedly become wealthy, most tobacco growers are barely making a living producing a crop that is labour- and input-intensive, and brings with it a host of health and environmental dangers from pesticide exposure to nicotine poisoning.

Children and adults working with tobacco frequently suffer from 'Green Tobacco Sickness' caused by contact with wet tobacco leaves. Tobacco growers incur more health costs due to their exposure to different pesticides used during the season.

From the day the nursery for tobacco is laid to the day the crop is eventually sold the farmer, in the absence of any protective gear, inhales a cocktail of pesticides and at the end of the farming season spends a major part of his income on treating the resulting ailments.

Implementing the FCTC will help governments to develop alternative sources of livelihood for these farmers. Tobacco growing should not be regarded as an impediment to effective tobacco control efforts, and governments should not hesitate to sign the FCTC before the deadline of 29th June 2004, and progress quickly towards ratification.

— Dr. Ehsan Latif,
The Network for
Consumer Protection,
Pakistan



Vu à Madagascar

Alors que dans les pays riches, la cigarette est de plus en plus un produit réservé aux pauvres...

...dans les pays en voie de développement, on présente la cigarette comme le symbole privilégié de la richesse, du glamour et de la jeunesse.

Petite ironie: à Boston même, il est interdit de fumer dans tous les lieux publics et les lieux de travail — y compris dans les boîtes de nuit.

Que la CCLAT sauve l'Afrique

Le monde entier partage le passé de l'Afrique, berceau de l'humanité, qui constitue un cinquième de la surface de la planète.

L'Afrique est multiple; son patrimoine national et culturel sont riches et ont toujours suscité des convoitises — comme en témoigne son passé colonial. Le néo-colonialisme est aujourd'hui exercé par les multinationales du tabac et plus particulièrement par la British American Tobacco, qui se vante d'en avoir fait son empire en y implantant de nombreuses usines de tabac. Ainsi, les maladies cardiaques, respiratoires et les cancers liés au tabagisme guettent les Africains. 75% des fumeurs au monde se trouvent dans les pays en développement.

L'industrie du tabac ruine l'économie des pays africains, décime leurs forêts et pollue leur

sol tout en empoisonnant leurs populations avec un produit inutile, addictif, débilitant et mortel.

La République des Seychelles et la République de Maurice montrent la voie en ayant signé et ratifié la Convention-cadre pour la lutte anti-tabac.

Les pays d'Afrique, qui ont prouvé une grande synergie en menant des négociations fortes pour la CCLAT, doivent se réveiller pour signer et ratifier le traité avant la date limite du 29 juin 2004. Sinon, qui les sauvera?

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.

Framework Convention Alliance
7, Place du Molard
CH 1204
Geneva, Switzerland
Fax. +1 202 659 43 10
FCA@globalink.org
www.fctc.org

Dirty Ashtray Award

To those countries that have not yet signed the FCTC.



Orchid Award

To Ireland, New Zealand and Norway, for passing 100% smoke-free workplace laws.

