Since the opening of the first working group for the Framework Convention on Tobacco Control on 25 October 1999, 63,382,533 people have died from tobacco-related diseases. (As of 9AM Seoul time on 12 November 2012)

If COP5 is like past sessions of the COP, today will be full of self-congratulation – particularly if the Illicit Trade Protocol is adopted in plenary.

One certainly should not minimize the tremendous progress Parties have made since FCTC negotiations began formally in 2000. The Convention itself, the numerous guidelines and most recently the Protocol, are the product of extraordinary efforts by the Parties to find common solutions to the public health problem of tobacco use.

But as we gear up for an intense week of discussions on the FCTC, we need to remember that deaths from tobacco continue to rise at the global level, particularly in developing countries. According to WHO, if current trends continue, by 2030 tobacco will kill more than 8 million people worldwide each year, with 80 percent of these premature deaths among people living in low- and middle-income countries.

One reason for this is simply that it takes time for reductions in tobacco consumption (which have occurred in some Parties – but not all) to translate into declines in tobacco-caused deaths. Another reason is increases in population, which mean that some Parties that are reducing their percentage of smokers are still seeing increases in absolute numbers of smokers.

In many cases, perhaps most cases, there is another cause: we simply haven’t made enough progress in implementing the FCTC. Governments collect nearly US$133 billion in tobacco excise tax revenues per year, but spend less than US$1 billion on tobacco control (WHO). Tobacco taxes are too low and low- and middle-income countries still aren’t getting sufficient technical support and financial resources to adopt and enforce FCTC measures.

**Take giant steps**

This week provides an excellent opportunity to take giant steps in resolving both these problems. Article 6 Guidelines can spark public health-based tobacco tax increases. The Protocol provides a road map for dealing with any illicit trade concerns that may arise. And discussions on mechanisms of assistance and a possible implementation review mechanism should help speed up FCTC implementation, particularly in low-income Parties.

In budget discussions later in the week, we will likely hear claims that resources are too tight to take quick action on some of these points. Parties will need to keep in mind, however, that the costs of inaction are much higher.
ITGA MISLEADS FARMERS, UNDERMINES COP

Since promising to “spoil the party for WHO” at COP4 in Uruguay, the International Tobacco Growers Association (ITGA) has been even busier, rabble-rousing and instigating farmers across the globe.

ITGA is a tobacco industry front group sponsored by, among others, BAT, Philip Morris International and Imperial Tobacco International. On the surface it claims to champion the rights of farmers, but in reality it fronts tobacco industry interests and opposes effective tobacco control measures.

This year ITGA is focusing on rallying farmers to oppose the adoption of the draft report on Articles 17 & 18 at COP5. Its main strategy is to mobilise farmers by providing them misleading information and creating fear that their livelihoods are threatened. The group has been instigating farmers by holding regional forums, in Malaysia in March and the Philippines in September, releasing false information in press statements, and attempting to undermine the legitimate process of the COP. Below we expose the misinformation from ITGA’s activities in Asia.

Smearing the WHO, FCTC and the report on articles 17 & 18 with false claims

ITGA accuses WHO of “forcing tobacco growers out of tobacco through punitive measures.” A huge piece of misinformation that ITGA perpetuates is that a report on FCTC Articles 17&18 which outlines support for economically viable alternatives for tobacco farmers, along with protection of farmers’ health and the environment, is being released by the WHO. This is false. The report was prepared by a working group made up of governments that are Parties to the FCTC.

ITGA resorts to crass name-calling, such as “planet bureaucrat,” “urban bureaucrats” and “draconian measures” to discredit WHO, as well as to dismiss the work of the legitimate inter-governmental process of the COP. Farmers then echo these terms in statements and protests in their own countries.

The governments of the Philippines, Thailand and Vietnam are members of the Article 17 & 18 Working Group, yet ITGA has rallied tobacco growers in these countries to object to the report. ITGA’s member for Malaysia is a government agency, the National Kenaf and Tobacco Board.

Providing false information about farmers

ITGA head Antonio Abrunhosa, who grows tobacco only in his free time, repeats in all his statements, interviews and tweets that there are no alternate crops to tobacco: “Still have not found alternative crops to replace tobacco cultivation.” This is misinformation.

In reality, Malaysian tobacco growers are shifting to alternate crops, a programme coordinated by the government since 2005. The Malaysian deputy minister of plantation industries and commodities said in March this year that Malaysian tobacco farmers are transitioning to kenaf (hibiscus cannabinus), and that his government is providing incentives to farmers (about RM20 million, or US$785 per season, along with bonus and other assistance) to grow the crop.

The National Kenaf and Tobacco Board looks after all tobacco farmers, including purchasing their tobacco leaves. Additionally, for 2012 the Malaysian Government has allocated RM20 million under a special fund for kenaf growers to cultivate 5,000 hectares of the crop. Although there are only about 3,000 tobacco growers in Malaysia, the local ITGA representative urged the government to reject the “absurd” guidelines proposed by the WHO, claiming that the main source of income for some 15,000 local tobacco growers is at stake. http://www.thesundaily.my/news/509330

Gymnastics with statistics

ITGA claims to represent 30 million farmers globally, an impressive figure for the media but difficult to verify. The ITGA’s Asia Chapter also claims to represent the region’s 34 million tobacco farmers and farm workers: http://www.saveourfarms.org/news/.

The statistical gymnastics continue in the Philippines, where ITGA’s website says there are 168,083 tobacco growers, its Asia chapter claims the FCTC affects around 55,000 tobacco farmers, and yet another statistic claims that 2.9 million Filipinos are directly employed tobacco growers or dependent on the crop.

ITGA’s Asia website claims: “In many countries and regions tobacco is the local economy.” In reality, in Asian countries tobacco growers generally raise other crops too, so tobacco acreage forms a minute part of total agricultural land, averaging less than 0.2 percent: Malaysia-0.17 percent, Philippines – 0.19 percent, Thailand – 0.2 percent and Vietnam – 0.19 percent, according to the Tobacco Atlas.

ITGA also says, “Measures in Art 17&18 are absurd because demand is going up – 1 billion to 1.6 billion smokers, and farmers are there to supply that demand,” thereby confirming what tobacco control advocates have been saying all along – FCTC measures won’t put farmers out of a job overnight.

Creating fear and engineering chaos

ITGA uses emotive terms to describe the impact on the livelihoods of tobacco farmers and all who depend on them, such as: “these measures will have a huge devastating effect on the lives of millions of growers” and “our families and business under threat.” In the Philippines, the rallying cry is more desperate: “Save our farms. Save our jobs. Save our way of life.”

We observe ITGA’s poor tobacco growers are highly proficient in English, are media savvy and, more recently, technologically superior as they collect signatures online and tweet their woes. Who is really writing their press releases, letters to editors, petitions to governments and financing their trips abroad?

ITGA is aiming to repeat what it did in Uruguay 2010: hand over a stack of signatures to the FCTC Convention Secretariat, apply undue pressure on the COP by demonstrating, and provide scores of poor tobacco farmers a pricey week’s stay in a foreign country.

SEATCA (Southeast Asia Tobacco Control Alliance)
DEATH, TAXES AND TOBACCO

The quotation, “In this world nothing can be said to be certain except death and taxes”, is widely known and often repeated. Equally certain is that raising tobacco taxes both saves lives and increases government revenues.

Many governments, under pressure from the tobacco industry, still doubt these conclusions, but the evidence is clear: Research from around the world shows that increases in tobacco taxes encourage current tobacco users to quit, prevent young people from taking up tobacco use, and reduce consumption among continuing users.

Estimates from high-income countries show that tax increases that raise prices by 10 percent reduce consumption by four percent, with about half the decrease a result of lower smoking rates. Growing evidence from low- and middle-income countries finds effects at least as large as, and often greater than, those in high-income countries. Tobacco tax increases are particularly effective in preventing young people from taking up tobacco and in reducing tobacco use among the poor.

At the same time, tobacco tax increases lead to higher tobacco tax revenues. In South Africa, for example, inflation-adjusted cigarette taxes rose nearly five-fold from 1993 to 2009, more than tripling inflation-adjusted cigarette prices. Over that period, per capita cigarette consumption was halved and adult smoking rates fell by more than one-third. Despite the declines in smoking, government cigarette excise tax revenue rose from 1 billion Rand in 1993 to 9 billion Rand in 2009.

Arguments that higher taxes will have harmful economic effects are untrue or exaggerated. Experiences in country after country demonstrate that tax revenues rise after tobacco taxes are increased, despite the reductions in tobacco use they cause. Tobacco industry arguments that higher taxes will lead to an increase in illicit trade are weak and unsubstantiated. Where governments have taken tough action to tackle illicit trade, taxes have increased and revenues have gone up, while the illicit trade has continued to decline. The Illicit Trade Protocol and Guidelines on Article 6 (tax and price measures), due for adoption at this COP will play a key role in driving down the global illicit trade in coming years.

Rather than the economy suffering as a result of tobacco tax increases, job losses in tobacco growing and manufacturing are offset by growth in jobs in other sectors, as the money once spent on tobacco products is spent on other goods and services, and as governments spend increased tax revenues on productive activities.

Higher tobacco taxes also do not lead to massive increases in smuggling of tobacco products, illegal production and other illicit activities. Indeed, countries with higher taxes generally see less tobacco smuggling than those with lower taxes, given their more effective tax administration, stronger enforcement efforts and lower levels of corruption.

Keeping tobacco taxes low is not a pro-poor policy. Indeed, low taxes worsen the health of the poor by contributing to higher tobacco use rates among those with low incomes. Tobacco tax increases are the pro-poor policy, leading to larger reductions in tobacco use among the poor and to associated health benefits.

Experiences with different types of tobacco taxes have helped identify best practices – taxes that maximize public health impact while providing stable revenues. Adoption of a simple tax system that applies the same tax to all brands of a given product, and imposes similar tax burdens on all tobacco products, minimizes price gaps and reduces incentives to substitute to cheaper brands or products as taxes go up. To continually reduce tobacco use, increases in taxes need to exceed rises in consumer prices and incomes so as to reduce affordability of tobacco products.

Tax increases are most effective when combined with strong tax administration, adequate enforcement and swift, severe penalties on tax evaders. As seen in jurisdictions that dedicate at least a portion of their tobacco revenues to health-focused activities, the positive health impact of higher taxes is greater when tobacco tax revenues are used to support tobacco control and other health promotion programmes. At the same time, dedicating tobacco tax revenues to health-focused activities raises public support for higher taxes.

If taxes were increased sufficiently to increase cigarette prices by 10 percent, the number of smokers worldwide would decline by 42 million, mainly in low- and middle-income countries, saving 10 million lives as a result. A 70 percent increase in the price of tobacco could prevent up to a quarter of all deaths caused by smoking worldwide.

Significant tobacco tax increases are a win-win-win for governments. Opinion polls show that raising tobacco taxes is a move supported by public opinion in many countries, particularly if combined with a commitment that revenues raised will be used to help tobacco users quit, a rare example of a popular tax increase. Most importantly tax increases are a powerful tool for improving public health by reducing tobacco use and the death, disease and economic costs it causes. Adopting guidelines on Article 6 is an essential next step for the success of the WHO Framework Convention on Tobacco Control.

Professor Frank Chaloupka
Institute for Health Research and Policy, University of Illinois at Chicago
Deborah Arnott
Chief Executive, Action on Smoking and Health (UK)
INTERPOL APPLICATION FOR OBSERVER STATUS RAISES QUESTIONS

INTERPOL, the world’s largest international police organization, has applied for observer status to the COP. According to the Convention Secretariat’s note (FCTC/COP5/3), INTERPOL “believes that it can play an important role in assisting the Parties to the WHO FCTC, the majority of which are also member countries of INTERPOL, to coordinate and facilitate international cooperation to eliminate illicit trade in tobacco products.”

On 21 June 2012, INTERPOL and Philip Morris International announced that PMI had pledged 15M Euros over a 3 year period to INTERPOL’s Fund for a Safer World. A recent article by INTERPOL’s General Counsel and Legal Officer outlines INTERPOL’s views on working together with the ‘legitimate’ tobacco industry and on how tobacco companies “are able to assist governments in different aspects, including providing resources to enhance capacity, providing technical assistance such as schemes to distinguish genuine tobacco products from counterfeit products and training customs officials in relation to contraband product.”

“INTERPOL’S APPLICATION, AND THE OBVIOUS QUESTIONS IT RAISES, SHOULD BE CAREFULLY SCRUTINIZED BY THE COP.”

INTERPOL’s application, and the obvious questions it raises, should be carefully scrutinized by the cop.

Rule for IGO observer status

Rule 30

Any international intergovernmental organization may apply to the Secretariat for observer status, which may be granted by the Conference of the Parties, taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention.

Preamble

(17) Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women’s, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,

(18) Recognizing the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts,

Article 5.3

In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from the commercial and other vested interests of the tobacco industry in accordance with international law.

Convention Secretariat’s note

The following international intergovernmental organizations have submitted to the Convention Secretariat their applications for observer status to the Conference of the Parties (COP), pursuant to Rule 30 of the Rules of Procedure of the COP:

4. INTERPOL is the world’s largest international police organization, with 190 member countries. Its headquarters are in Lyon, France. It facilitates cross-border cooperation, supports and assists all organizations, authorities and services whose mission is to prevent or combat international crime. A fundamental part of this work is combatting the activities of those transnational organized criminals who generate significant profit from a wide range of illicit activities on a regional and increasingly global basis. The illicit trade in tobacco products is an example. INTERPOL has worked in partnership with a wide range of stakeholders to counter such criminality for several years.

5. As explained in the application letter, INTERPOL believes that it can play an important role in assisting the Parties to the WHO FCTC, the majority of which are also member countries of INTERPOL, to coordinate and facilitate international cooperation to eliminate illicit trade in tobacco products. The activities related to Part V (International Cooperation) of the draft protocol to eliminate illicit trade in tobacco products that has been submitted to the COP for adoption (general information sharing, enforcement information sharing, confidentiality and protection of information, assistance and cooperation, joint investigations and law enforcement cooperation) are of particular interest to INTERPOL as these activities are core business to INTERPOL and an integral part of the normal support services that it provides to its Member States.

“Interpol - a partner in curbing illicit tobacco trade”

In the journal Transnational Dispute Management

Any success against the ITTP requires that law enforcement and national authorities work together with the legitimate tobacco industry for a number of reasons. Tobacco companies are able to assist governments in different aspects, including providing resources to enhance capacity, providing technical assistance such as schemes to distinguish genuine tobacco products from counterfeit products and training customs officials in relation to contraband products. Moreover, commitments made in the agreements with the EU provide for technologically enhanced tracking and tracing systems, namely marking, seizure and the recording of information. Tobacco companies also collect a considerable amount of information and intelligence about criminals who target the industry. This has the potential to inform and focus law enforcement efforts to combat the problem worldwide.

Both governments and tobacco companies have an interest in fighting against the illicit tobacco trade, albeit different interests. For tobacco companies, the exclusion of illegally imported tobacco products assists them in regaining the market share for their legitimate products. For governments, eliminating the ITTP results in increased revenues and greater protections of human health against substandard products which have not undergone quality control measures. The fight against the ITTP allows each stakeholder’s interest to be considered and creates a win/win situation. In relation to counterfeit goods, the provision of information by tobacco companies to government agencies and their law enforcement is vital, otherwise the ability to identify counterfeit products with assurance would be hampered. In relation to other tobacco control measures as propounded by the WHO FCTC, the conflict of interest is rather evident. In relation to combating the illicit tobacco

Continued on next page
INTERPOL “APPRECIATIVE,” PMI “DELIGHTED”

INTERPOL’s press release of PMI pledge
INTERPOL targets organized crime with global initiative against trafficking in illicit goods

World’s police project to focus on financial links with organized crime and terrorism

LYON, France – INTERPOL, the world’s largest international police organization, is launching a major initiative to identify and dismantle the organized crime networks siphoning billions of Euros from the public purse through the trafficking of illicit goods, including tobacco products.

Secretary General Ronald K. Noble said INTERPOL’s project combating illicit trade will assist police across its 190 member countries to not only target the transnational crime groups but also identify the routes used in transporting illicit goods, which are often also used for human trafficking and drug smuggling.

With support from key international partners including the World Customs Organization (WCO), Europol and OLAF, INTERPOL will collect intelligence, develop strategic analytical reports, engage in capacity building and launch joint interdiction operations to target organized crime groups that smuggle illicit and counterfeit products.

In this respect, the key role that business will play in supporting the initiative was underlined with the decision by Phillip Morris International (PMI) to pledge 15 million Euros over a three-year period to INTERPOL’s Fund for a Safer World to help the world police body develop a strong global programme.

“With clear links between transnational organized crime trafficking in illicit goods and the manufacture and distribution of counterfeit goods, combined with growing evidence of terrorism also being financed through illicit trade, INTERPOL is well placed to coordinate global efforts to break these ties,” said INTERPOL President Khoo Boon Hui.

“We are appreciative of the financial support provided by PMI which recognizes how entrenched the criminal networks involved in the trafficking in illicit products, including cigarettes, have become, and the need for law enforcement action. This financial support from PMI is significant because INTERPOL alone will decide where, when and how to launch its anti-smuggling initiatives worldwide,” said INTERPOL Secretary General Ronald K. Noble.

“INTERPOL has been involved in combatting the illegal trafficking of goods for many years and our experience shows not only clear links between organized crime and the illicit trade of all goods, including cigarettes, but also that this serious problem will not go away any time soon,” added Mr Noble.

“We hope and believe that the success we will demonstrate in the coming years will encourage our member countries and other stakeholders to make a long term commitment to choking off the money and dismantling the transnational organized crime and even terrorist groups perpetrating these crimes,” concluded the INTERPOL Chief.

The launch of the programme comes mid-way through Black Poseidon, an INTERPOL-led operation involving police, customs, prosecutors, investigators and intellectual property crime experts across five countries in Eastern Europe which has already seen around 500 individuals arrested or currently under investigation and the seizure of millions of euros worth of goods. The month long operation has again revealed the increasingly elaborate methods used by transnational crime groups to traffic illicit goods.

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PMI’s news release on its contribution to INTERPOL

Philip Morris International Provides 15 Million Euro Contribution to INTERPOL to Fight Trafficking in illicit Goods

June 21, 2012

LAUSANNE, Switzerland--(BUSINESS WIRE)--Jun. 21, 2012-- Philip Morris International Inc. (PMI) (NYSE:PM) (Paris:PM) today announced that it will contribute 15 million euros to INTERPOL to support the agency’s global initiative to combat trans-border crime involving illicit goods, including tobacco products.

Commenting on the announcement, PMI Chairman and Chief Executive Officer Louis Camilleri said: “Counterfeit and contraband cigarettes present a debilitating problem for business and government alike and so we are delighted to announce our support of INTERPOL’s global efforts to combat illegal trafficking.”

Global consumption of illicit cigarettes is estimated at 600 billion cigarettes a year and represents the world’s most trafficked consumer product. Unfortunately the problem is getting worse, for example a recent study, conducted by KPMG LLP (KPMG), estimated that the annual consumption of illicit cigarettes in the EU increased by 1.1 billion units in 2011 versus 2010, to a record total of 65.3 billion units. KPMG estimates the associated national and EU revenue loss to be approximately 11.3 billion euros. This illegal trade damages not just the tobacco sector but also fuels further criminality with proceeds being used to fund other activities like drug smuggling, human trafficking and terrorism.

“The eradication of illicit cigarettes and the criminality associated with it requires a concerted and coordinated cross-border effort which INTERPOL is ideally placed to lead,” added Artyom Chernis, PMI Vice President for Illicit Trade Strategies and Prevention. “We look forward to our cooperation and the positive results we are confident it will yield.”

PMI’s contribution to INTERPOL’s Fund for A Safer World will be used for coordination of information gathering, training programs for law enforcement officials, development of product authentication standards and the execution of public information campaigns.
THE FINANCIAL ACTION TASK FORCE AND ILLICIT TOBACCO TRADE

The Financial Action Task Force (FATF) is viewed by many as the leading international body on money-laundering matters; unfortunately its recent report, Illicit Tobacco Trade, contained some critical errors and omissions. That being said, the FATF position on the illicit tobacco trade and related revenue losses will aid in focusing further attention on the problem. The tax and economic data in this report was not evaluated by this author.

The report did not address the draft Protocol to Eliminate Illicit Trade in Tobacco Products (ITP), nor the WHO Framework Convention for Tobacco Control (FCTC). Its primary geographic focus was Europe and North America. The report made assertions about the tightening of supply chain controls by the major tobacco companies, and did not fully discuss illegal manufacturing as to scope and volume.

According to its website (http://www.fatf-gafi.org/), FATF is an inter-governmental body that works to “…set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.”

FATF has long been interested in illicit tobacco trade. Earlier, it was focused on the use of tobacco products, particularly cigarettes, in trade-based money laundering schemes designed to repatriate drugs proceeds to source countries from market destinations. FATF also showed interest in free-zone issues that involved illicit tobacco trade and carousel frauds (organised criminal attacks on common duty tax systems to defraud governments of money that should be paid in value-added tax (VAT)). These frauds are characterised by claims made when goods cross a common duty area border.

All FATF reports are available on its website. The organisation’s stated reason for increased interest in illicit tobacco trade was the FATF addition of tax crimes to the list of “predicate” offenses – the underlying offenses for money laundering the criminal proceeds and funds used to facilitate illicit tobacco trade.

The recent report identified health matters as a “corollary” issue of the illegal activities associated with the “availability of cheap or counterfeit cigarettes,” adding that there are “serious implications for the provision of appropriate health and welfare services to support an increase in consumption, of which the financial issues are exacerbated with a linked fall in tax revenues.”

The methodology of the report included several research propositions, beginning with: “Illicit trade in tobacco is a significant predicate offense to money laundering,” and ending with: “High taxes on tobacco stimulate illicit trade in tobacco.”

In a discussion of smuggling methodologies the report suggested the tobacco industry had secured its supply chains: “Historically, prior to the control of genuine product supply chains, large-scale smuggling involved international brands, produced by the large multinational tobacco companies, because of the familiarity of the products and the ease in selling them. However, recent operational activity has shown an increase in the smuggling of cheap whites, counterfeit goods and even counterfeit cheap white tobacco products, due to the relative success of the supply chain controls.”

The first sentence in the text quoted above was in a report from 1993. This statement failed to consider smuggling involving international brands throughout the 1990s, more recent schemes in the United States (New York City) and carousel schemes in Southern Africa, among others. There was no reference provided for the second sentence. The report also failed to address illegal manufacturing in a broader sense, omitting discussion of key source countries and over-production by tobacco manufacturers.

The report also referenced tax evasion as a predicate offense, stating it was “…difficult to link the specific income derived from [illicit tobacco trade] with evaded taxes and resulting money laundering cases.” This finding is in conflict with the concept of money laundering based upon smuggling. Loss of revenue is a key element in criminal charges related to smuggled merchandise.

FATF recognized the scope of illicit tobacco trade, but missed or was mistaken on several key points. That being said, the report included material that will be useful in conducting needs assessments and implementation of the ITP. There are many reasons why FATF should be consulted during the protocol’s assessment and implementation stages.

John W. Colledge III is an independent consultant on anti-illicit trade matters. Mr. Colledge retired as a supervisory criminal investigator after 20 years with US Customs Service and the Department of Homeland Security, including assignments related to international tobacco smuggling.