



IGWG2 Tuesday

Inside this issue:

<b>Time to think about smuggling</b>	<b>2-3</b>
<b>BAT at it again, this time in Pakistan</b>	<b>4</b>
<b>Doce meses de acción en Honduras</b>	<b>5</b>
<b>Far, far side</b>	<b>6</b>

**FCA Lunchtime Briefing Today**

Salle D, 7<sup>th</sup> floor, following morning session.  
Lunch provided.

Speakers :

- Jonathan Liberman on NGO participation
- Rob Cunningham on Recommended changes to the rules of procedure
- John Bloom on Establishing a Secretariat Accountable to the COP.

Moderator:  
Olcott Gunasakera

**DEATH CLOCK**

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

**21,217,053**  
people have died from tobacco-related diseases.

(At 9 am 1 February 2005)

# ALLIANCE BULLETIN

Framework Convention on Tobacco Control

Geneva, Switzerland

Issue 52

1 February 2005

## Why not a strong Secretariat alongside a strong TFI?

Yesterday's debate on the Secretariat had an Alice-in-Wonderland quality.

Contrary to what was said yesterday, an autonomous Secretariat does not necessarily mean a more expensive Secretariat. This fact has been obscured by the incredibly inflated budget of \$36.4 million accompanying Model 3 in the paper produced by the interim Secretariat. This figure has served to confuse the debate, and obscured discussion over what an autonomous FCTC Secretariat would do.

The \$36.4 million budget figure assumes that an autonomous Secretariat would replicate all of the work currently being done by WHO/TFI, including regional advisers, 14-20 project staff, consultants, etc. Let's be clear — the Secretariat of the FCTC should not and cannot replicate the tobacco work currently being done by WHO/TFI.

TFI should continue its work on tobacco, regardless of how many countries ratify the FCTC. Autonomy does not mean there should be no links with WHO. In fact it will be essential for the Secretariat and TFI to co-operate closely in order to avoid duplication of effort and create the "synergies" so often referred to in yesterday's debate.

Having said that, the Secretariat must be able to independently assess treaty-related needs, to evaluate whether existing programmes are

meeting those, and to take necessary steps to ensure that unmet needs are addressed. It must also be protected from the wishes and whims of non-Parties. This is why the Secretariat needs to be accountable to the COP.

The Secretariat will need to retain highly regarded experts in core substantive issues related to the FCTC, such as international treaty law and practice, tobacco control policy, resource development, and technical assistance. This is necessary to ensure that the Secretariat is able to provide the COP with the best possible advice on vital issues and that the



There was a large crowd on hand yesterday for the unveiling of the Death Clock by WHO Director General Dr. Jong-wook Lee.

Secretariat will be accorded appropriate stature and influence in its dealings with other international bodies.

But this is a far cry from the 30+ staff described in the interim Secretariat paper.

— Ross Hammond,  
Campaign for Tobacco-Free Kids (USA)

Today's Weather: Rain, snow, go away... Hands up, all in favour of meeting in Rio!  
High 5 °C Low 0 °C

# Smuggling — why a Protocol is needed

Some four hundred billion cigarettes are sold through the black market each year, losing countries worldwide US\$25-30 billion in tax revenues. If only a small percentage were salvaged, it could pay for the entire cost of implementing the FCTC, as well as saving millions of lives.

Perhaps even more importantly, smuggling harms health by reducing average prices and undermining the ability of governments to use tax/price increases to reduce demand. It is because of this health impact that governments quickly agreed to include an article on smuggling, Article 15, in the FCTC. However, this article contains guiding principles but no specific obligations.

Last week in Paris, representatives of NGOs from all over the world met to discuss how to translate the good intentions of the FCTC into concrete and effective measures to control smuggling. They reached agreement on the need for a smuggling protocol, which could be based on conventions such as the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

Losses arising from smuggling fall on national finance ministries, not on the tobacco manufacturers or wholesalers who control the system. Indeed, under the present system, manufacturers and wholesalers actually stand to gain from smuggling, creating a perverse incentive to make illegal trade as easy as possible or even

to directly supply smuggling rings.

Manufacturers make their profit when product is first sold (even if it is later seized by customs); smuggling creates a supply of cheap cigarettes, lowering average prices and hence boosting demand; and the company that is most successful at supplying illegal channels stands to gain lucrative market share.

'full co-operation', even as they secretly move hundreds of millions of cigarettes into the illegal market.

Perhaps the best-documented case is Canada in the early 1990s. Shortly before Christmas, the Royal Canadian Mounted Police raided the offices of Imperial Tobacco Ltd. of Canada (ITL), a British American Tobacco subsidiary, alleging in an affidavit that collusion with smuggling

went right to the top of BAT. (See page from affidavit, left.)

The affidavit quotes from a 1993 fax: "Through non-participation in smuggled channels, ITL's share of this market has fallen by almost 30 share points to its current level of 28 per cent. With our re-entry into this channel, we anticipate recovering our lost share." This occurred even as the company held regular meetings with authorities and made many public statements about their commitment to fighting organized crime.

There is another approach that may make it possible to enlist manufacturers in good-faith efforts to combat illegal trade: the type of legally binding agreement recently reached between

the European Commission and Philip Morris. (See article, next page.)

The conclusion in Paris was that a protocol on smuggling is an urgent priority. It must be on the agenda for the first meeting of the Conference of the Parties, as it will take some time to develop and implement.

— Deborah Arnott,  
ASH UK

**CHOSSES RECHERCHÉES**

Pour la période du 1<sup>er</sup> janvier 1989 au 31 décembre 1994, sauf indication contraire, les objets pertinents suivants:

1. Tout registre, document, papier, manuel, fichier informatique et/ou donnée stockée sur support électronique ou autres renseignements témoignant de ou relatif à l'achat, la commercialisation, la distribution, l'exportation ou la vente de cigarettes et/ou autres produits du tabac fabriqués par I.T.L. et les sociétés liées concernant :
  1. Le nombre ou le volume de cigarettes et/ou autres produits du tabac (Player's et duMaurier) vendus aux fins d'exportation et/ou exportés pour vente aux États-Unis.
  2. Le nombre ou le volume de cigarettes et/ou autres produits du tabac (Player's et duMaurier) réimportés au Canada.
  3. Les revenus et profits bruts générés par la vente de cigarettes et/ou autres produits du tabac vendus aux fins d'exportation et/ou exportés pour vente aux États-Unis.
  4. Le paiement ou le non-paiement de redevances par I.T.L. à BAT INDUSTRIES sur les cigarettes et/ou autres produits du tabac duMaurier vendus pour fins d'exportation et/ou exportés pour vente aux États-Unis.
2. Tout registre, document, papier, manuel, fichier informatique et/ou donnée stockée sur support électronique ou autres renseignements témoignant de ou relatifs à des paiements pour des cigarettes et/ou autres produits du tabac vendus pour fins d'exportation et/ou exportés pour vente aux États-Unis, y compris des copies de chèques, relevés de virements télégraphiques ou d'autres transferts électroniques de fonds.
3. Tout registre, document, papier, manuel, fichier informatique et/ou donnée stockée sur support électronique ou autres renseignements témoignant de ou relatifs au paiement ou au non-paiement au Canada ou aux États-Unis de droits et de taxes

**En novembre passé, la Gendarmerie royale du Canada a effectué une perquisition surprise chez Imperial Tobacco. Selon la police fédérale, les plus hauts dirigeants du groupe BAT seraient sous enquête pour présumée complicité avec les contrebandiers.**

Finally, smuggling enables tobacco company lobbyists to argue for lower rates of tobacco tax in the legal market, again boosting demand.

Given the windfall profits smuggling can bring for manufacturers, governments should be suitably sceptical of tobacco companies' offers to voluntarily help tackle smuggling. There are many examples of companies offering

## EC-Philip Morris smuggling control agreement

# What Philip Morris can do in Europe, any big tobacco company can do anywhere in the world

In July 2004, the European Commission and 10 EU member states signed a ground-breaking agreement with Philip Morris International (PMI), ending lengthy litigation about cigarette smuggling and money-laundering.

Newspaper headlines on the deal focused on the monetary part of the settlement: PMI could pay about US\$1.25 billion to European governments over the next 12 years.

But more importantly, Philip Morris undertook to do a series of things that tobacco companies in the past have always claimed were impossible or unacceptable.

First, PMI agreed to make additional payments in the event of future seizures of smuggled Philip Morris product, above fixed quantities. Though this is not an admission of past wrongdoing, it means PMI is confident it can cut off supply to the European black market. Manufacturers typically claim that once cigarettes are sold to wholesalers, they can no longer control what happens to them.

Among other interesting provisions to the PMI-EC agreement and associated protocols, PMI commits itself to conducting business only with contractors that are approved in accordance with procedures set out in the Agreement. Convicted smugglers, and wholesalers with a record of dealing with smugglers, are unlikely to be approved.

Verification procedures include a state-of-the-art investigation before the start of any business relationship relating to the sale, distribution, storage or shipment of PM cigarettes. Should the European Anti-Fraud Office (OLAF) or PMI come into possession of sufficient evidence that any approved contractor has engaged, during the period of validity of the Agreement, in the sale, distribution, or shipment of contraband cigarettes or any related money laundering, PMI will have to terminate any business relations with said contractor.

PMI also undertakes not to sell its cigarettes in amounts exceeding retail demand in the intended market of retail sale. In other words, if a wholesaler purports to import billions of cigarettes into Andorra or some other small country, alarm flags will immediately go up and the order must be refused.

Last but certainly not least, the EC-PMI agreement institutes an elaborate tracking-and-tracing system for Philip Morris cigarettes — the kind of system that companies have traditionally dismissed as impossible to implement or prohibitively expensive.

PMI agrees to far-reaching product-tracking procedures that should let law enforcement authorities quickly identify the point at which cigarettes are diverted into the illegal markets.

nation of the shipment, and the intended market of retail sale.

All the above information, as reflected in the barcode labels of the master cases, will be recorded by PMI in a database prior to selling the master cases to the first purchaser, and will be made available to the relevant authorities through an automated query-only access system. A second-layer tracking system will be made available by PMI to those subsequent purchasers who wish to implement a tracking programme on a voluntary basis, or when OLAF requires PMI to do so according to the terms of the Agreement.

Finally, PMI commits to implement money-laundering policies aimed at ensuring that payment for Philip Morris cigarettes is made solely from legal sources.



In recent years, catching cigarette smugglers has been a major focus for OLAF, the European Anti-Fraud Office. They caught the big ones!

This involves marking and coding packs and cartons with information which indicates the intended market of retail sale, and also ensuring master cases have unique, machine-scannable barcode labels that allow the determination of product information (e.g. date of manufacture, manufacturing facility, etc.), identity of first purchaser, the consignee to whom the product was shipped, the desti-

PMI agrees to accept only those forms of payments for transactions with approved contractors which allow the identification of the customer. Exceptions to this rule can be made on a case-by-case basis, when the scale or the nature of the customer's business justify them.

— Rosanna Micciche,  
European Respiratory Society

## A cautionary tale from Pakistan

# Advertising bans must be total

Gradual approaches may work for some aspects of tobacco control but tackling the issue of tobacco advertising is a different ball game altogether. Advertising is central to the industry's drive to recruit children as smokers, and any attempt to restrict it in one medium simply causes the industry to shift to another.

Pakistan is a case in point. It has ratified the FCTC and taken various measures to decrease tobacco consumption, including a ban on smoking in all public places and public transport, a ban on sales to minors, improved health warnings and restrictions on tobacco advertising. Two years down the road there has been some progress as far as smoking in public places and vehicles is concerned, but the presence of tobacco industry in the media is as strong as ever.

Hiding behind its 'Corporate Social Responsibility' drive, the tobacco industry in Pakistan has used various methods to circumvent these restrictions. These range from touting its workers as a winning team to talking up its successes as a contributor to the national economy.

The worst area of brand stretching has been the tobacco industry's efforts to reach children through its campaign around sales to minors. Though not a direct advertisement of a product, it entices children to take up smoking, as the advertisements portray smoking as an activity only adults can undertake.

The restrictions in Pakistan on all types of tobacco advertisements are statutory and thus legally binding on all tobacco companies operating in Pakistan. Yet the tobacco industry keeps announcing lucky draws and other gift schemes associated with no particular cigarette brand but using the colour

schemes and logos of the manufacturing company.

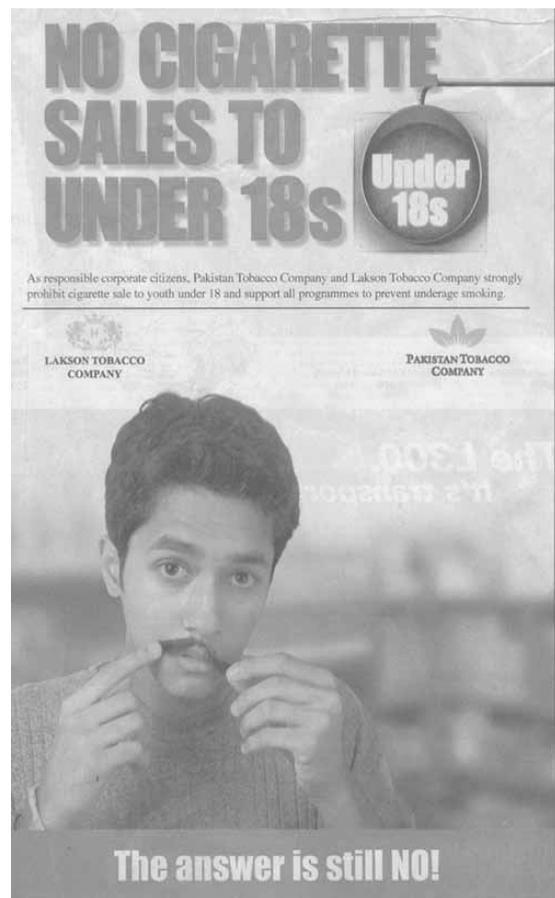
Governments need to realize that no matter how carefully these restrictions are drawn up, there will always be some area which the tobacco industry will exploit to reach the intended audience through its various promotional campaigns.

The Framework Convention on Tobacco Control (FCTC) states: "Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship..." (Art. 13).

The FCTC provides for a lower standard of restrictions on tobacco promotions for those countries with a constitutional impediment to a comprehensive ban. But experience from Pakistan since ratification suggests that partial restrictions on tobacco promotions do not work. Rather, they allow the tobacco industry to claim it is operating within the legal framework yet continue to reach children, the most vulnerable group for initiation of smoking, through promotional gimmicks.

Governments should not forget that the tobacco industry, like all other profit-making industries, depends upon attracting new customers. Advertise-

ments offer a means to create a positive image of tobacco products and link them to desirable personal traits. Their objective is to stimulate and increase demand for the product and broaden the base of people using it. Any partial restriction which stops short of banning these promotional campaigns simply will not work.



**Ooh, now there's a subtle way of making your product unattractive to teenagers!**

Particularly not in developing countries like Pakistan, where the tobacco industry sees its long-term future.

— Dr Ehsan Latif,  
Network for Consumer Protection  
(Pakistan)

# HONDURAS: cómo lograr ratificación en 12 meses

*En Honduras enfrentamos como país subdesarrollado diferentes problemas de salud pública, así como otros problemas sociales, que nos ubican en un Índice de Desarrollo Humano medio-bajo y en la posición 115 de 172 países a nivel mundial.*

El problema del tabaco es también una realidad en nuestro país. Un 25% de nuestra población fuma y la edad de inicio está entre los 8 y los 10 años. La patología respiratoria así como cardiovascular están ya ubicadas dentro de las 10 primeras causas de morbilidad y mortalidad.

Desde hace más de una década algunas organizaciones de la Sociedad Civil han trabajado en la lucha antitabaco. En 2001 se forma la Alianza Hondureña Antitabaco (AHA), integrada por más de 16 organizaciones no solo médicas, sino de otros gremios profesionales, trabajando en coordinación con el sector gubernamental.

En marzo del 2004 se organiza un taller para conocer más a fondo el Convenio. Con el apoyo de OPS/OMS se organiza nueva reunión de trabajo multidisciplinaria elaborándose un cronograma de actividades para generar una incidencia política y hacer del tema del tabaco un tema de discusión pública, invitando a participar e informando a diferentes medios de prensa.

En un segundo taller organizado por la FCA en Guatemala, programaron una serie de actividades teniendo como meta lograr la firma por nuestro país del CMCT el 31 de mayo. Se organizan grupos de visitas a diferentes instancias y personas influyentes y claves, así como con los medios de comunicación, preparando carpetas con información, tratando de llegar al Señor Presidente; obteniendo apoyo importante de varias personas y en especial de uno de los Designados Presidenciales.

El mes de mayo, declarado mes sin tabaco, distribuyendo afiches, trífolios, charlas con distintas audiencias, marchas, contan-

do con la valiosa participación de jóvenes de colegios. Se realiza también la recolección de más de 50,000 de firmas de apoyo, las cuales fueron entregadas con la publicidad correspondiente al Designado Presidencial. Se declaró la Facultad de Medicina como espa-

comparecencia en medios de prensa, etc.

En noviembre, aún no había sido enviado al Congreso, pero se realizan una serie de visitas a Congresistas de diferentes bancadas, obteniéndose el compromiso de introducirlo en agenda al ser recibido por esta instancia, lo cual sucede a finales de este mes. Es remitido para dictamen a la Comisión de Relaciones Exteriores.

En diciembre se logró entrevista con la mayoría de los integrantes de dicha comisión, obteniendo dictamen favorable. Después de sortear una serie de obstáculos, el día 13 de diciembre es introducido a la Cámara Legislativa, y aprobado por unanimidad de la Cámara Legislativa en único debate.

Se le dio seguimiento estricto al proceso de remisión y publicación a través del Diario Oficial, la Gaceta, siendo publicado el martes 25 de enero 2005. Falta únicamente formalizar oficialmente el depósito del instrumento respectivo en las Naciones Unidas con sede en Nueva York, para que orgullosamente seamos el próximo país en ratificarlo.

Este gran logro es producto del esfuerzo decidido de todos los miembros distinguidos de la Alianza Hondureña Antitabaco, y nuestro compromiso es de seguir trabajando.

— Dra. Odessa  
Henríquez Rivas,  
Presidente,

*Alianza Hondureña Antitabaco*



**Mayo del 2004,  
Mes sin tabaco en Honduras.**  
*La campaña para la ratificación sigue fortaleciéndose.*

cio libre de humo, así como las instalaciones del Colegio Médico y del Hospital Militar entre otras.

Se realizó una feria de la salud, y se hizo Carta Pública al Señor Presidente para que se firmara el Convenio. El Presidente de la República en ceremonia especial junto al Ministro de Relaciones Exteriores lo firmó el 18 de junio, convirtiéndonos en el país firmante 162. A partir de esta fecha y durante los meses siguientes mantuvimos la atención para que el CMCT fuera enviado al Congreso Nacional para su ratificación.

Para el mes de octubre, aún estaba pendiente de nuevos dictámenes por otras Secretarías de Estado. Reiniciamos con fuerza la divulgación de los efectos dañinos del tabaco y la oportunidad única de nuestro país de ser de los primeros 40 países ratificantes. Se realizan de nuevo Ferias de Salud, distribución de hojas volantes,

## OUR 18 - 24 SHARE...

- AS A RESULT OF THIS DRASTIC RESHAPING AMONG THE YOUNG, WE (SUDDENLY) BECAME THE LEADING COMPANY AMONG THE YOUNGEST CONSUMERS...

◦ IMAGE ATTRIBUTES OF ALL BRANDS IMPROVED DRASTICALLY AND AS A RESULT...

◦ WE ARE MAKING A KILLING

Delete

***On the subject of embarrassing documents, here's one that never made it to BAT's shredding machine, discussing achievements in the Cyprus youth, umm, "young adult" market.***

Courtesy of Monique Muggli

### The Far Side

Ever wondered what value managers add to an organization? Here's one definition:

"Planning and Management

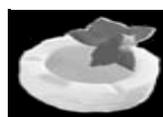
This area of work consists of those management or planning functions which can be attributed to all the expected results in general and to no expected result in particular."

So, that's clear then — management is not expected to achieve anything, but if something is achieved, it was management that did it.

Says who? Well, WHO actually... Document A/FCTC/IGWG/2/3 Paragraph 15.

### Orchid Award

To countries supporting a Secretariat accountable to the COP.



## 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  
[FCA@globalink.org](mailto:FCA@globalink.org)  
[www.fctc.org](http://www.fctc.org)