



ALLIANCE BULLETIN

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Today's Weather: Rain
High 9 C Low 3 C

Exchange Rate: 20 Swiss FR =
US Dollars 11.99 Bhutan Ngulthan 575
Egyptian Pounds 50.88 Indonesian Rupiahs 125,581

INB-3 SUNDAY

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TODAY'S
DELEGATE BRIEFINGS

TRADE
&
ECONOMICS
25 November 2001
13:00 - 14:00

Salle 3

**DEATH
CLOCK**

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

8,394,192

people have died from tobacco-related diseases.
(At 9 am 25 November 2001)

Business or Health?

Should international treaties protect the rights of business only, or also acknowledge health concerns? Should a product that kills about a half of its long-term users, be treated as an ordinary consumer product?

In the current version of the Chair's Text, Guiding Principle 5 states: "Tobacco control measures should not constitute a means of arbitrary or unjustifiable discrimination in international trade." Is it arbitrary or unjustifiable to consider public health as taking precedence, in this case, over trade?

Tobacco multinationals have a long history of using trade law as a tool to thwart tobacco-control policies. Several Asian countries, including Thailand, were forced in the late 1980s to open their tobacco markets to foreign

companies as a result of trade pressures. More recently, the industry is challenging the European Union's tobacco product directive banning the terms "light" and "mild".

It is clear why the tobacco companies oppose any language that would put health above trade. The companies wish to expand their market into developing countries, where tobacco control legislation is weak and most smokers are com-

pletely uninformed about the dangers of smoking. Simply, they put profits before morals. To quote R.J. Reynolds: "...trade policy, not morals or health policy, is the fundamental issue involved in the exportation of cigarettes." (1996).

The language originally contained in Chair's text would create serious problems for tobacco control.

None of the relevant terms are defined. It is not clear who bears the burden of proof or what level of scrutiny will be applied to a challenged tobacco control measure. In the absence of clarifying language, this provision could be interpreted, as it is has been under the GATT and the WTO, as nullifying national health and safety measures.

It imposes an inordinately high burden of proof on the country defending a tobacco control measure, rather than on the Party challenging it. Trade tribunals should not be allowed to determine the validity of national tobacco-control measures.

The Framework Convention Alliance (FCA) suggests that the existing language be replaced with language that prioritises health, not trade. Tobacco is an exceedingly dangerous and addictive product, and thus cannot be considered like other products.



WARNING
Liberalized trade
in tobacco can
be harmful to
your nation's
health

(Continued p. 2)

**TODAY'S
NOON HOUR
DELEGATES
BRIEFING**

25 November 2001

**Trade,
Economics &
Poverty: What
Role for the
FCTC?**

Members of the Framework Convention Alliance invite all delegates to a luncheon briefing today, 25 November, on the topic of tobacco, trade and economics. The briefing will start at 13.00, or 15 minutes after the Working Group meeting, whichever comes first.

You will hear from an international panel of experts who will discuss and answer your questions.

The speakers are:

- **Tania Amir**
Law & Society Trust
Bangladesh
"Poverty & Tobacco"
- **John Kapito**
Consumers Association of
Malawi
"Tobacco Agriculture:
Who Really Benefits?"
- **Ira Shapiro**
Former General Counsel to
the US Trade Representative
"Trade & Tobacco"
- **Ken Warner**
World Bank Representative
"Economics of Tobacco"

The meeting is slated for Salle 3. A light lunch will be provided before the meeting, in the lobby.

Tobacco products uniquely harm public health and the global economy, imposing enormous economic costs on governments, consumers and private employers. Liberalisation of trade in tobacco products stimulates tobacco consumption and harms public health. There is ample precedent in many other international agreements for provisions to restrict trade in particularly harmful products. Special rules, for example, have been developed for ozone-depleting chemicals and persistent organic pollutants.

The FCTC is a very specific treaty designed to address unique health concerns about a single class of products. It is possible that specific provisions of the FCTC may be found to conflict with broadly applicable provisions of international trade or other agreements. In such cases, the agreements of broad applicability should be considered to create a general rule, and the FCTC should be considered to create a specific exception. This is a fundamental rule of construction in treaty interpretation.

Therefore the FCTC should include the language proposed by Thailand specifying that in the event of a conflict between the Convention or any of its Protocols and the application of another international agreement to tobacco, the FCTC shall take precedence.

Historically, the tobacco industry has exploited any real or perceived uncertainty about the nature and magnitude of risk posed by active smoking, passive smoking, tobacco advertising, addiction, additives, and a host of other issues. The

industry has demanded that unanimity of scientific opinion be achieved both about these issues and about the effectiveness of proposed remedies, before any protective action is taken. This approach has proven devastating to public health and makes no sense in light of the scientific certainty that active and passive smoking cause needless suffering and death.

It would be far wiser to take an approach opposite to that advocated by the tobacco industry: take *protective* action to reduce tobacco use. The FCTC should include precautionary language, such as that proposed by Thailand, stating that lack of full scientific certainty regarding the impacts of tobacco or the efficacy of specific tobacco control measures should not be used as a reason for postponing such measures or for challenging tobacco control measures taken by other States.

This approach is already incorporated in numerous multilateral environmental agreements, including the Rio Declaration on Environment and Development, the Montreal Protocol on Substances that Deplete the Ozone Layer, United Nations Framework Convention on Climate Change, and others.

Additional Information

Physicians for a Smoke-Free Canada, An Introduction to International Trade Agreements and Their Impact on Public Measures to Reduce Tobacco Use (April 2001).

http://www.smoke-free.ca/pdf_1/Trade&Tobacco-April%202000.pdf

Campaign for Tobacco Free Kids, Public Health, International Trade and the Framework Convention on Tobacco Control, (March 2001).

<http://tobaccofreekids.org/campaign/global/framework/docs/Policy.pdf>

FCA suggested text on trade

The Parties agree to take all necessary measures to ensure that no person acting on their behalf shall attempt to (a) remove, weaken, undermine or otherwise interfere with tobacco control measures in force or under consideration in another State or (b) promote tobacco exports or tobacco use in another State.

In the event of a conflict between this Convention or any of its Protocols and any other international agreement, this Convention and its Protocols shall prevail.

It is scientifically certain that tobacco causes many diseases that result in needless disability and early death. Lack of full scientific certainty regarding the efficacy of specific tobacco control measures shall not be used as a reason for postponing measures to control tobacco or for challenging such measures taken by other States.

FAIT A NOTER:

Les ventes de cigarettes en Afrique ne représentent que 4,1 % des ventes mondiales, alors que ce continent compte plus de 10 % de la population mondiale. (*World Tobacco File, 4th edition*)

Profits of Poverty

Life for Mumbai's street kids has never been easy. Of late they have yet another foe to wrestle with — the fear of cancer looming large over their lives, thanks to the advertising stunts of the tobacco companies. A recent study conducted by Cancer Patients Aid Association (CPAA) among 800 street kids throws light on the stark tobacco epidemic gripping them in its tentacles: 25% of them are already addicted.

In the medical examination that accompanied the study, 87 children presented with pre-cancerous lesions. Of these, 41 suffered from oral sub-mucous fibrosis; the rest had leukoplakia patches. Shockingly, the youngest child affected with OSF is only 11 years old and the one with leukoplakia is hardly 13 years. Epidemiological studies predict that there is a considerable risk these medical conditions, arising from perpetual *gutkha* (flavoured oral tobacco) use, will eventually lead to oral cancers.

Mumbai, the commercial capital of India, is also home to thousands of street children. These include children born to families living on the street, children who have come in search of the mesmerizing city life, and those who generally grow up without adult supervision. They do odd jobs, barely sufficient for one square meal a day.

As the children themselves put it, "Gutkha kills our appetite helps get over the hunger pangs and tensions when there is not enough money to buy food." As gutkha is addictive, some of them consume anywhere between 25-40 packets a day, the cheapest brand costing them just half a Rupee. The children may be too naïve to comprehend the poor economics behind these transient gains against the backdrop of their monthly average earning of Rs. 300.

But definitely not the tobacco com-

panies, who turn their hunger pangs into sales figures. Strategically, heroes of the young are signed up for tobacco promotional campaigns and tobacco products are placed in the movies targeting the young.

Every street child identifies Red & White brand of cigarettes with the stunt Advertisement of Akshay Kumar, the Indian action hero while Goa gutkha piggybacks on ace Pareswari's goodwill image and Simla brand on Malika Arora's (leading beauty model) call to partying. It is ironical that the very industry which is reaping harvest from human miseries goes to great lengths flaunting corporate responsibility.

These kids save up enough to make it to the movies occasionally. Movies

and film stars are a major click with these children, many of them having come to Bombay, the Indian Bollywood, hoping to appear on the big screen some day.

Ironically, the life-size images of their movie heroes promoting tobacco products leave permanent impressions on these young minds, the survey reveals.

In no time, these

gullible minds begin to imitate their heroes in consuming tobacco.

It's astonishing to watch them mimic their movie heroes from action-packed tobacco advertisements in the awareness programmes organized for them, Alka Kapadia of CPAA. But the story turns bleak as it reveals their empty stomachs and the enriched coffers of *gutkha* companies.

The International Convention on the Rights of the Child stipulates that children are protected from substances hazardous to their health and safety. It's high time that we live up to our international commitments and prevent our children's health being traded for corporate commercial gains.

Shoba John, Mumbai

For the record India's Intervention on Subsidies and WTO

"Some delegations have referred to the World Trade Organization (WTO) and the recent Doha Declaration to suggest that the issue of subsidies to tobacco agriculture should be excluded from this convention and left to WTO to handle. The Doha Declaration of WTO, and the process initiated by it, consider the issue of agricultural subsidies in a generic manner and do not deal with tobacco in a specific way.

"The Framework Convention on Tobacco Control (FCTC), convening under the auspices of the World Health Organization (WHO), should examine the issue of tobacco subsidies from the public health perspective.

"We see no conflict between the two processes. If the WTO, in its wisdom, decides to abolish all agricultural subsidies, FCTC will ensure that tobacco will be a part of that package. If, on the other hand, WTO decides to perpetuate agricultural subsidies, FCTC will ensure that tobacco will become an exception to it on public health grounds, which have primacy over trade matters even under WTO rules. We see no reason why the WHO should surrender its mandate to examine public health issues to another UN organization."

(24 November 2001)



Film star Shabana Azmi smokes her way through the movie "Godmother".

AFTA: the Real Reason Philip Morris Invested in the Philippines

At a time when tobacco manufacturing and sales decline in the West, in Asia there is good news for tobacco transnational companies seeking new and more open markets.

The ASEAN Free Trade Area (AFTA), established in 1993, now comprises the ten countries of ASEAN: Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand and Vietnam.

The agreement provides for the phased reduction of tariffs on manufactured imports from ASEAN countries, including tobacco, through a mechanism called the Common Effective Preferential Tariff (CEPT) scheme. Countries are committed to reducing these import tariffs on most products to **0 to 5 per cent** by 2003 (with later implementation dates for Cambodia, Vietnam, Burma and Laos).

Philip Morris, the world's largest international cigarette manufacturer, was evidently aware of this when it began construction of a new 16 billion peso (US\$300 million) manufacturing plant in Sto. Tomas, Batangas in the Philippines

last July.

Quite obviously, the company stands to benefit from the tariff reductions covered in the AFTA by manufacturing cigarettes *within* the region, rather than importing them from *outside* the region. The plant, expected to become fully operational by 2003 will become Philip Morris' regional hub for its operations, producing its deadly products not only for the Philippine



market but for the Asian market as well. Indeed, this ensures the deaths of even more Filipinos and is tantamount to exporting death throughout the ASEAN.

Yet, despite the glaring fact that her health secretary skipped the groundbreaking rites for this state-of-the-art facility, the Philippines' Chief Executive was all praises for the decision of Philip Morris to lo-

cate its "Asian jewel" in the country.

"To those who are saying the Philippine economy is going down, listen to this — P16 billion in new investments," President Arroyo said in her speech.

Anti-tobacco advocates are well aware that while the Philippine government earned P21.4B from the sale of tobacco, it spent P46.4B in healthcare for Filipinos suffering from tobacco-related diseases, losing precious billions that could've been used to help uplift many Filipino lives.

With the agreement of ASEAN leaders on 7 November 2001 to accept China into the AFTA, the AFTA is now poised to become the world's largest free trade zone, tipped to encompass nearly 2 billion consumers within a decade. We can only begin to imagine the enormous potential for more tobacco-related death and disease when Philip Morris and other tobacco transnationals penetrate China's markets.

— FCTC Tobacco Control Alliance, Philippines

Organismos internacionales, las mujeres, el medio ambiente y el tabaco

La cumbre de la tierra tendrá lugar en Johannesburgo durante el mes de septiembre 2002. La coalición de organizaciones de mujeres, que incluye más de cien organizaciones, ha preparado un documento (la Agenda 21 de las Mujeres) en favor de la implementación de un fuerte Convenio Marco para la lucha Antitabáquica.

Organismos internacionales como el Organismo Mundial del Co-

mercio tienen como objetivo promover estrategias mercantiles que no toman en cuenta adecuadamente las consecuencias sobre los pobres, los desfavorecidos, el medio ambiente y la salud.

Por ejemplo, bajo las reglas de la OMC, las compañías tabacaleras pueden inundar agresivamente los mercados con campañas publicitarias, cuyo objetivo es al-

canzar a las jóvenes y a las mujeres. El resultado ha sido un aumento masivo del consumo del tabaco en los países en vía de desarrollo.

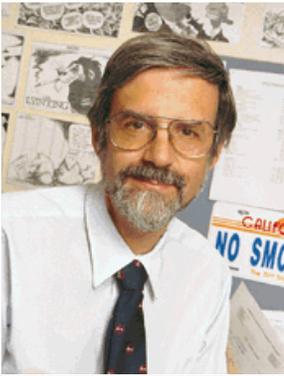
Por esta razón, es muy importante que el Convenio Marco tenga prioridad sobre otros tratados comerciales a fin de proteger la salud de las mujeres y la humanidad.

Liability and Compensation Provisions: “Very complex” vs. “Very Important”

At the Working Group 3 session yesterday, many interventions focused on the difficulties of formulating liability and compensation provisions.

Some delegations thought that a combination of a voluntary, and minimalist, substantive provisions suggested by China, with a series of information-gathering and -sharing provisions suggested by Norway, provided a viable route through the supposed complexities; others preferred to relegate the subject to a post-FCTC protocol, and just bury it entirely.

Only a few interventions focused on the critical public health purposes served by tobacco litigation, with one delegate arguing to the effect that this is at the very core of our tobacco control efforts: if the industry is not held re-



sponsible, it will ignore our other efforts.

Devising appropriate treaty provisions in this area is no more difficult than in any other. China, Norway, and a group of EMRO states led by Iran all proposed at least some provisions that would be non-controversial, yet still useful.

China’s proposal, noting that “any Party may take legislative action or/ and promote its existing law to deal with liability for the purpose of tobacco control,” is certainly uncomplicated, and could be a good starting place for discussion of more detailed provisions. There is also nothing “complex” about Norway’s very useful proposals for information gathering and exchange, mutual assistance, and drafting of model laws.

While Iran’s proposals are more substantive, a close analysis of these carefully thought-through provisions reveals that none of them require changes in the legal systems of individual nations, and that the specific legal provisions called for are modest and appropriate.

The importance of the task, on the other hand, should not be under-

estimated. So much that is promising in the current tobacco control scene – the damaged state of the industry’s political credibility, the availability of internal industry documents showing their plans to subvert the health of citizens of many countries, the industry’s “voluntary” agreement to restrict advertising and promotion in the US and the reduction of smoking rates resulting from price rises needed to pay settlements with the US states – happened only because of American liability suits.

Yet the tobacco industry has not yet felt litigation pressure to change its behaviour outside the US, and the trove of incriminating documents, especially about non-US companies and subsidiaries, has barely been tapped. Furthermore, liability has tremendous potential to assist in the fight against smuggling, an area in which even US courts could benefit from international guidance.

The time has come to stop talking about how difficult this task is, and to start doing it.

Richard Daynard,
Tobacco Products Liability Project,
Boston/USA

Ireland breaks ranks and speaks the truth

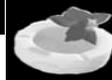
At last! Delegates have finally heard a progressive voice from the European Union calling for a ban on tobacco advertising – both direct and indirect. In a break from the European Union’s iron rules against stepping out of line, Ireland intervened on Saturday evening to make a clear case for a comprehensive ban on tobacco advertising. Ireland’s determination to be heard contrasts with 11 other EU member states who agreed on a near complete ban on tobacco advertising in 1998, only to have this overturned following legal action by Germany.

Ireland particularly emphasised the importance of banning indirect

advertising – the use of non-tobacco products to promote tobacco brands, a practice also known as ‘brand-stretching’. The Irish delegate stated: “*in our view, the aim of indirect advertising is to encourage the consumption of tobacco products and to circumvent the direct ban on advertising of tobacco products*”.

An advertising ban that does not address indirect advertising is worthless. For an advertising ban to work it has to prohibit all means of promoting a tobacco brand. That is a simple idea, and simple text in the Convention would achieve it.

Orchid Award



Ireland for being the only EU state calling openly for a ban on direct and indirect advertising.

Dirty Ashtray Award

Double dirty ashtray
Germany for dragging down the EU.
The EU for being dragged down by Germany.



Rencontre au Mali du 3 au 4 décembre Les ONG africaines francophones se mobilisent contre le tabac

Bamako sera l'hôte du 3 au 4 décembre 2001 de la première réunion des ONG africaines francophones de lutte antitabac.

Cette rencontre offrira l'occasion aux participants d'aborder les questions relatives à la réglementation du tabagisme dans les pays de la région, la promotion, la publicité en faveur du tabac, la prévention du tabagisme chez les jeunes, la recherche de nouvelles sources de financement pour les activités sportives ou culturelles, et la Convention-cadre de lutte antitabac.

La rencontre de Bamako devra déboucher sur la mise en place d'un observatoire de la situation du tabac en Afrique francophone. Elle permettra de mettre désormais à un même niveau l'Afrique francophone et anglophone en ce qui concerne la lutte antitabac et constituer un front uni africain contre le tabac.

Organisée par l'association SOS Tabagisme du Mali et la Ligue française contre le cancer, principal soutien financier, cette réunion regroupera des représentants du Sénégal, de l'Algérie, du Burkina Faso, du Togo, du Tchad, du Niger, du Cameroun, du Maroc, de la Tunisie, du Mali, de la Guinée Conakry, de France et du Canada.

Cible privilégiée

Il faut rappeler que l'Afrique est la cible des multinationales du tabac, qui s'intéressent de plus en plus à environ

700 millions de consommateurs potentiels. Sous la pression des promotions publicitaires de l'industrie du tabac, la consommation annuelle de cigarettes a augmenté de 3,2 % de



(Photo: Anna White, Essential Action)

Vu au Sénégal : Marlboro à l'intention des tout-petits

1995 à 2000, contre 2,7 % pour le monde en développement en général, selon la FAO.

Profitant de l'inexistence ou de la faiblesse des mesures de contrôle et de législation contre le tabac, les interventions de l'industrie du tabac sont devenues très agressives, en particulier à l'intention des jeunes, des adolescents et des femmes. La jeunesse de la population est un facteur de mo-

tivation pour le déploiement du marketing de l'industrie du tabac. Environ 55 % de la population a moins de 25 ans.

Dans la plupart des pays francophones africains, les activités culturelles et sportives sont régulièrement financées par les firmes de tabac, en raison notamment de l'absence ou l'insuffisance de ressources.

Seuls quelques pays (Sénégal et Mali) ont mis en place une législation sur le tabac, mais sa mise en pratique est difficile.

Le rôle des ONG est donc essentiel pour faire avancer le processus. Depuis deux ans, on constate une prise de conscience des populations africaines, qui se mobilisent pour lutter contre le tabac au travers d'ONG. Des campagnes d'information et de sensibilisation sont menées par elles au sein des établissements d'enseignement scolaires et dans les communes urbaines.

De nouveaux types d'actions prennent également forme. Au Mali, l'association SOS Tabagisme a réussi en 2000 à faire condamner en justice la firme de tabac TEI (Tobacco Exporters International, filiale de BAT) pour publicité illégale. Les expériences doivent être mieux connues pour être aussi mises en œuvre dans les pays voisins.

— Mahamane Cissé,
SOS Tabagisme (Mali)

Multinationals Target Developing Countries

Here's a picture of global smoking as seen by the authors of the leading tobacco industry analysts:

"Given the recent decline in cigarette consumption in developed countries, multinational companies have in recent years stepped up their activities in developing countries in their search for new markets."

"The smoking prevalence among young adults and teenagers are reported to be soaring in a number of developing countries due mainly to a lack of national minimum age smoking laws, continued emancipation of women and aggressive marketing by multinationals. This trend has been particularly evident in a number of countries in South East Asia." (p. 16)

"In the Middle East, cigarette consumption has benefited from strong sales in Turkey, the largest market in the region. The rise in volume sales can be attributed to the growing demand for filter-tipped and American-blend cigarettes coupled with an increase in the incidence of females and young adults who smoke." (16)

From World Tobacco File.

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.

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