



INB-5 Friday

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TODAY'S DELEGATE BRIEFING

International Trade & Public Health Briefing

Patricia Lambert, Head of South African Delegation.
 Dr Hatai Chitanondh, Member of Thai Delegation.
 Ira Shapiro, Former US Trade Ambassador.
 John Bloom, ACS.
 13:00 in Salle 3

DEATH CLOCK

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

11,996,424 people have died from tobacco-related diseases.

(At 9 am 18 October 2002)

ALLIANCE BULLETIN

Framework Convention on Tobacco Control

Geneva, Switzerland

Issue 30

18 October 2002

SIZE MATTERS

When it comes to health warnings on tobacco products, size truly does matter. Larger warnings are far more effective than smaller warnings.

They allow room for more text and for more detailed pictures, improving noticeability, memorability, perceived importance and overall impact.

The FCTC text should put forward best practice internationally. Canada requires a series of 16 rotated picture-based messages covering the top 50% of the front and back of the package. Brazil requires a series of nine rotated picture-based messages covering 100% of either the front or back of the package.

A European Community Directive gives its member countries the option of using picture-based warnings, with the minimum size (including a border around the warning) being 40% of the front and 50% of the back, and even larger in countries with more than one official language. Thailand has officially announced that it will soon require picture-based warnings, and many other countries are actively con-

sidering it.

What does the Chair's text propose? At present, Article 12 merely requires that the warning be "visible" and "legible". This would suggest that even a small warning on the side of the package would be sufficient.

We have persuasive evidence to show that the big warnings work. Research to evaluate the new Canadian warnings shows that they are highly effective at discouraging smoking.

Pictures are crucial

The Chair's Text requires that warnings include a picture or pictogram, reflecting the position of many States during past negotiating meetings. Using a picture can greatly increase the effectiveness of the warning. As the saying goes, "A picture is worth a thousand words."

Pictures are particularly useful when communicating with illiterate populations. The tobacco industry uses pictures in advertising to help increase smoking; the same communication techniques should be used in warnings to discourage smoking.

In addition to requiring a minimum size of 50% of the major pack surfaces, the Chair's Text could be improved in the following ways:

- Requiring a series of rotated messages, not just one warning.
- Allowing non-health messages that discourage smoking (e.g. on religion and smoking, information on workplace smoking laws, messages encouraging people to quit smoking to save money) to be part of a rotated series, along with health messages.
- Requiring plain packaging for the parts of the package other than where mandatory messages.
- Deleting the requirement to indicate the prohibition on tobacco sales to minors.
- Deleting the requirement to provide



Yesterday the Grim Reaper took INB5 delegates by surprise as they entered the CIGG.

(Continued on page 2)

Today's Weather: Rain, rain and more rain.
 High 8 °C Low 3 °C

Improving pack warnings: developments in the European Union

How do we communicate the information that people need to make a so-called “informed choice” about tobacco use? The cheapest and most efficient way is by providing information directly on the package itself.

Messages placed directly on cigarette packs (and other tobacco products) have the potential to produce a number of important benefits. First, cigarette packaging is itself a form of advertising, and links the product directly to advertising images. When designed effectively, messages on packs have the potential to disrupt this brand imagery, weaken the effect of advertising, and reduce the glamour associated with the brand.

Second, an effective warnings system will contribute to informed consent among smokers regarding the risks of tobacco use. Each time they reach for a cigarette, the smokers will receive a reminder about the harms of the product. The information will not be complete, but it is the least expensive way to deliver a message to all users.

Third, on-pack health messages have been shown to be a valid health communication tool. Research in Australia found that new, more prominent health information on tobacco packs resulted in more people noticing the warnings, stimulated more negative thoughts about smoking, and resulted in the premature stubbing out of cigarettes already lit.

Finally, this form of “portable billboards” is the least expensive, most widespread method to reach consumers and potential consumers. With millions or billions of packs in circulation each year in any country, the potential audience for the message is immense, while the cost to government is minimal.

Europe is currently far behind many other countries in terms of the messages it provides to smokers on the pack. Current European legislation requires health messages to cover a minimum of only 4% of the pack surface. Australia and New Zealand, meanwhile, have introduced textual warnings that cover 50% of the main surface of the pack, while Canada and Brazil have introduced graphic images covering 50-100% of the pack.

EU legislation has begun to address these shortcomings with the introduction of the EU Directive on Tobacco Product Regulation (Directive 2001/37EC). This directive will standardise the design and content of health messages across Europe and improve some aspects of their design. It requires health messages to be printed in black on a white background, and increases their size to cover 30% of the front of each pack and 40% of the back.

The Directive also proscribes a list of fourteen messages which are to be randomly rotated. The Directive is currently in the consultation stage in the UK and is scheduled to become law on 16th December 2002.

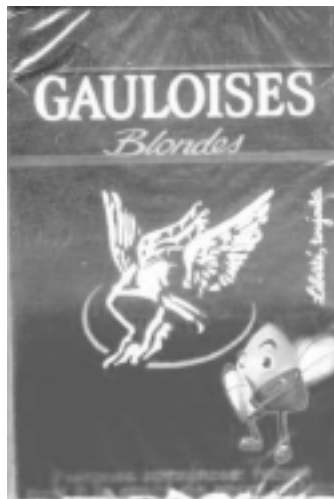
An exploratory study across Europe has been commissioned by the European Community to examine how smokers in different European countries, with different motivations to quit, respond to the proposed cigarette labelling practices as outlined in the Directive, while also exploring the potential for targeted

and personalized messages. Qualitative research was conducted in seven European countries with smokers aged 16 to 64.

The results support the implementation of the larger, more prominent textual messages, and the introduction of pictorial images. The results also suggest that to be effective, health messages need to be carefully targeted to specific segments of the population. For example, in the UK, those contemplating quitting appeared to respond well to positive, supportive and helpful messages such as “Your Doctor or Pharmacist can help you stop smoking”.

It is clear that current health messages suffer from lack of novelty, and that there is the need for variety and innovation. Rotation of existing messages and the introduction of new messages and formats are therefore both desirable. It would be a tragedy for governments not to make better use of this inexpensive, efficient way of warning consumers about tobacco.

— Elinor Devlin, Centre for Tobacco Control Research
University of Strathclyde +
(Scotland)



In Europe, manufacturers — unlike governments — take full advantage of the marketing possibilities of the pack.

Altadis has turned Gauloises packs into collectors' items.

(Continued from page 1)

information on the toxic emissions of the product, given the experiences in many countries.

The Framework Convention Alliance has recommended that Article 11(1)(d) be worded as follows: “each unit packet or package of tobacco products and any outside packaging of such products carry one of a series of rotating health warnings, messages discouraging smoking, or other mandatory messages such that the messages are in an area covering not less than 50% of the exterior of the package and include pictures or pictograms for at least some messages.”

The FCA supports the requirement in Article 11(2) that mandatory package messages be in the language or languages of the market where the product is sold.

The Article 11 requirement for warnings has the potential to be one of the most important outcomes of the FCTC. It is essential that this provision be as strong as possible, so that we can finally begin to implement international standards on giving consumers more adequate warnings about the dangers of tobacco use.

— Rob Cunningham, Canadian Cancer Society

Hey kids! Get your badge of adulthood here!

At first glance, the idea seems good: if we're serious about preventing sales of addictive tobacco products to teenagers, why not include a "No Sales to Minors" message right on the pack?

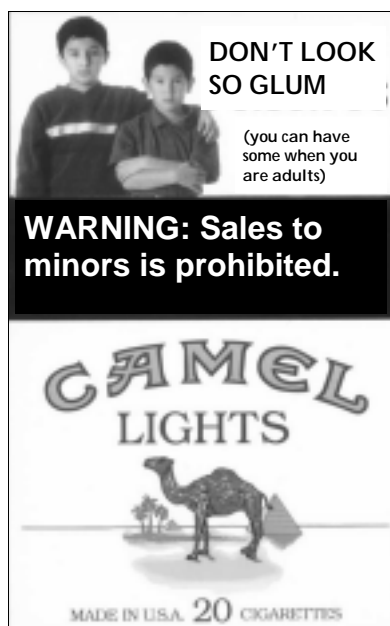
Yet a large number of progressive countries — and the overwhelming majority of NGOs — are against the idea. Tobacco companies generally support the idea. So what's the catch?

Cigarette packaging is a great vehicle to communicate with consumers, including teenaged consumers. Smokers take out their pack many times per day, leave it on the table as they socialise or work. So it makes perfect sense to provide detailed health information directly on the pack.

But what is the public health purpose of telling smokers, *after* they've bought cigarettes, that it's illegal to sell tobacco products to minors?

The information isn't relevant to adult smokers. As for teen smokers, there's no reason to believe they'll be less likely to smoke if they are reminded that the person

who sold them cigarettes committed an illegal act. In fact, there's



considerable research that shows one reason why kids begin smoking is to demonstrate that they are no longer children.

Who's the audience?

Many countries make it illegal for retailers to sell tobacco products to minors. But very few jurisdictions make it illegal for teenagers to *buy* tobacco products — and public health organisations generally believe such a prohibition would be both unenforceable and counter-productive.

So if anybody needs reminding that sales to minors are illegal, it is retailers, distributors — and manufacturers who pitch advertising campaigns at the young.

Cigarette packs are not a good vehicle for communicating with retailers. If governments think retailers need a reminder, it makes more sense to require posting of large signs at point of sale, preferably including health information on tobacco products.

That way, governments can maximise the space on packs for providing information to consumers, and avoid reinforcing the pack's appeal as a badge of adulthood.

Why Article XX(b) Is Not Enough

Some delegations — and the Secretariat itself — have advanced the view that existing international trade agreements provide sufficient room for countries to implement tobacco control measures without fear of trade challenges.

In particular they cite GATT Article XX(b) — on which Article 4.5 of the Chair's text is based — as ensuring sufficient protection for tobacco control measures from trade challenge. On its face, this approach seems to be perfectly reasonable. Indeed, who could possibly be in favour of anything that is "arbitrary" or "unjustifiable"? Unfortunately, there are serious practical problems with relying on this provision to protect legitimate health measures from trade challenges.

Article XX(b) has been narrowly construed, and ambiguity or uncertainty is generally resolved in favour of free trade. There is only one instance in which a party has successfully defended a measure under Article XX(b). In that case, a panel and the WTO appellate body upheld a French ban on chrysotile asbestos against a Canadian challenge, finding the ban to be "necessary" based on international safety standards.

The first hurdle in defending a measure on public health grounds is to prove that the measure is "necessary" to protect public health. This requires convincing a panel of trade law experts not only that the measure is effective, but also that no less trade-restrictive measures are available that could be used to

achieve the same public health objective.

In practice, panels have not adequately considered whether alternate measures are socially and politically feasible as a practical matter, focusing instead on whether they are available in theory. As one commentator has noted, this "may set a very high hurdle for public health policies, because measures that intrude less on trade are almost always conceivable and therefore in some sense 'available.'"

If a party is able to establish necessity, the inquiry goes on to ensure that the proposed public health measure does not constitute a "disguised restriction on international trade" or "arbitrary or unjustifiable discrimination."

These two standards from the chapeau of Article XX are designed to prevent any abuse of the exception. Both of these standards require a difficult and uncertain inquiry into the state of mind of policymakers.

Where there are mixed motives — as there often are in policy and politics — these standards allow a measure to be rejected even if it meets the stringent "necessity test." These standards provide the tobacco industry with a tool that they use to attack effective tobacco control laws.

What is needed in the FCTC is language that recognises the uniquely harmful nature of tobacco products and that provides governments with greater latitude to prioritise health over trade concerns in their tobacco control efforts.

La Alianza de la Sociedad Civil Organizada por un Mundo Libre de Tabaco

En una demostración de solaridad impresionante, las ONGs brasileñas se unieron para apoyar un Convenio Marco fuerte que protegiera su ciudadanía de las enfermedades y las muertes causadas por los productos del tabaco.

Brasil realizó en Río de Janeiro entre el 23 y el 24 de Septiembre de este año el "1er Foro de Movilización por un Mundo sin Tabaco", organizado por el Instituto Nacional de Cáncer (Inca) del Ministerio de la Salud y la ONG Rede de Desarrollo Humano (REDEH). El objetivo del Foro fue la sensibilización de la sociedad civil y de las organizaciones no-gubernamentales (ONG) para una mejor comprensión de la gravedad del problema del tabaco en el Brasil y en el mundo.

Otro objetivo importante fue ganar el apoyo de diferentes sectores de la sociedad civil para las medidas preconizadas por el Convenio Marco para el Control del Tabaco.

El foro tuvo la participación de representantes de todos los estados de Brasil. Las 57 ONGs participantes representan varios sectores de la sociedad: salud y derechos de la mujer y de los niños, grupos de protección ambientales, grupos de lucha contra el cáncer, y grupos de control de tabaquismo, entre otros.

Los participantes del Foro formaron la Alianza de la Sociedad Civil Organizada por un Mundo Libre de Tabaco. Durante este Foro, se discutió el problema del Tabaquismo en sus múltiples facetas: salud, educación, medio ambiente, legislación, economía y estrategias de la industria tabacalera.

También se discutió la continuidad de las acciones para el control del tabaquismo en Brasil

frente a los posibles cambios políticos con las elecciones presidenciales. Brasil ha participado activamente en el proceso de negociación del texto del Convenio Marco y ha adherido en forma concreta a las medidas por él preconizadas.

Así, la Alianza ha escrito una carta, enviada a todos los candidatos a la presidencia, con el objetivo de sensibilizar los candidatos al problema del tabaquismo y la importancia de la



continuidad de un programa de control de tabaquismo que no sea restricto al área de la salud, sino incorporando todas las áreas del gobierno involucradas en la epidemia del tabaco.

La legislación para el control de tabaco es muy avanzada en Brasil, pero falta la sensibilización y el apoyo de la sociedad civil. Por esa razón, las ONGs tienen el papel importante de educar a la gente sobre la importancia del control del tabaco, incluyendo el Convenio Marco.

Es importante mencionar que esta iniciativa representa una nueva etapa en el control de tabaquismo en Brasil. La sociedad civil y las ONGs tienen la responsabilidad de mantener el

liderazgo en lo que concierne el control de tabaquismo en América Latina, independientemente de los resultados de la elección. Las ONGs están comprometidas en presionar el gobierno para que apoye el programa.

Las siguientes medidas fueron recomendadas:

- Garantizar recursos apoyando la continuidad del Programa Nacional de Control del Tabaquismo.

- Garantizar la continuidad de la representación Brasileña en el Convenio Marco para el Control del Tabaco y el mantenimiento de una posición favorable a un Convenio fuerte en el que los intereses de la salud pública prevalezcan cuando entren en conflicto con cualquier otro tratado comercial.

- Apoyar la participación de la sociedad civil Brasileña en las acciones necesarias para alcanzar el objetivo de este Convenio, y de sus protocolos.

- Garantizar medidas que protejan a la población contra los efectos nocivos del humo del tabaco. Para ese fin, es importante seguir fortaleciendo las acciones educativas ya desarrolladas por el Programa Nacional de Control del Tabaquismo, y reforzar las leyes ya existentes relativas a la protección de la salud de los no fumadores.

- Garantizar que los recursos públicos destinados a la agricultura familiar sean aplicados en proyectos de agro-ecología y otras actividades saludables y no para el cultivo de tabaco.

- Garantizar medidas que aumenten los precios reales de los cigarrillos brasileños a través de un aumento de impuestos sobre estos productos.

- Invertir recursos para fiscalización y monitoreo de las fronteras brasileñas a fin de cohibir el contrabando.

US RECORD ON INTERNATIONAL TREATIES

When deciding how much effort they should put into fashioning an FCTC text that the United States might be willing to ratify, delegates should consider that country's record on international treaty-making.

The United States:

- did not ratify the Comprehensive Test Ban Treaty (although President Clinton signed it);
- did not become a party to the International Covenant on Economic, Social and Cultural Rights;
- did not join the Convention on the Elimination of all Forms of Discrimination against Women;
- did not ratify the Convention on the Rights of the Child;

- still have not signed or ratified many core conventions of the International Labour Organization (ILO);
- withdrew, unilaterally, from the ABM Treaty;
- did not join the Ottawa Convention banning land mines;
- did not sign the agreement creating the International Criminal Court;
- and did not join the Kyoto Treaty on global warming.

PHILIP MORRIS INFILTRATES SECONDHAND SMOKE STUDY

Rylander vs. Oxygeneve/CIPRET Court Case

In the midst of FCTC negotiations, Geneva is the scene of a courtroom drama about the right of public health advocates to denounce tobacco industry infiltration of academic institutions.

On Monday, a Geneva court will be hearing pleadings in the appeal of a libel judgement that went against two local tobacco-control figures.

The two, Jean-Charles Rielle, physician-in-charge of CIPRET-Genève, and Pascal Diethelm, president of OxyGenève, blew the whistle last year on secret ties between the tobacco industry and a scientist researching secondhand smoke. Ragnar Rylander, former professor of environmental medicine at the University of Gothenburg, was linked to Philip Morris.

CIPRET-Genève and OxyGenève claimed that Rylander has been used by Philip Morris since 1972 to infiltrate the University of Geneva and use the institution's name and reputation as a shield to conduct and publish studies on the connections between secondhand smoke and lung disease, and to organize symposia which were funded and controlled by Philip Morris.

In a report, Rylander said that secondhand smoke is an irrelevant factor in causing lung cancer, arguing that diet was a more important risk factor than passive smoking. Rylander's research concluded that there were no significant connections between lung disease and secondhand smoking, despite the fact that this conclusion goes against established scientific consensus.

Following publication of information on Rylander's activities, he sued Jean-Charles Rielle, physician-in-charge of CIPRET-Genève, and Pascal Diethelm, president of OxyGenève, claiming they had defamed him.

The Geneva Court of Justice ruled that Rylander worked secretly for the tobacco industry. The Court also observed that he had altered the results of his studies to meet his sponsors' expectations. However, the Court of Justice determined that the two defendants had not sufficiently proven two of their claims, i.e. that he was "one of the most highly paid consultants of Philip Morris" and that he was involved in a "scientific fraud without precedent".

Although the Court agreed with the main issue — that Rylander had indeed changed his results to suit his secret corporate sponsor — the points about the specific language used in condemning Rylander caused the Court to rule that the two defendants must pay a fine.

A great deal has been written about the Rylander case in the international media. Karl-Eric Tallmo, a Swedish journalist, has written an extensive account entitled "Philip Morris assigned secret grants to Swedish professor". It can be found in English online at <http://www.nisus.se/archive/020610e.html>. Information on this case (mostly in French) can be found at <http://www.prevention.ch/>.

— Jessica Lazar

Campaign for Tobacco-Free Kids (USA)

Genève, le 15 octobre 2002

Mesdames, Messieurs,

Nous avons l'avantage de vous informer que dans le cadre du **procès intenté à l'encontre des soussignés par le Dr Ragnar Rylander pour diffamation, et suite à notre Appel auprès de la Cour de justice, Chambre pénale, la quatrième audience, AUDIENCE DES PLAIDOIRIES, aura lieu**

Lundi 21 octobre 2002 - 15 h

**Palais de Justice - Bâtiment G - Porte St-Antoine
Salle G3 Rue des Chaudronniers 9 - Genève**

Pour rappel, il s'agit du premier procès, en Suisse, qui permettra de démontrer la mise en place d'une fraude scientifique sans précédent, dans le domaine du tabagisme passif, par les cigarettiers.

Vous pouvez consulter l'ensemble du dossier sur le site <http://www.prevention.ch> à l'adresse <http://www.prevention.ch/rylanderpm.htm> et notamment le contrat entre le Dr Rylander et Philip Morris, les documents sur l'étude genevoise concernant les enfants et la fumée passive, ainsi que les documents accablants sur les activités du Professeur Rylander.

Nous vous remercions de votre attention et vous prions d'agréer nos plus cordiales salutations.



Pascal Diethelm
Président OxyGenève



Dr Jean-Charles Rielle
Médecin responsable CIPRET-Genève

From the smuggling front line — it's a card game...

The report of the New York ICITT (p. 11 + footnote) gushes about how some delegations have co-operation and consultation with the tobacco industry over tobacco smuggling.

It mentions one that has a 'memorandum of understanding' with a cigarette manufacturer. And just like a soccer referee, it issues 'yellow cards' to warn manufacturers if contraband seizures can be related a particular customer, and then moves to a 'red card' if the situation gets out of hand.

Sadly, the expected queues of delegates from around the world anxious for details of this imaginative partnership with the tobacco industry have somehow failed to materialise.

Could this be because the country in question has the worst smuggling tax revenue losses in the world, at over \$5 billion per year? And that over 80% of the cigarettes smuggled are manufactured in the UK in the first place*, exported by the container-load to places with no market for them, like Afghanistan, and then illegally re-imported by the container-load?

Is this the country that has refused to join 10 other European states in racketeering legal action against Big Tobacco. Yellow card, red card... what next? Christmas card?

*Oops... did we just give away the identity of the delegation? Sorry.

Tobacco-related employment: Keeping the poor impoverished?

Women and children rolling bidis for pennies a day. Men bribing forest guards to cut down acres of forests to feed the fires that cure tobacco. Farmers trapped by debt, eager to grow corn rather than tobacco but unable to obtain bank loans. Tribal people complaining of abuse and exploitation at the hands of the buyers of their products.

These are just some of the stories chronicled in a new research report produced by PATH Canada that will be released during today's FCA briefing. The report, *Tobacco and Poverty: Observations from India and Bangladesh*, also contains research indicating that street children often spend more on tobacco than on nu-

tritious foods, and homeless families spend more on cigarettes and gutkha (chewing tobacco) than on education or savings.

"I hate bidi work," says one 11-year-old Bangladeshi girl quoted in



the report. "If somebody told me to starve and not do bidi work, I would be happy."

The report suggests that rather than helping lift people from poverty, tobacco-related employment represents a marginal job that exploits

women, children, and tribal peoples, and further entrenches people in poverty. At the same time, expenses for tobacco represent a significant burden on the addicted poor.

Tobacco control policy initiatives have consistently been resisted by the tobacco industry as leading to loss of employment and poverty to those engaged in tobacco production. The report suggests otherwise.

The use and supply of tobacco has little to contribute to national development and people's welfare. It only reinforces the cycle of poverty among those already poor, and lures people and nations further into debt.

— Shoba John, PATH Canada

BAT botches effort to infiltrate London School of Hygiene and Tropical Medicine

British American Tobacco's ongoing campaign to offer various sponsorships to universities in the UK took an awkward turn for the company when the *British Medical Journal* (October 12) and the *Guardian* (October 11) reported its decidedly unsuccessful approach to recruit an epidemiologist at the London School of Hygiene and Tropical Medicine.

A rather paltry grant of £1,500 (US\$2,350) was offered for an MSc student who was also to have

been provided with a position at BAT's Southampton plant upon graduation.

Epidemiology Professor Dave Leon's reply to BAT was succinct: "You must think that academics and students in epidemiology are both extremely stupid and mercenary. There is no need to recite to the responsibility BAT has for millions of deaths as it continues to push tobacco around the world."

BAT's overtures have led to speculation as to why it risked a

considerable level of adverse publicity over a decidedly small amount of money. It is impossible to know whether it was simply a mistake by an inexperienced employee in the human resources department that went unnoticed, or an example of BAT testing the waters.

BAT admitted that the grant offer had been a mistake.

— Ross Mackenzie, LSHTM

NOSTALGIA:

Did anyone notice John Sandage at the entrance to CIGC yesterday greeting delegates as they arrived? He looked happier than ever. He was dressed, as ever, in black.

Notice to delegates – method of work

The first 'formal informals' will formulate 'informal informal' fora for formalising formulae for the final form of the FCTC.

Dress code: jackets off, ties loose, and sleeves rolled up. Look busy.

Dirty Ashtray Award

Pakistan, for blocking regional consensus within EMRO.



Orchid Award

SEARO, for consistent leadership, particularly on trade issues.



MR BUTTS gives an extra special welcome to his friends from Japan, the USA, Germany and Pakistan.

HEARD IN THE CORRIDOR

What is the "avuncular autocracy"? And why is informal negotiation such a manly virtue?

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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