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Tobacco, International [1]

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**UNCLASSIFIED FAX FROM
THE NATIONAL ECONOMIC COUNCIL
AND
THE NATIONAL SECURITY COUNCIL OF
THE WHITE HOUSE**

SENDER: Sherman G. Boone *sgb*
PH: 202-456-9288
FAX: 202-456-9280
PAGES: 2 **DATE:** October 29, 1997

SUBJECT: State-Commerce-USTR Appropriations -- Report Language
on the 'Doggett Amendment'

<u>Agency</u>	<u>Name</u>	<u>Phone #</u>	<u>Fax #</u>
DPC	Tom Freedman	456-5587	456-7431
OSTP	Jerry Mande	456-6018	456-6027
USTR	Jennifer Haverkamp	395-7320	395-4579
	Jan McAlpine	395-9582	395-4579
HHS	Andy Hyman	690-6318	690-7998
HHS/CDC	Michael Eriksen	205-9235	205-8313
	Michelle Chang	205-9221	
HHS/OPHS	Ripley Forbes	260-2255	260-1570
State/EB	Terry Miller	647-3090	647-2302
	Paul Aceto	647-1490	647-1894
USDA	Charlie Rawls	720-6158	720-5437
USDA/FAS	Lana Bennett	720-9519	690-1171
USDOC	Troy Cribb	482-3737	482-2331
	Les Simon	482-0341	482-3981
Treasury/OASIA	Whit Warthin	622-1733	622-1731

Attached for your information is a copy of the report language that will be considered by House-Senate Conferees when they meet tomorrow. The report language, you will note, does not track exactly with that in the bill itself, which states:

None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, unless such restrictions are not applied equally to all tobacco and tobacco products.

FROM :

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Revised Sec. 618 report language --

Sec. 618.—The conference agreement includes a provision, as contained in the House bill, prohibiting funds provided in this Act from being used to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal of foreign restrictions on the marketing of tobacco products, provided such restrictions are applied in a non-discriminatory manner.

The conferees do not intend for this provision to prevent the United States Government from taking necessary actions in accordance with the requirements and remedies available under applicable U.S. trade laws and international trade agreements to ensure non-discriminatory treatment of U.S. products. Further, the conferees do not intend to prohibit the use of funds for routine international trade services available to all U.S. citizens such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, the processing of export trade certificate of review applications, and assistance in assuring fair treatment of U.S. companies by foreign governments in transactions such as customs clearance and intellectual property rights enforcement.

The conferees understand that this provision reflects current United States Government policy, which does not support the use of Federal funds provided to agencies covered under this Act to promote the marketing of tobacco or tobacco products, or to advocate for the reduction or removal of non-discriminatory marketing restrictions, including those which serve a legitimate public health purpose.

Combating the International Tobacco Health Epidemic Into the 21st Century

A Proposal for Incorporation Into the Tobacco Settlement

July 1997

Scott D. Ballin , JD

Proposal for the Establishment of An International Center for Tobacco Prevention and Control

There has been a great deal of concern raised about the effects of a so-called “global” settlement with the tobacco companies unless there is a component to effectively deal with the continuing international tobacco epidemic. Many public health officials and tobacco control experts not only in the US but also abroad believe that the tobacco companies desperately want a deal in order to ensure their own future stability not only in the US but more importantly in the rest of the world where tobacco production manufacture, sales, and marketing are increasing at an alarming rate. There is every indication that such trends will continue as the tobacco companies and international leaf dealers entrench themselves into the economies of nations around the world. This is a scenario not unlike the one that has plagued the United States for more than forty years as the tobacco industry has used its economic clout and political power to make smokers, farmers, retailers, advertisers and other industries “tobacco dependent”, thereby assuring decades of profits at the expense of public health. Because the settlement cannot prescribe what legislation or regulations other countries or international bodies may impose on the manufacture sale and marketing of tobacco nor prescribe any legal liability damages, there has been little in the way of meaningful proposed solutions.

Except for some proposals that suggest that a set amount of money be made available to the World Health Organization and or for media campaigns, no substantive proposals have come forward for incorporation into the settlement that would effectively deal with the international concerns associated with tobacco production and marketing. What follows is a proposal that is designed to establish both a structure, provide the necessary tools as well as to set out long term strategies for dealing with what will continue to be a global international tobacco epidemic well into the 21st century.

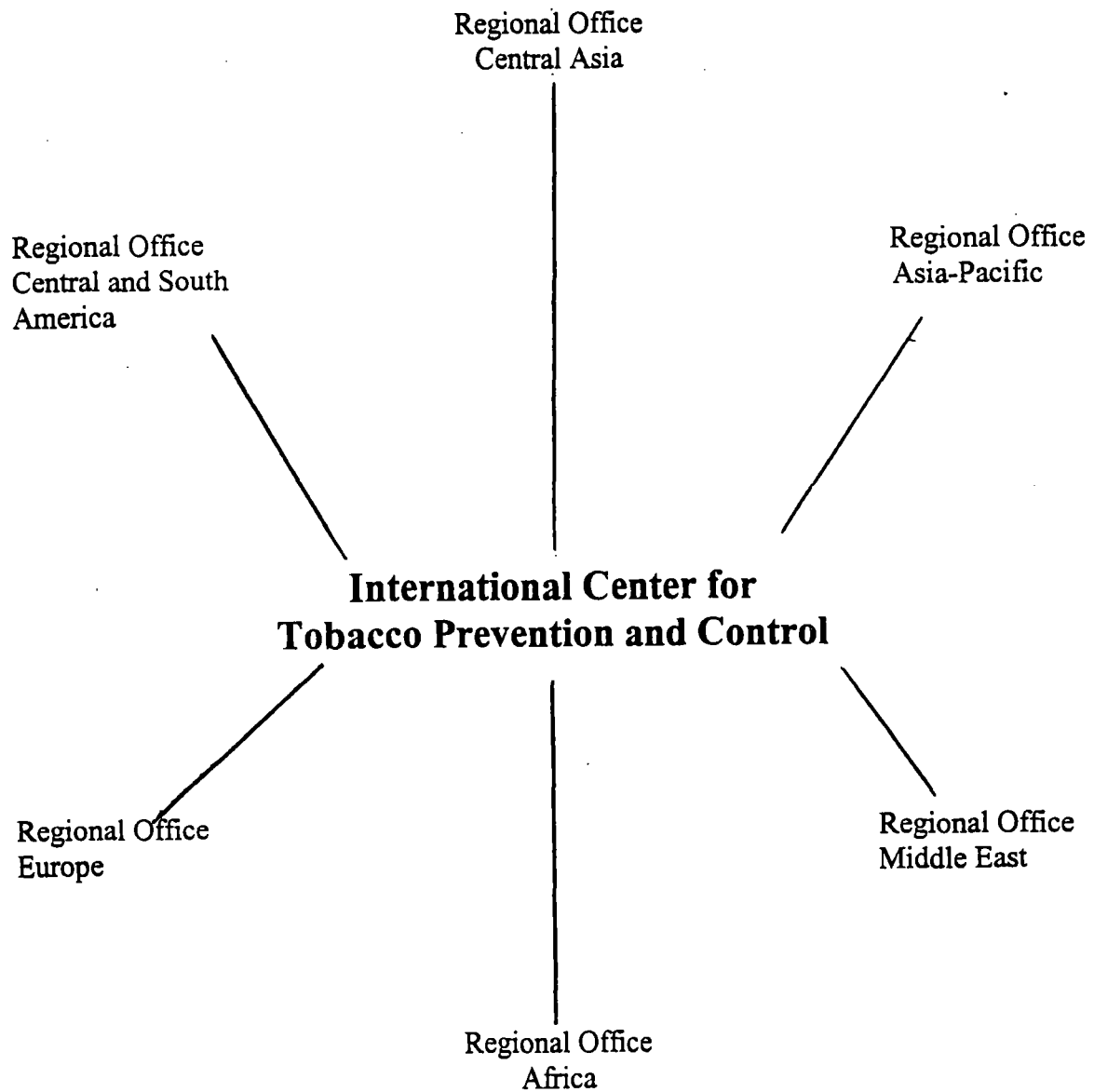
Presently, except for a number of dedicated tobacco control activists little exists in the form of a true international organization, adequately structured, staffed and funded. While the tobacco companies and international leaf dealers have effectively expanded their international operations, setting out short term and long terms strategic goals, the international health community has fallen further and further behind, with neither the structure nor short term or long term strategic goals in place. International tobacco control conferences such as those held in France and Argentina have provided a valuable forum for dialoguing and exchanging information and strategies but have failed to put together a meaningful international organization that can deal with the global tobacco epidemic.

This proposal would as part of the tobacco settlement require that US companies set aside \$ 50 million annually for a period of twenty (20) years to be used for the establishment

and operation of an non-governmental (NGO) International Center for Tobacco Prevention and Control. Such a Center would be overseen and governed by a Board made up of qualified representatives of the international health organizations in cancer, cardiology, lung disease, public health, and medicine as well as representative from international consumer organizations. The Center would be charged with establishing an international tobacco control agenda, with both short term and long goals and strategic plans.

The Center and its regional offices would through its governing board be charged with designing and implementing a comprehensive international tobacco prevention and control program, including developing and implementing an international tobacco control data base, providing counseling guidance and expertise on policy related matters as well as assisting in the formation and development of international and regional coalitions.

The Center would be a totally independent coalition of organizations, subjected neither to any controls by the tobacco industry nor the US government. Without a meaningful well funded international organization that provides the necessary support to international tobacco control efforts and activities other initiatives, though commendable, will fail in light of the tobacco industry's international clout.



**International Center for
Tobacco Prevention and Control**
(Legislative Outline)

Sec. 1. There is established an International Center for Tobacco Prevention and Control hereafter known as the 'Center'.

a) Except as required by this act, the structure and governance of the Center shall be determined by a Board composed of persons appointed by and representing the following international health and consumer organizations.

- 1) the Union of International Cancer Control
- 2) the International Society and Federation of Cardiology
- 3) the International Union Against Tuberculosis and Lung Disease
- 4) the World Federation of Public Health
- 5) the International Consumer Federation
- 6) the World Medical Association
- 7) the International Agency for Tobacco and Health

b) The founding Board members may appoint up to four additional Board members representing organizations committed to providing international leadership in tobacco prevention and control.

c) The Board shall be constituted and shall meet no later than six months after enactment of this act. The Board shall establish bylaws and other administration and operational procedures as necessary for carrying out its duties and functions.

d) The Board shall appoint a Director of the Center who will oversee the operations and management of the Center's activities and functions.

Sec. 2 Purpose and Duties of Center

a) The Center shall be charged with establishing and overseeing a comprehensive international tobacco control program. Such a program shall include but not be limited to:

- 1) developing and maintaining an international tobacco control data base for use by public health organizations, legal experts and policy makers interested and dedicated to reducing tobacco use.
- 2) developing and implementing an effective international communications network that links international health organizations, tobacco control advocates and others dedicated to reducing tobacco use.

- 3) providing guidance, counsel and training related to enactment of public policy laws and regulations in both countries as well as in international bodies for the purpose of reducing the consumption and use of tobacco products.
 - 4) developing a board based coalition of organizations interested in reducing tobacco use world wide as well as providing guidance, training and assistance to countries in developing similar coalitions.
 - 5) providing grants in assistance to both regional as well as national entities working to reduce tobacco use.
- b) Except as required by this act the Center shall operate as an independent entity with policy and operational authorities determined by the Board.

Sec. 3 Regional Center Offices

a) As part of the Center, there shall be established Tobacco Prevention and Control Regional Offices. There shall be a minimum six (6) such regional offices. Such regions shall include:

- 1) Central and South America
- 2) Europe
- 3) Africa
- 4) The Middle East
- 5) Central Asia
- 6) Asia Pacific rim

b) The Board may establish or modify such regions as may be necessary so long as all area of the globe are covered and served by the Center and its regional offices. The national Center shall serve as the regional office for North America.

Sec. 4. Funding

a) (1) For carrying out all activities and functions related to the Center, there is established an "International Tobacco Prevention and Control Fund" hereafter referred to as the "fund". The tobacco companies who have signed the settlement agreement upon which this legislative proposal is based, shall agree to provide to the fund the amount of \$ 50 million per annum for a period of twenty years, commencing six months after enactment of this act.

2) The funding provided under paragraph (1) shall be dispensed as determined by the governing Board of the Center as established under this act.

International Tobacco Issues
Working Group Meeting
Tuesday, September 30
4:30 pm
Room 231, OEOB

AGENDA

Boorstem!

Summers wants \$100M

1. Stock-Taking/Overview

- President's Statement re: Public Health Goals/International Leadership
- Shalala Testimony (9/25)

2. International Public Health & Education

- Development of New Initiatives
- International Framework Convention

3. International Trade Policy & Commercial Issues

- Doggett/Mollohan Amendment to FY98 State-Commerce-Justice Appropriations Bill (9/26)
- State/Commerce/Agriculture Draft Guidelines to Posts

4. Other Issues

- Smuggling

5. Next Steps/Follow-up

draft of 9/25/97

Tobacco: Guidance for U.S. Diplomatic Posts on Trade and Commercial Issues

The opening of international markets to U.S. products, national treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the recognition of the importance of health measures internationally, and the need to distinguish legitimate health-based actions from protectionism, the Clinton Administration is approaching the intersection between U.S. trade and health policies in a way which recognizes that insisting on non-discriminatory treatment of U.S. companies by our trading partners should not undermine other governments' genuine health-based policies.

Tobacco sits squarely in this intersection. In light of the serious health consequences of tobacco use, the U.S. Government and its officials will not support the activities of individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products, or undertake any efforts that are likely to increase the overall demand for tobacco products. The USG respects the rights of foreign governments to establish and maintain sound public health practices, and encourages them to do so. On the other hand, the USG will continue to support activities to eliminate discriminatory practices and will seek "national treatment" in advocating U.S. industry interests: the overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

Trade Policy Considerations

It is United States policy to treat as presumptively valid any foreign country's non-discriminatory health policy measures intended to reduce tobacco consumption, while reserving the right to object to such measures when they are discriminatory. This Administration will continue to ensure that the policies we pursue abroad are consistent with our own health policies and do not interfere with other countries' legitimate efforts to address health issues. Our trade negotiators will not seek to prevent foreign governments from taking steps to protect their citizens by adopting legitimate health measures to restrict the consumption of tobacco.

To this end, the Office of the United States Trade Representative (USTR) does not interfere with or object to foreign countries' adoption or enforcement of measures necessary to protect public health, including advertising and promotion restrictions; however, these restrictions should be applied in a non-discriminatory fashion. The requirement of non-discrimination is the cornerstone of the international trading system, as embodied in the Uruguay Round Agreements. Uruguay Round rules also provide ample scope for nations to pursue their own legitimate health policy objectives. The U.S. Government expects those trading partners exporting to the U.S. market to abide by the health-based requirements we place on our domestic industries. By the same token, we will respect other countries' legitimate health-based measures. However, such restrictions must be applied in a way that does not unjustifiably discriminate against U.S. products or otherwise amount to a disguised restriction on trade.

Commercial Policy Considerations

U.S. Government personnel should not be involved in the business of promoting the use of tobacco. Posts may assist U.S. tobacco companies with "responsive business facilitation" such as providing publicly-available business, market and regulatory information; assisting with problems such as shipments held at port, trademark violations, smuggled imports, or phytosanitary requirements; or assisting with industry/government contacts. Any assistance should not undermine nondiscriminatory health regulations. Although in the past, Post assistance may have extended beyond "responsive business facilitation," the serious health consequences associated with tobacco use require limitations.

Consistent with U.S. trade policy, Posts should not in any way challenge or interfere with host country regulations based on sound public health principles and following the principle of "national treatment," i.e. that are applied in a non-discriminatory manner to both imported and domestic tobacco products. Posts may, after consultations with State/Commerce/Agriculture and other relevant agencies, and in accordance with Trade Policy Coordinating Committee guidance and appropriate instructions, challenge unfair or discriminatory trade practices against U.S. tobacco firms or tobacco products. Posts may also seek clarification of regulations affecting U.S. tobacco firms or tobacco products and, after consultations and upon instructions, may challenge any lack of transparency in such regulations.

Post Guidelines

1. Posts should not challenge or interfere in any way with host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given.
2. Posts may not assist or participate in promotional activities of individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products that are likely to increase the overall demand for tobacco products. Posts should particularly avoid facilitating or associating with activities that utilize cartoon characters or other forms of non-text advertising or promotional materials for marketing and promotion, as these tend to target special populations, such as children.
3. Ambassadors or embassy staff may not, in their official capacity, attend receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products where tobacco brand names will be featured.
4. Posts are encouraged to assist and promote tobacco-control efforts sponsored by host country health officials and other health agencies, including:

- reporting on tobacco use trends in host countries, local and national ordinances and legislation, and other actions directed toward tobacco use prevention among children and youths;
- advising national leaders of U.S. willingness to share information on harmful effects of tobacco use, and U.S. interest in the experiences of other countries;
- participating in host country events that highlight tobacco use prevention and cessation;
- advising USG agencies of opportunities for interaction with host country officials and scientists on tobacco issues; and
- informing individuals or entities involved in the export, import, manufacturing, promotion, distribution or sale of tobacco or tobacco products of national and local laws and regulations pertaining to tobacco and tobacco products.

as amended, \$3,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), \$3,000,000, to remain available until expended: *Provided*, That not to exceed \$2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1998, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1998, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or ex-

penditure for activities, programs, or projects; through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51265).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days, based upon all information available to the United States Government that the Government of the Socialist Republic of Vietnam is cooperating in full faith with the United States in the following four areas:

(1) Resolving discrepancy cases, live sightings and field activities.

(2) Recovering and repatriating American remains.

(3) Accelerating efforts to provide documents that will help lead to fullest possible accounting of POW/MIA's.

(4) Providing further assistance in implementing trilateral investigations with Laos.

AMENDMENT NO. 4 OFFERED BY MR. DOGGETT
Mr. DOGGETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. DOGGETT:
At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of such products.

AMENDMENT OFFERED BY MR. MOLLOHAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DOGGETT

Mr. MOLLOHAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOLLOHAN as a substitute for the amendment offered by Mr. DOGGETT:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Thursday, September 25, 1997, the gentleman from Texas [Mr. DOGGETT] and a Member opposed each will control 15 minutes on both amendments.

Mr. DOGGETT. Mr. Chairman, the substitute amendment is acceptable.

The CHAIRMAN pro tempore. Without objection, the gentleman from West Virginia [Mr. MOLLOHAN] may control the 15 minutes in opposition.

There was no objection.

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PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. NUSSLE). The gentleman will state it.

Mr. DOGGETT. The substitute amendment is before us as having been adopted.

The CHAIRMAN pro tempore. That is correct.

Mr. DOGGETT. And, Mr. Chairman, I will have 15 minutes in support of the substitute amendment. And who will have 15 minutes in opposition to that amendment?

The CHAIRMAN pro tempore. Is there a Member opposed to that amendment?

Without objection, the gentleman from Texas [Mr. DOGGETT] will control the 15 minutes in opposition.

There was no objection.

Mr. DOGGETT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment concerns the health of our children, the

children of the entire world. The dangers of nicotine addiction to our children are now increasingly known. Three thousand young Americans each day become caught up in the nicotine habit, our leading cause of preventable death in America.

But these dangers do not stop at our country's shores. With increasing pressure to stop hooking kids here at home on nicotine, the big tobacco companies are spreading out around the globe to hook other people's kids. To make matters worse, American tax dollars, our tax dollars, have been used to promote addicting our people's children to the nicotine drug. This amendment would put a stop to that.

Since 1990, while Phillip Morris sales have grown by only 4.7 percent here in the United States, they have grown by 80 percent abroad. Smoking causes about 3 million deaths each year around the world. And it is estimated that in another couple of decades, the number will rise to 10 million, with 70 percent of all deaths from smoking coming into developing countries that are the newest targets of big tobacco.

Unfortunately, the U.S. Government and the U.S. taxpayer has been complicit in this export of death. Government employees in the Office of the U.S. Trade Representative and the Commerce and State Departments, economic and commercial counselors around the globe have assisted American tobacco companies overseas to break down barriers, and the result has been more kids around the globe are smoking.

One of the examples comes from our Embassy in Thailand, where instead of promoting health, our taxpayer dollars were used to try to discourage health restrictions. This amendment would put a stop to that and would ensure that America provides leadership in protecting children around the world instead of exposing them to disease.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Colorado (Ms. DEGETTE), one of the coauthors of this amendment.

Ms. DEGETTE. Mr. Chairman, tobacco does not discriminate. Tobacco kills people, young and old, black and white, American and Thai alike. Yet it seems that our Government discriminates when it comes to tobacco.

At home, the U.S. Government spends millions of dollars every year on tobacco prevention programs and is currently engaged in the most aggressive effort to date to curb youth smoking in America. But abroad in Asia, Eastern Europe and the former Soviet Union, the U.S. Government works hand in hand with tobacco companies to promote its product and increase its use in the overseas marketplace. What does this say about how our Government values human life? Is a life in downtown Washington more precious than a life in Bangkok? Tobacco does not discriminate, and neither should we.

There is a real difference between a company voicing legitimate inter-

national trade concerns and the tobacco industry's use of the Federal Government as a school yard bully to force foreign governments to subject their young to a barrage of cigarette marketing. It is a black eye for American diplomacy.

There is no doubt the entry of American tobacco overseas has dramatically increased consumption worldwide. In Taiwan, smoking rates of high school students jumped from 22 to 32 percent in the 2 years after American cigarettes were introduced. In Korea, the rate for male teens grew from 18 to 30 percent in just 1 year. In Japan, 26 percent of high school senior girls were smoking in 1990 after U.S. cigarettes were introduced.

Let us face it, tobacco companies do not need an extra boost from our Government to thrive overseas. That is why since 1993 we have banned such activity by the Agriculture Department by prohibiting the agency from promoting tobacco through the market access program.

As Congress embarks on the historic negotiations to reduce smoking at home, it would be inhumane for us to continue supporting this smoking abroad.

Mr. DOGGETT. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut (Ms. DELAURO), who has been one of the leaders in trying to protect other children from tobacco.

Ms. DELAURO. Mr. Chairman, I rise today in strong support of this amendment. This is just common sense. Tobacco kills. U.S. taxpayer dollars should not be used to help the tobacco industry market this deadly product.

This is not a car. It is not a computer. It is not some piece of technology which is going to help to improve the quality of life. It is a product that, in fact, kills people. We have seen the dangers of smoking right here at home. We have spent billions of dollars on health care for people with tobacco-related diseases.

We should not be in the business to allow the tobacco industry to turn its gaze outward to the untapped markets across the world. Now that their market shares are beginning to decline in the United States, our Government has no business using taxpayer dollars to help the tobacco industry export this deadly product.

The Department of Agriculture is already barred from promoting tobacco through the market access program. This amendment would simply make Federal policy consistent across the Departments.

I urge my colleagues to support this amendment.

Mr. DOGGETT. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, if we respect the way tobacco products are marketed in this Nation because we are concerned about the documented health risks, how can we in good conscience use taxpayer funds to help to-

bacco companies market their products overseas in nations where no restrictions are placed on their tactics which overwhelmingly target children? It is indefensible.

As this Nation works to finalize a settlement that will force tobacco companies to reimburse States and individuals for the illnesses caused by many of their products, we must not be aiding the efforts to export those illnesses overseas. In fact, a New York Times editorial recently pointed out American tobacco companies have agreed to proposed domestic settlement in part because it does not touch them overseas where profits are soaring and they can boldly target teenagers without fear of lawsuit or powerful critics.

In this Nation nearly 30 years of antismoking efforts, because of it and despite it, American children still recognize Joe Camel as much as they recognize Mickey Mouse. In Hong Kong, empty packs of American cigarettes can be redeemed for tickets to movies and discos and concerts. In the mid-1980's our own U.S. Trade Representative demanded and won the right for American tobacco companies to advertise in Korea and Taiwan. No wonder tobacco consumption is growing at the fastest rate in the world in Asia.

I believe this Nation should be exporting antismoking efforts, but at the very least, we should stop aiding the efforts of the tobacco companies overseas. I urge my colleagues to support this amendment.

Mr. DOGGETT. Mr. Chairman, are there no speakers in opposition? I have some other speakers. I wanted to be sure I was not going to be faced with other speakers at the end.

Mr. MOLLOHAN. Mr. Chairman, no, the gentleman from Texas (Mr. DOGGETT) is going to have a clear field here.

Mr. DOGGETT. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN), who has done as much as anyone in this Congress to deal with the plague of this preventable disease caused by tobacco.

Mr. MEEHAN. Mr. Chairman, I rise in strong support of the Doggett-Meehan-Hansen-DeGette amendment.

Simply put, we can no longer continue to promote and facilitate the overseas sale of preventable death. In 1995 alone, Mr. Chairman, tobacco products killed 3 million people worldwide. According to the World Health Organization, 500 million people alive today will die due to smoking-related illness. It is hypocritical at best and immoral at worst for us to continue on our present course.

At a time when we are working to improve the health of our citizens, it should not be the policy of the U.S. Government to promote the sale and marketing of death and disease abroad. This amendment, Mr. Chairman, is about our Government's complicity in big tobacco's export on an epidemic scale.

Here in the United States, smoking rates among adults have finally begun to decline. In response to a shrinking domestic market, the American tobacco companies have turned their attention to the independent national market, particularly developing nations in Asia, Latin America and Eastern Europe. Indeed, Mr. Chairman, international sales of Philip Morris and R.J. Reynolds have already quadrupled in the last 10 years.

Mr. Chairman, opponents of this amendment do not mention the fact that American tobacco companies are unleashing an unprecedented advertising and marketing campaign on unsophisticated and vulnerable consumers all across the world. Further, they conveniently forget to mention that American tobacco companies have targeted women, the vast majority of whom had not previously smoked, by linking the women's movement with the smoking of cigarettes.

It is abundantly clear that the American tobacco companies are looking overseas for future profits. With this amendment, we must decide whether or not we, as a nation, will facilitate big tobacco's overseas campaign. Currently we are willing accomplices to the worldwide addition of children to tobacco products. Thus, we had have contributed to these untimely deaths.

How can we on the one hand seek to protect our children from the ravages of nicotine addiction while promoting the activities of tobacco companies abroad? This is a good amendment.

Mr. DOGGETT. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I rise in support of the Doggett amendment. We should not use any Federal funds to support the promotion and export of tobacco overseas. Tobacco kills. It is a known killer. It is toxic and addictive. Tobacco kills more than 1,000 Americans every day.

Most people begin smoking when they are teenagers. Every day 3,000 young people begin smoking. We must put an end to this effort. This is an effort we support worldwide. We must send that same message around the world that tobacco kills. We should not, we must not, we cannot support smoking in other countries around the world.

We must not allow public funds to promote smoking in other countries. Why should we export our poison? Why should we send our poison to poorer, sicker, less developed countries? We all live on this planet together, Mr. Chairman. We must be concerned not just about our children becoming addicted, we must also be concerned about children around the world, rich or poor, black, white, yellow, or brown. They all are our children.

We are talking about the lives of innocent children. Mr. Chairman, we have people that are trying to sell poison to our neighbors' children. They are using their money and their ads and their glamour to poison our Nation's and neighbors' children. We have

a moral responsibility not to support this effort. We have a moral duty to protect our neighbors' children just as we protect our own children. We must say no to tobacco both here in our country and around the world.

Mr. DOGGETT. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. LUTHER], one of the leaders in the effort to deal with the young people and not having them become addicted to nicotine.

Mr. LUTHER. Mr. Chairman, I rise in strong support of this amendment because America's tobacco companies are continuing to profit from addicting the world's children to tobacco.

This amendment will force the U.S. Government to cease the unconscionable practice of assisting these companies in promoting tobacco use abroad. We now have extensive research showing that billboards and advertisements in magazines increase smoking among youth.

The fact that children are being used as advertising targets severely detracts from their ability to make sound judgments about the devastating health consequences of smoking. Let us put emotion aside and simply consider the facts.

In foreign country after foreign country, smoking rates among young people have skyrocketed after American cigarettes were introduced. This is atrocious, and the U.S. Government is in part responsible. We must no longer be part of this tragedy.

I urge my fellow House Members to support this amendment, discourage tobacco use around the world, and send the message that America will not tolerate this kind of assault on the world's children.

Mr. DOGGETT. Mr. Chairman, this has been a bipartisan effort. The gentleman from Utah [Mr. HANSEN], one of the coauthors, is not here today to speak.

Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA], my distinguished Republican colleague and another leader in this effort.

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Texas [Mr. DOGGETT] for yielding me the time.

Mr. Chairman, I want to try to really condense and simply say that I think it is a very important amendment, and I hope that my colleagues will all support it. Tobacco use continues to be a major health problem in our country. We all know that. It is responsible for one out of five illnesses, according to the Centers for Disease Control. We know that those illnesses coming from tobacco cost Medicare more than \$10 billion a year, Medicaid more than \$5 billion.

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Mr. Chairman, I do not understand why we are subsidizing the promotion of tobacco products in the first place. The tobacco industry makes large profits on their products, and in fact 68

cents of every dollar that is spent by consumers on tobacco products goes to manufacturers and distributors. Price-Waterhouse conducted a study that concluded that the tobacco industry generates about 800,000 jobs. However, more than 3 million people worldwide die each year from diseases related to tobacco use. That means that four people must die each year to create one job.

The amendment before us is merely an extension of legislative actions taken by past Congresses. In every agriculture appropriations bill since 1993, Congress has approved provisions to prohibit the Agriculture Department from promoting the sale or export of tobacco products overseas. This amendment extends the prohibition to the Departments of Commerce, State, and the U.S. Trade Representative.

We should not be using taxpayer funds to promote the sale or export of cigarettes. This is a product that addicts children and kills one-half of its long-term users. The American Heart Association emphasizes that "more people die each year in the United States from smoking than from AIDS, alcohol, drug use, homicide, car accidents, and fires combined. Tobacco use accounts for more than \$68 billion in health care costs and lost productivity each year."

I think it is time for the Federal Government to get out of the tobacco business. I urge my colleagues to se this opportunity to move one step more towards accomplishing that goal.

Mr. DOGGETT. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas is recognized for 3¾ minutes.

Mr. DOGGETT. Mr. Chairman, my thanks to all of my colleagues who have joined on what I believe is an important amendment. This will be the first time that this Congress, particularly in view of all of the discussion of the tobacco settlement, recognizes and goes on record that our responsibilities as a world leader and as a moral leader in this world do not stop at the shores of this Nation.

Yes, we are concerned that 3,000 young Americans become addicts to tobacco each day; yes, we are concerned that this is the leading cause of preventable death in this country; yes, we are concerned when tobacco companies come through this Congress and sneak in a \$50 billion tax credit for themselves. But our concern does not go just to our children; it goes to the children of the world. And we know that if a tobacco settlement is funded by simply addicting other children we have forfeited our claim to responsibility in this world and our claim to any moral leadership in this world.

And so today, Mr. Chairman, I believe this House will go on record as saying no longer will we use the tax dollars of American taxpayers to promote the sale of tobacco abroad, and no longer will we ask the U.S. Trade Representative, as happened in Korea, to go in and knock down restrictions on

advertising directed at young Koreans, directed at the children of Korea so that they can become addicted to nicotine, and say that we did it because it was a trade regulation that was limiting new entrants, American tobacco companies, into this foreign market. We go on record against that.

There is an amendment that has been added by my colleague from West Virginia, and it is a narrow amendment indeed. It says essentially that if some country were to say we do not want West Virginia tobacco but we will take the tobacco from the rest of the world, that that would be a very narrow limited basis for the Trade Representative to go in and see that that kind of arbitrary discrimination did not occur. But not with reference to health and safety regulations, not with regard to the ingredients in tobacco, as our embassy in Thailand sought to do to limit the health efforts of the Thai Government; no, what we will be doing today is responding to the tobacco control advocates from 19 countries around the world who wrote this Congress this very summer and asked us specifically to provide for an explicit statement that our Trade Representative and our State Department would not be out trying to interfere with the health regulations of other countries around this world who are trying to protect their children from the problem of tobacco just as we are trying to protect ours.

As the New York Times wrote recently, Washington can surely remove tobacco from the category of products that get aggressive support for opening foreign markets. American companies and the American Government unleash sophisticated marketing campaigns that increase smoking and, of course, thereby increase preventable death in many countries where people do not fully understand its danger. That gives Washington a responsibility to undo the damage, and that is precisely what this House would be doing this morning in adopting this amendment.

This amendment has been endorsed by all of the leading public health organizations that have been struggling with the menace of tobacco in this country. The American Lung Association, Dr. C. Everett Koop, President Reagan's Surgeon General, has spoken out with reference to this matter, and I believe we will constructively move forward this morning to adopt an amendment that really for the first time in this Congress goes on record concerning our feelings about the problems of tobacco.

And I hope that we will see this incorporated into the instructions that go to every one of our commercial and economic counselors around the globe, so that they will understand full well that anything they might do on behalf of an American tobacco company has been seriously and narrowly limited to those most arbitrary regulations that have nothing to do with public health and safety. Their job should be, as emissaries for our country, to encourage

other countries to promote health and safety and well-being for their children, and not to promote the sale of a product that is the leading cause of preventable death in this world.

Mr. Chairman, I ask for approval of the amendment, as amended.

Mr. MCDEFMOTT. Mr. Chairman, I rise in support of the Doggett-Meehan amendment because our Government should do everything it can to prevent the use of tobacco products—regardless if that use occurs in the United States or abroad. The amendment before us is simple—it merely prohibits the use of taxpayer dollars to help tobacco companies market their products overseas.

Overseas communities clearly represent the future market for America's tobacco products. Since 1990, the sale of Philip Morris tobacco products have increased in this country by about 5 percent. However, during the same time period, Philip Morris' overseas sales skyrocketed by 80 percent.

Worse still, the new smokers who are attracted to these U.S. tobacco products are children. For example just 2 years after American cigarettes were introduced to Taiwan, smoking rates among Taiwanese teenagers jumped from 22 to 32 percent. In Korea, the number of male teens who smoked almost doubled to 30 percent just 1 year after United States tobacco products entered the market.

Mr. Speaker, in my view, each of us should do everything we can to reduce smoking worldwide—not just in the United States. This is especially true when you consider that it's the kids of the world who are most susceptible to the marketing of this lethal product.

I urge my colleagues to take this small, but worthy step to reduce the world's addiction to tobacco by limiting our country's ability to push tobacco use abroad. I urge you to support the Doggett amendment—let's not spend anymore taxpayer dollars to boost these lethal tobacco products overseas.

Mrs. LOWEY. Mr. Chairman, I rise in strong support of this amendment, which will take us one more step toward a consistent Federal tobacco policy.

Tobacco products kill over 3 million people every year, including 400,000 Americans. Every day, thousands of young people start smoking. One in three will die from cancer, heart disease, and other illnesses caused by smoking. American taxpayers should not be subsidizing this deadly product.

We in the United States are facing a public health crisis over the effects of tobacco use. In fact, we spend almost \$200 million each year to warn Americans about the dangers of tobacco and prevent its use.

But it is irresponsible fiscal and health policy for the Federal Government to then turn around and promote the sale of tobacco products overseas. What kind of an example are we setting for the rest of the world? What kind of an example are we setting for our own kids here in the United States who are being told not to smoke?

It's time for this hypocrisy to end. We must make our Federal tobacco policy consistent with our public health policy.

Today, we have an opportunity to move another step down the road to dissolving the Federal Government's partnership with the tobacco industry. We must stop using taxpayer dollars to subsidize a product that kills millions of adults, addicts our kids, and costs billions a year in health care.

I urge my colleagues to support this important amendment.

Mr. ETHERIDGE. Mr. Chairman, I rise in opposition to this attack on farmers. Singling out one legal product is wrong. It this amendment passes, the U.S. Trade Representative will be prevented from using America's influence with foreign countries to eliminate unfair foreign trade barriers imposed on a legal, American product grown by family farmers. One third of the tobacco grown in this country is exported. Foreign markets for American tobacco are vital to small tobacco farmers and their communities. This legislation represents an assault on America's family farmers.

If USTR is no longer allowed to take action against trade barriers imposed on these American products, foreign governments will impose such barriers at will. We would never do this to other legal products such as American automobiles, American computers, American seafood, American beef, or American airplanes. We're fighting to gain access to foreign markets for these products. Not doing so for tobacco is unfair and is bad policy. Congress would not dare do this to any other group of American Producers.

USTR's hands would be tied in negotiating trade deals with countries where tobacco is but one of a host of items considered. A country could ban all American tobacco, a violation of the General Agreements on Tariffs and Trade. Yet, USTR would be prevented from taking action, even if a clear violation has occurred.

There is nothing to be gained by tying the hands of USTR. This will not prevent people from smoking. Those who choose to smoke will simply buy cigarettes made in countries where tobacco production is not regulated as it is here. Countries where children are paid poverty wages to make cigarettes in horrible working conditions. Countries that do not regulate the use of pesticides. Countries that do not inspect manufacturers for sanitary procedures. This amendment won't reduce smoking. It will only benefit foreign tobacco companies and farmers at the expense of 124,000 American family farmers.

This is the crop insurance vote all over again. This body agreed that singling out one commodity that receives crop insurance would be discriminatory, and defeated an attempt earlier this year to eliminate it for tobacco farmers. This amendment is another unfair attack on hard-working, God-fearing farmers playing by the rules. I urge you to support America's right and responsibility to enforce international agreements and to support American farmers. Vote "no" on this amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong support of the Doggett-Meehan-Hansen-DeGette amendment because the Federal Government should not be in the business of assisting the tobacco industry in promoting its deadly and addictive products either in the United States or in other countries.

The U.S. tobacco industry exploits the domestic market by flooding our communities with billboard, magazine and newspaper advertisements and sponsoring concerts and sporting events. They have launched their campaigns with the knowledge of the addictive and deadly effects of tobacco and for years kept this information from the public. Worse yet, while they knew that tobacco kills, the industry targeted our children and communities

of color by promoting the ubiquitous Joe Camel and exploiting cultural events such as Juneteenth and Cinco de Mayo festivals.

With U.S. sales lagging in the United States, the tobacco industry has turned to foreign markets to launch their high-profile ads where once again, they are targeting teens and women of color in Asia, Africa, Central, South America, the Caribbean, and Eastern Europe. As a result, worldwide use of American tobacco has skyrocketed over the past 10 years. Foreign sales now account for more than half of all sales for Philip Morris and RJ Reynolds.

Due to the thousands of tobacco-related illnesses and deaths that have resulted from the use of tobacco, we are now in the midst of an unprecedented so-called settlement with the tobacco industry. We are finally discussing substantial curtailment of the promotion, advertising, and distribution of tobacco products in the United States. How then can we turn a blind eye and allow the tobacco industry to addict thousands of people in developing nations? How can we in good consciousness allow the U.S. Government to undermine health warning labels, ingredient disclosure laws and tobacco advertising restrictions in developing countries while we simultaneously bolster these provisions in the United States? With the full knowledge of the lethal effects of tobacco use, the Federal Government is no better than the tobacco industry if it encourages and enables tobacco promotion in other countries.

Referring to the present deal with the tobacco company as a global tobacco settlement is cruel and hypocritical if we are going to assist the industry in addicting people in foreign countries. Enabling the tobacco industry to promote tobacco addiction while we curtail its use in the United States is an unconscionable and unacceptable double standard.

I urge my colleagues to vote for this important amendment which will send a clear message to the tobacco industry that the U.S. Government will not be an accomplice in promoting tobacco-related illnesses and death overseas.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from West Virginia [Mr. MOLLOHAN] as a substitute for the amendment offered by the gentleman from Texas [Mr. DOGGETT].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DOGGETT], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to this portion of the bill? If not, the Clerk will read.

The Clerk read as follows:

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military

advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC-17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration (NOAA) under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102-567.

SEC. 613. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 614. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 615. Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than ninety percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

SEC. 616. EXPENSE REIMBURSEMENT.—Any Member of Congress and any individual who is paid by the Clerk of the House of Representatives or the Secretary of the Senate shall be entitled to receive a reimbursement for any legal expenses and other legitimate expenses incurred by such Member or indi-

vidual in connection with a Department of Justice prosecution arising from or in connection with the performance of official duties and brought against such Member or individual if such Member or individual is acquitted of the charges brought, the charges are dismissed by a court, or the conviction is reversed on appeal.

The CHAIRMAN. Are there amendments at this point in the bill?

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HOEKSTRA: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 617. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

The CHAIRMAN. The gentleman from Michigan [Mr. HOEKSTRA] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, what this amendment does is it accomplishes an objective that we outlined last week on an earlier appropriations bill. What it does is it prohibits the spending of any additional dollars on the actual paying for the administration of a rerun election by the Teamsters Union. As my colleagues are aware, the Federal Government spent roughly \$20 million in 1995 through 1997 to pay for a Teamsters' election. The efforts of these taxpayer dollars were subverted by individuals within the Teamsters, resulting in the election being thrown out because of illegalities and corruption in that election.

This paid, these dollars paid for the actual printing of ballots, the counting of ballots, the payment of phones, the internal operations of a private organization. It is not the taxpayers' responsibility to incur these costs. It is the Federal Government's responsibility to oversee and ensure that no Federal election laws are violated, that there are no violations. This amendment says we will supervise but we will not pay for the day-to-day operations of a private organization.

Mr. Chairman, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from West Virginia [Mr. MOLLOHAN] is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Chairman, I yield myself such time as I may consume. This amendment would attempt to validate an agreement entered into by the Justice Department under the Bush administration. We think that the gentleman's approach is

GAO

United States General Accounting Office

Report to Congressional Requesters

May 1990

TRADE AND HEALTH ISSUES

Dichotomy Between U.S. Tobacco Export Policy and Antismoking Initiatives



GAO/NSIAD-90-190



United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-235805

May 15, 1990

Congressional Requesters

This report is in response to requests received from the Committees and Members of Congress listed at the end of this letter. It reviews the role of the U.S. government in assisting the export of tobacco and tobacco products and the health-related implications of these activities.

In recent years, the U.S. Trade Representative (USTR) has been successful in negotiating removal of unfair foreign trade barriers that had restricted the export of U.S. cigarettes. Despite the fact that cigarettes meet current trade policy criteria, USTR's efforts to remove the trade barriers are controversial because of the health risks associated with smoking.

In some ways, a policy level conflict exists between U.S. trade goals and health policy objectives in regard to the export of tobacco products. On the one hand, federal resources are used to facilitate the export of U.S. tobacco and tobacco products, while on the other hand, the federal government has directed a major domestic antismoking effort and is a participant in the international antismoking movement.

Because of the importance of the issues address in this report and the wide interest in these matters, we plan to distribute copies of the report to each member of Congress, appropriate congressional committees, and other interested parties.

Unless you publicly announce its contents, we plan no further distribution of this report until 11:00 a.m., May 17. At that time, as agreed with your offices, we will distribute this report to other congressional offices and will make it available to additional interested parties.

The report was prepared under the direction of Allan I. Mendelowitz, Director, International Trade, Energy, and Finance Issues. If you have any questions on the report, he can be reached on (202) 275-4812. Other major contributors to this report are listed in appendix V.

Frank C. Conahan
Assistant Comptroller General

List of Requesters

The Honorable Henry Waxman
Chairman, Subcommittee on Health
and the Environment
Committee on Energy and Commerce
House of Representatives

The Honorable Pete Stark
Chairman, Subcommittee on Health
Committee on Ways and Means
House of Representatives

The Honorable Chet Atkins
The Honorable Michael A. Andrews
The Honorable Jim Bates
The Honorable Barbara Boxer
The Honorable Richard Durbin
The Honorable James Hansen
The Honorable Mel Levine
The Honorable Mike Synar
The Honorable Robert Torricelli
The Honorable Pete Visclosky
House of Representatives

Executive Summary

Purpose

In recent years, the U.S. government has been successful in negotiating the removal of unfair foreign trade barriers that restricted the export of U.S. cigarettes. These efforts have been controversial because of the adverse health effects associated with smoking.

GAO was requested by the Chairman of the House Subcommittee on Health and the Environment, Committee on Energy and Commerce; the Chairman of the Subcommittee on Health, Committee on Ways and Means; and other members of Congress to review the role of the U.S. government in helping the export of tobacco and tobacco products and the health-related implications of these activities.

Background

U.S. manufacturers had tried for many years to export their cigarettes to such protected markets as Japan, Taiwan, South Korea, and Thailand. However, their efforts were only minimally successful. Largely through the targeted efforts of the U.S. Trade Representative, beginning in 1985 the governments of Japan, Taiwan, and South Korea agreed to substantially remove their cigarette trade barriers, including high import tariffs, discriminatory taxes, and discriminatory marketing and distribution restrictions. U.S. negotiations with Thailand are currently in progress.

Since 1964, the United States has actively pursued a domestic policy to discourage smoking. As a result, the incidence of smoking among adults in the United States has decreased significantly. In addition, the United States has also supported international antismoking efforts.

Results in Brief

U.S. cigarette companies faced clearly identified foreign government imposed trade barriers in marketing their product. U.S. government assistance was provided in removing such unfair foreign trade barriers, consistent with current trade policy criteria.

U.S. Trade Representative officials maintain that because cigarettes are legally sold in the United States and abroad, they should be treated no differently than other products in trade negotiations. The Trade Representative's policy is that when petitioned by an industry with a legally sound complaint dealing with unfair trade practices, it must act on the petition.

The health consequences of cigarette exports are not considered when developing trade policy, and the Department of Health and Human Services plays no role in the interagency trade policy formulation process.

In some ways, a policy level conflict exists between U.S. trade goals and health policy objectives in regard to the export of tobacco products. On the one hand, federal resources are used to facilitate the export of U.S. cigarettes, while on the other hand, the federal government has directed a major domestic antismoking effort and is a participant in the international antismoking movement.

Principal Findings

Overall, GAO found that U.S. policy and programs for assisting the export of tobacco and tobacco products work at cross purposes to U.S. health policy and initiatives, both domestically and internationally. GAO's findings on tobacco trade and health-related implications reflect this dichotomy.

Trade in Tobacco Products

The United States presently has a favorable balance of trade in tobacco and tobacco products. In 1989, the U.S. tobacco and tobacco product trade surplus was \$4.3 billion, up from \$2 billion in 1986. U.S. tobacco growers are benefiting from the recent increases in cigarette exports, despite reduced domestic cigarette consumption, and tobacco production has increased to meet growing export demand. In addition, three federally funded market development programs assist the export of U.S. tobacco. They are the Cooperator Market Development Program, the Targeted Export Assistance Program, and the Export Credit Guarantee programs.

In its efforts to remove unfair foreign trade barriers, the U. S. Trade Representative did not appear to give preferential treatment to tobacco products over other items. However, it is difficult to quantify these efforts for comparison purposes because the U.S. Trade Representative pursues multiple cases concurrently and does not track time spent on individual cases.

GAO found that U.S. government representational activities on behalf of U.S. cigarette companies in the four targeted Asian nations have been extensive. Although the negotiations to remove foreign barriers to U.S. cigarette exports were sensitive, at this time there seem to be no long-term adverse implications for U.S. relations with the four targeted countries.

Executive Summary

GAO found few reported incidents of U.S. cigarette companies violating cigarette trade agreements and industry codes.

Health Implications of Cigarette Exports

The Surgeon General has determined that smoking is hazardous to health, and the U.S. government through the Department of Health and Human Services actively works to discourage smoking internationally, as well as domestically. Over the past 25 years, Congress has enacted a number of laws concerning the health hazards of cigarettes that include requiring health warnings on cigarettes, banning all cigarette television and radio advertisements, and banning smoking on domestic flights.

The U.S. government supports the World Health Organization and its smoking prevention programs. Also, the Overseas Private Investment Corporation, a government agency, has made a policy decision to deny assistance to U.S. cigarette companies wishing to promote their enterprises overseas because of the adverse health effects of smoking. Nevertheless, health issues were not considered during negotiations for the removal of foreign trade barriers to the export of U.S. cigarettes. And, until recently, the Department of Health and Human Services has been discouraged from participating in the cigarette trade policy process. A high level Department of Health and Human Services official informed GAO that the Department of Health and Human Services was invited to participate in the current market access case in Thailand and declined on the basis that it perceives cigarette export issues as a trade rather than a health matter.

Statistics show that the prevalence of smoking in Japan, Taiwan, and South Korea is higher than in the United States. In the past decade, an antismoking movement has been established in the four targeted Asian countries. While the smoking rate in Japan has gradually declined, cigarette consumption in Taiwan and South Korea has increased since the removal of barriers to U.S. cigarette exports. Since the opening of the Asian cigarette markets, cigarette advertising and promotional activities have increased appreciably in terms of volume and sophistication as a result of the competitive marketing of U.S. cigarettes. In addition, socioeconomic factors, such as rapid rises in disposable income and more women entering the work force, are generally considered to have played a role in increasing cigarette use in certain Asian countries.

Matters for Congressional Consideration

The U.S. government's role in helping the export of cigarettes and other tobacco products raises important policy issues. On the one hand, the government is committed to help U.S. exporters overcome foreign market barriers to the export of legal products. On the other hand, the U.S. government has determined that smoking is hazardous to health and is actively working to reduce smoking and the use of other tobacco products both domestically and abroad.

If the Congress believes that trade concerns should predominate, then it should do nothing to alter the current trade policy process. The U.S. government can simultaneously continue to actively help U.S. cigarette exporters overcome foreign trade barriers and promote awareness of the dangers of smoking and further restrict the circumstances in which smoking may take place.

If Congress believes that health considerations should have primacy, the Congress could grant the Department of Health and Human Services the responsibility to decide whether to pursue trade initiatives involving products with substantial adverse health consequences.

Alternatively, rather than having one policy dominate, the Congress could specifically require that health matters be included in the interagency trade policy process so that health issues receive some consideration on a case-by-case basis. Such a change would necessitate that the Department of Health and Human Services actively participate in the interagency trade policy decision-making process.

Agency Comments

As requested, GAO did not obtain agency comments on a draft of this report. However, during the course of this review, GAO did discuss the matters addressed in this report with U.S. government agencies and tobacco industry officials.

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Abbreviations

OCC	Commodity Credit Corporation
CEA	Cigarette Export Association
GAO	General Accounting Office
GATT	General Agreement on Tariffs and Trade
HHS	Department of Health and Human Services
JASH	Japan Action on Smoking and Health
KASH	Korean Association on Smoking and Health
OPIC	Overseas Private Investment Corporation
USDA	United States Department of Agriculture
USTR	United States Trade Representative
WHO	World Health Organization

Introduction

Background

U.S. trade policy for tobacco and tobacco products is the same as that for any other legal product that is traded between countries. A U.S. exporter of legal products faced with unfair foreign trade barriers can turn to the U.S. government for assistance in removing those barriers. Hence, such assistance is available to U.S. cigarette exporters.

U.S. cigarette companies tried for many years to expand their sales to Japan, South Korea, Taiwan, and Thailand, whose markets were substantially closed to cigarette imports by government imposed barriers and monopolies.¹ After generally unsuccessful efforts to gain access to those markets, the U.S. cigarette companies sought the assistance of the U.S. Trade Representative (USTR) under section 301 of the Trade Act of 1974, as amended,² in eliminating these alleged unfair trade barriers to U.S. cigarette exports.

Access to these markets is important to the U.S. cigarette companies because of the significant and steady decline in U.S. cigarette consumption. (It is also important to U.S. farmers because tobacco is their sixth largest cash crop, and 85 percent of tobacco is used in the manufacture of cigarettes. See app. I for details on the global tobacco situation and how U.S. cigarette exports benefit the tobacco grower.) Since 1981, domestic consumption of cigarettes has fallen by 17 percent. In 1989, there was a 5-percent decline in U.S. cigarette consumption from the previous year. These decreases are attributed to (1) increases in cigarette prices (excluding taxes) of over 200 percent since 1980, (2) greater concern over the health effects of smoking, (3) higher taxes on cigarettes, (4) further public smoking restrictions, and (5) the growing social unacceptability of smoking.

Despite the fact that cigarettes meet current trade policy criteria, the USTR's pursuit of the cigarette section 301 cases is controversial because of the health risks associated with smoking. The Department of Health and Human Services (HHS) has issued several Surgeons General's reports warning about the harmful effects of smoking. HHS is also directing a number of domestic antismoking efforts. In addition, the United States participates on a multilateral level with the World Health Organization (WHO) to develop greater antismoking and health awareness programs throughout the world.

¹These monopolies controlled the manufacture, and to varying degrees, the supply and distribution of cigarettes in each of these countries.

²A section 301 action is authorized by the 1974 Trade Act, as amended, and allows the USTR to negotiate for the removal of foreign trade barriers.

Thus, we have a situation in which one government body, USTR, negotiates for the removal of import restrictions on U.S.-produced cigarettes as provided for by U.S. trade law. At the same time, another government body, HHS, attempts to decrease the use of cigarettes in the United States and abroad.

Action Against Foreign Trade Barriers

Section 301 of the Trade Act of 1974³ has been used 6 times to address unfair foreign trade barriers affecting the export of cigarettes and other tobacco products. Cigarettes were viewed as well suited for section 301 cases because the U.S. cigarette companies faced clearly identified, government-imposed trade barriers in Japan, Taiwan, South Korea, and Thailand, and U.S. cigarettes are very competitive in world markets.

Based on presidential direction, USTR initiated section 301 actions against Japan in 1985 and Taiwan in 1986. USTR initiated a section 301 action against Korea in 1988 after evaluating a petition from the U.S. Cigarette Export Association (CEA).⁴ These section 301 actions were taken in the context of rising trade friction with these countries and growing U.S. trade deficits with them. By 1988, USTR had successfully negotiated agreements with the targeted countries to open their markets to U.S. cigarette exports. For example, in Japan, where an agreement was reached in 1986, the U.S.' share of the Japanese cigarette market increased from 3 percent to over 13 percent in a 4-year period. During the period 1986-1989, the U.S.' trade surplus in tobacco and tobacco products increased from \$2 billion to \$4.3 billion. (See app. II for additional details.)

In May 1989, in response to another cigarette industry petition, the USTR initiated a section 301 action against Thailand with the objective of eliminating Thai barriers against the importation of U.S. cigarettes. In this case, two of the four main issues have been referred to the General Agreement on Tariffs and Trade⁵ (GATT) for dispute resolution. The deadline for resolving this section 301 case is November 1990.

³Through February 1990, the USTR had initiated 79 section 301 trade cases.

⁴The U.S. Cigarette Export Association was formed in 1981 by Philip Morris, Inc., R.J. Reynolds Tobacco Company, and Brown & Williamson Tobacco Corp. The association was formed under provisions of the Webb-Pomerene Act of 1918, which permits U.S. companies to form associations to compete more effectively in foreign markets. The act provides qualified exemptions from prosecution under U.S. antitrust laws for associations formed for the purpose of, and actually engaging in, export trade when such associations do not interfere with domestic commerce.

⁵The GATT is the multilateral agreement whose rules govern trade between member nations, technically referred to as contracting parties.

Health Implications of U.S. Cigarette Entry Into Asian Markets

On gaining access to the markets of Japan, Taiwan, and South Korea, the U.S. cigarette manufacturers have achieved a measure of success in taking market share from the national cigarette monopolies. In part, in response to the growing competition from U.S. companies, advertising has increased in volume and sophistication. Many health advocates believe that these cigarette advertisements have also grown in sophistication and are targeting segments of the population in which the incidence of smoking has traditionally been very low, e.g., women.

Concurrent with this expanded cigarette marketing, there have been increases in antismoking efforts overseas. For example, all four of the targeted countries require health caution labels to be placed on packs of cigarettes produced for domestic consumption. Also, WHO has stepped up its efforts to spread the smoking awareness message throughout the world. The United States participates in WHO and supports its efforts to develop greater antismoking and health awareness programs.

In Japan, Taiwan, South Korea, and Thailand, there are growing anti-smoking activities and organizations. Some believe these activities represent serious efforts to reduce smoking because of the adverse health effects. Others contend that antismoking movements were exploited by local governments in their efforts to protect local markets and the associated jobs and government revenue.

Objectives, Scope, and Methodology

We were requested by the Chairman of the House Subcommittee on Health and the Environment, Committee on Energy and Commerce, Henry Waxman, and the Chairman of the House Subcommittee on Health, Committee on Ways and Means, Pete Stark, and other members of Congress to review the role of the U.S. government in the export of tobacco and tobacco products and the related health implications of such exports. The other requesters are Chet Atkins, Mike Andrews, Jim Bates, Barbara Boxer, Richard Durbin, James Hansen, Mel Levine, Mike Synar, Robert Torricelli, and Pete Visclosky.

We examined the formulation and implementation of U.S. trade policy as it relates to the export of tobacco and tobacco products. We reviewed U.S. government programs that assist U.S. tobacco exporters and the government assistance provided to U.S. cigarette companies to gain access to restricted foreign markets.

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We reviewed the extent to which foreign policy ramifications are considered when developing trade policy and the implications that the cigarette trade actions have had for U.S. relations with targeted Asian countries. We sought to determine whether the USTR gives preferential treatment to tobacco products in the trade negotiations process, and whether U.S. cigarette exporters comply with marketing restrictions imposed in the newly opened Asian markets.

We also assessed whether increased U.S. cigarette exports have benefited the U.S. tobacco growers and what impact tobacco exports have had on the U.S. tobacco and tobacco product trade balance.

We examined to what extent health issues were given consideration in the section 301 interagency process. We attempted to analyze the marketing approaches of the U.S. cigarette companies to determine whether increased advertising and promotional activities have had an impact on smoking prevalence in Japan, Taiwan, and South Korea. In addition, we reviewed the status of the antismoking movement overseas and whether it has had an impact on health awareness and smoking in the targeted countries.

To obtain information to respond to these issues in the United States, we reviewed documents and interviewed officials of the U.S. Trade Representative, the Departments of Commerce, Agriculture, State, and Health and Human Services; the American Cancer Society; the World Health Organization; miscellaneous antismoking and health advocacy groups; representatives of the flue-cured and burley tobacco industries, Tobacco Associates, the U.S. Cigarette Export Association, and the three major U.S. cigarette exporters—Philip Morris, Inc., R.J. Reynolds Tobacco Company, and Brown & Williamson Tobacco Corp.

In Japan, South Korea, Taiwan, and Thailand, we interviewed representatives of the U.S. Departments of State, Agriculture, and Commerce; foreign governments' ministries of Foreign Affairs, Health, Agriculture, Commerce/Trade, and Finance; the tobacco monopolies; tobacco trade organizations; antismoking and health organizations; and foreign tobacco farmer representatives. We also met with the European Community's health organizations and the United Nations Food and Agriculture Organization.

Our access to documents relating to section 301 cases was limited to the extent that we did not see documents developing the U.S.' negotiating positions or the USTR's recommendations to the President. However, this

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lack did not adversely affect the overall results of our work. Our work was conducted during the period March 1989 through April 1990 in accordance with generally accepted government auditing standards.

As requested, we did not obtain agency comments on a draft of this report. However, during the course of this review, we did discuss the matters addressed in this report with federal agency and tobacco industry officials.

Access for U.S. Tobacco Products in Certain Restricted Asian Markets

A fundamental objective of U.S. trade policy is to achieve the elimination of unfair foreign trade barriers that restrict U.S. exports. This objective applies equally to all products legally sold in the United States and abroad. For years, U.S. cigarettes were blocked from certain Asian markets, which were dominated by government-controlled monopolies. To maintain their monopolies, these governments largely prevented the import of foreign cigarettes and certain tobacco products. Import barriers included high import tariffs, discriminatory taxes, and discriminatory marketing and distribution restrictions. The U.S. government responded to the problems by investigating the alleged market restrictions and negotiating with the foreign governments to remove these barriers. To date, the United States has gained access to cigarette markets in Japan, Taiwan, and South Korea, and is involved in negotiations to gain access in Thailand.

USTR representatives told us that as long as cigarettes remain a legal commodity in the United States and abroad, there is no legal basis to deny cigarette manufacturers assistance in gaining market access. USTR officials further report that they only seek national treatment for U.S.-produced products in their negotiations for market access. That is, the U.S.-produced product should be treated no differently in the foreign market than its domestically produced and marketed counterpart. For example, the Thailand tobacco monopoly produces and sells cigarettes in Thailand subject to certain marketing restrictions. A senior USTR official explained that U.S.-produced cigarettes should be treated equally—they should be given the same market access and be subject to the same marketing restrictions as the monopoly-produced cigarettes.

Formulation of U.S. Trade Policy

U.S. trade policy is formulated through an interagency process that involves three interagency committees—the cabinet-level Economic Policy Council, the subcommittee-level Trade Policy Review Group, and the Trade Policy Staff Committee. The U.S. Trade Representative chairs both the Group and the Committee. Through the interagency process, information is gathered from a number of federal agencies that are supported by industrial and agricultural technical advisory committees that, in turn, communicate industry's concerns and interests to U.S. trade policy officials. The Department of Health and Human Services is not included in this interagency process.

Section 301 Process

Section 301 of the Trade Act of 1974, as amended, allows industry to ask the U.S. government for help in removing unfair foreign trade barriers. Section 301 authorizes the USTR to investigate and negotiate for the removal of these foreign trade barriers. A strong section 301 case includes the presence of clear-cut foreign government-imposed import restrictions and involves a U.S. export that is competitive in foreign markets.

USTR has the authority to decide whether to initiate a section 301 case. However, in practice, the USTR consults with the interagency section 301 committee, a subcommittee of the Trade Policy Staff Committee, when determining whether to accept a petition or to self-initiate a case. The interagency 301 committee is chaired by a USTR representative and is composed of representatives from the Departments of Commerce, State, Treasury, Agriculture, Labor, Justice, and Defense; the Council of Economic Advisers; and the Office of Management and Budget.

Once USTR initiates a section 301 action, it has up to 18 months to reach a mutually acceptable resolution with the targeted country. If negotiations are not successful, USTR may be required to take retaliatory measures including the denial of trade agreement concessions or the imposition of import restrictions on selected products from the targeted country. Agreements to remove restrictions on foreign market imports, without resort to retaliatory action, have been reached with the governments of Japan, Taiwan, and South Korea in the tobacco product cases. USTR is currently pursuing a section 301 action against Thailand for the removal of its cigarette import barriers.

In certain cases, trade disputes may be referred to the GATT for resolution. Certain issues in the Thailand section 301 cigarette case are currently being pursued through GATT's procedures for settling disputes.

Through February 1990, USTR had initiated 79 section 301 trade cases. These cases run the gamut from agricultural products, such as alleged quantitative restrictions on the import of U.S. leather in Japan, to alleged violations of intellectual property right protection, such as Argentina's denial of patent protection for U.S. pharmaceuticals. Six of the cases involve tobacco products. Three of these actions were filed against Japan for the removal of its import restrictions on cigars, pipe tobacco, and cigarettes, respectively. One 301 action was filed against South Korea and another against Thailand for removal of their cigarette import restrictions. The 301 action against Taiwan was for the removal

of its import barriers on U.S. cigarettes, wine, and beer. USTR self-initiated the cigarette 301 actions against Japan and Taiwan, and tobacco product trade associations petitioned USTR for initiation of the cigarette 301 actions against Japan for cigars and pipe tobacco and against South Korea and Thailand for cigarettes.

Status of Tobacco Product Section 301 Cases

Japan-Cigars—The Cigar Association of America filed a petition with the USTR on March 14, 1979, alleging that Japan imposed (1) unreasonable import restrictions and taxes on imported cigars, and (2) discriminatory restrictions on the marketing, advertising, and distribution of imported cigars. This case was later combined with the Japan pipe-tobacco case discussed below.

Japan-Pipe Tobacco—The Associated Tobacco Manufacturers filed a petition on October 22, 1979, alleging that Japan set unreasonable prices for imported pipe tobacco and restricted its distribution and advertising. In November 1979, the USTR consolidated this case with the Japan cigar case discussed above, alleging that the market restrictions were identical. The United States and Japan reached an agreement that decreased the market restrictions and reduced the import duty on foreign cigars and pipe tobacco. USTR terminated the 301 investigation on January 6, 1981.

Japan-Cigarettes—On September 16, 1985, at the direction of the President, USTR initiated a section 301 action against Japan because of the restrictions it imposed on the import of U.S.-produced cigarettes. These barriers included high tariffs on imported cigarettes, monopoly restrictions on the manufacture of foreign cigarettes in Japan, and restrictions on the distribution of foreign cigarettes. On October 3, 1986, the United States and Japan signed an agreement that included the elimination of the cigarette tariff, the discriminatory excise tax payment procedures, and discriminatory distribution practices. On October 6, 1986, the President approved the agreement and suspended the section 301 investigation.

Taiwan-Cigarettes—On October 27, 1986, the President determined that the restrictions imposed by Taiwan on the distribution and sale of U.S. beer, wine, and tobacco products allowed action to be taken under section 301. He directed USTR to propose appropriate countermeasures. On December 12, 1986, Taiwan signed an agreement to discontinue the unfair practices. As a result, USTR announced that no retaliatory action would be proposed.

South Korea-Cigarettes—On January 22, 1988, the CEA filed a petition complaining that the South Korean government, in conjunction with the Korean Monopoly Corporation, unreasonably denied the U.S. cigarette companies access to the Korean cigarette market. On February 16, 1988, the USTR initiated an investigation and requested consultations with the government of Korea. USTR signed an agreement with Korea on May 27, 1988, providing open, nondiscriminatory access to the Korean cigarette market. Based on this agreement, USTR terminated its investigation on May 31, 1988.

Thailand-Cigarettes—On April 10, 1989, the CEA filed a petition alleging that the Royal Thai government and its instrumentality, the Thailand Tobacco Monopoly, were engaging in practices that were unreasonable or discriminated against the import of U.S. cigarettes. The petition requested the removal of all restrictions on the importation and sale of cigarettes, removal of discriminatory cigarette import duties and taxes, and the right to distribute, advertise, and promote cigarettes in Thailand. USTR initiated an investigation on May 25, 1989. Consultations with the Thai government were initiated on July 31, 1989, and a public hearing was held in Washington on September 19, 1989. At this hearing, health emerged as an issue in the case, with the appearance of witnesses who represented U.S. and Thai health advocacy groups. On December 22, 1989, USTR submitted the import prohibition and discriminatory taxation issues to GATT for formal dispute resolution. Consultations were held with the Thais in Geneva on February 5-6, 1990. The deadline by which dispute settlement must be concluded is November 25, 1990.

HHS Discouraged From Participation in Cigarette Trade Policy Process Formulation

HHS is not precluded by law from participating in trade policy matters. However, HHS has not been a part of the interagency trade policy formulation process and, therefore, played no role in the development of the U.S. position in the section 301 cigarette cases. When HHS activities appeared to intrude on the trade process, they were discouraged. For example, in February 1988, the Interagency Committee on Smoking and Health, a committee established in 1984 under the Comprehensive Smoking Education Act and chaired by the Surgeon General, attempted to hold an interagency meeting entitled "Tobacco Trade Policies." The Surgeon General invited representatives from the Departments of State, Commerce, and Agriculture to speak on the health implications of recent U.S. efforts to open foreign markets to U.S. cigarettes. However, White House officials, some members of Congress, and USTR officials objected to the meeting, claiming that the Committee had no authorization to analyze a trade issue. Consequently, the meeting title was changed to

"Tobacco and Health Internationally," and the representatives from State, Commerce, and Agriculture did not attend.

A high level HHS official told us that HHS was invited to participate in the Thai section 301 cigarette case but chose not to because HHS' position is that cigarette exports is a trade issue, not a health issue, and because HHS officials were too busy with other government activities in the United States.

Section 301 Process Allows for Consideration of Implications for U.S. Foreign Relations

The implications of section 301 actions for U.S. relations with targeted countries are considered during the section 301 process. The State Department has a representative on USTR's section 301 investigative committee and on the bilateral negotiating team. Representatives from State or from any of the other 301 committee member agencies are free to bring their concerns to the attention of the section 301 committee or the negotiating team. Although there is no legal requirement to do so, a USTR official told us that, as a practical matter, it must consider the opinions of other section 301 committee or negotiating team members. According to a USTR official, if there is a major foreign policy concern, it may be sent to higher level interagency committees and, if necessary, to the President for resolution.

Views of Government Officials on the Impact of Cigarette Section 301 Actions on Foreign Relations

We found that in general, government officials from Japan, Taiwan, and South Korea viewed the cigarette section 301 actions as the culmination of just another irritating trade dispute with the United States. Although the issue was sensitive during the negotiations, the disputes have been substantially resolved and replaced by other trade problems. At this time, there appear to be no long-term adverse implications for U.S. relations with any of the targeted countries.

The current Thai cigarette section 301 case appears to have attracted the attention of Thai and international antismoking and health advocacy groups and the media to a greater extent than its predecessors. However, it is unclear whether, as a result, this case will have a more significant impact on U.S./Thai bilateral relations compared to bilateral relations with other countries targeted under section 301.

Japan

A U.S. embassy official who was intimately involved in the section 301 negotiations told us that the U.S. image in Japan has not been adversely affected by the cigarette section 301 action. He admitted that when the

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section 301 action was active, it was an irritant in U.S. relations with Japan, but only to an extent similar to other section 301 actions against Japan.

A Japanese Foreign Ministry official told us essentially the same thing. He said that the cigarette section 301 action was initially sensitive because it was among the first section 301 actions against Japan. However, since the conclusion of the cigarette section 301 agreement, other equally painful trade disputes with the United States have emerged; Japan considers the cigarette case to be closed. The foreign ministry official said that currently the "public outcry" against U.S. cigarettes is fairly weak. However, he speculated that the Japanese public may revive the issue to symbolize its displeasure if the United States continues to pursue its aggressive trade policies with Japan.

Taiwan

An official with the Washington, D.C., office of the American Institute in Taiwan believes that the section 301 cigarette case has not had a lasting negative impact on U.S./Taiwan relations. However, the case was sensitive because of the substantial employment and government revenue derived from the cigarette monopoly and because of a growing anti-smoking movement in Taiwan. Further, Taiwan is in the midst of a democratization process with emotional and popular appeal. The cigarette section 301 action has given the opposition parties an issue with an anti-American slant. The section 301 case projected a negative U.S. image in Taiwan newspapers and led to inflammatory statements by a major Taiwan antismoking group.

Authorities with Taiwan's Coordination Council for North American Affairs told us that the United States should not be promoting unhealthy products such as cigarettes. Thus, the U.S. cigarette section 301 action against Taiwan was unwise and has not enhanced the U.S. image in Taiwan. However, the Taiwan officials noted that the cigarette section 301 agreement has had little long-term effect on U.S./Taiwan relations.

South Korea

U.S. embassy officials in South Korea claim that the cigarette section 301 action against Korea has not had a negative long-term effect on relations between the United States and Korea. They view the section 301 cigarette agreement as a market-opening agreement similar to other trade agreements. They believe that security issues are still the overriding concern in the U.S./Korean relationship.

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Restricted Asian Markets

A South Korean foreign ministry official told us that the cigarette section 301 cigarette agreement did not, in and of itself, have a significant impact on U.S./South Korean relations. The official stated that it was just one of "many painful experiences" that Korea has recently had with the United States on trade issues. Nevertheless, he claimed the cigarette agreement had a negative impact on Korean tobacco growers, and their frustrations might cause political disturbances and affect future elections.

Thailand

The section 301 action against Thailand is an open case with ongoing negotiations. It has much in common with the earlier cases, except that the growing Thai antismoking movement has been used as part of the Thai effort to strengthen its hand in the negotiations. The United States views the dispute as a trade action. The Thais, on the other hand, view it as a health and political issue, as well. The Thais claim that the United States has a double standard in reference to cigarettes, i.e., that the United States is pursuing an antismoking effort domestically while at the same time "pushing" cigarettes on countries like Thailand. Because negotiations in this case are still proceeding, any current assessment of its impact on U.S./Thai relations would be purely speculative and inappropriate at this time.

Representational
Activities on Behalf of
U.S. Cigarette
Companies in Targeted
Section 301 Countries

A number of parties have represented the interests of U.S. cigarette exporting companies in their efforts to open restricted Asian markets for U.S. tobacco products. These parties have included (1) Members of Congress; (2) congressional committee staff members; (3) executives of major U.S. cigarette exporting companies; and (4) former senior White House officials serving as private consultants.

Congressional Support

Several Congressmen have demonstrated their support for U.S. government efforts to gain access to foreign cigarette markets. These Congressmen have corresponded and met with executive branch officials as well as with government officials of the four targeted countries. Prior to negotiations with Korea, for example, at least 28 Senators and 4 Representatives signed letters to senior administration officials urging aggressive action to open the Korean cigarette market. These letters cited the incompatibility of a large Korean trade surplus with the United States and a Korean cigarette market virtually closed to U.S. exports.

There were also several meetings between Congressmen and government officials from Taiwan and Thailand prior to and during market-opening consultations. For example, at least three of the congressional delegations that visited Thailand between early December 1989 and February 1990 raised the issue of cigarette exports with Thai officials.

Congressional committee staff members have also met with foreign government officials. In October 1989, for example, two House Committee staff members met with officials from the Thai Ministry of Finance. The staffers told the Thai government officials that there was no likelihood of Congress passing proposed legislation that would preclude the use of section 301 on behalf of cigarette exporting companies.

**USTR and State
Department Officials Do
Not Object to
Congressional
Representational
Activities**

USTR and State Department officials were not opposed to congressional representational activities. A USTR official claimed that she did not object to these activities provided that they were consistent with USTR's negotiating position. A State Department official contended that the information conveyed to foreign officials, as during the October 1989 visit cited above, "served to reinforce what the embassy and Washington have been telling the Thais on cigarettes."

**Representational
Activities by U.S.
Cigarette Industry**

U.S. cigarette exporting companies have sought to influence cigarette trade policies in several ways. Senior executives from the three major U.S. cigarette exporting companies have met frequently with U.S. and foreign government officials. Also, the CEA has offered market and technical information to U.S. government officials and trade negotiators. Moreover, the two largest U.S. cigarette exporting companies have retained former senior White House officials as consultants to promote their interests in Taiwan and Korea.

**The U.S. Cigarette Export
Association**

The CEA is a not-for-profit corporation chartered in Delaware in 1981. Its membership is comprised of the three largest U.S. cigarette exporters—Philip Morris, Inc., R.J. Reynolds Tobacco Company, and Brown & Williamson Tobacco Corp. According to its by-laws, the CEA "shall take such measures as it deems appropriate to improve the competitive position of U.S.-produced cigarettes in foreign markets."

CEA executives met frequently with U.S. government officials during the cigarette market-opening negotiations with all four of the targeted countries. These meetings have taken place at U.S. embassies and in Washington. In addition to facilitating the flow of technical and market information to U.S. government officials, these meetings served to maintain the high visibility of cigarette trade issues. CEA executives have also met with senior foreign government officials. In at least one instance, a CEA executive met with the Prime Minister of Thailand.

Former Senior White House Officials Employed as Consultants by U.S. Cigarette Companies

Two of the major U.S. cigarette exporting companies have retained former senior White House officials to represent their interests in gaining access to foreign markets. The consultants met with senior government officials in Taiwan and Korea and discussed possible commercial ventures between their client companies and the local tobacco monopolies. These discussions were generally unsuccessful, and the consulting arrangements were terminated in the mid-1980s. Such representational activities by former senior White House officials are not prohibited by law.

USTR Does Not Appear to Give Preferential Treatment to Tobacco Products in Section 301 Actions

We have found no evidence to indicate that USTR has given preferential treatment to the section 301 tobacco product cases. Section 301 does not exclude tobacco products from its application. The first section 301 case, dealing with cargo preference issues, was based on an industry petition filed on July 1, 1975. It was not until more than 3 1/2 years later, on March 14, 1979, that the first tobacco product section 301 petition was filed with USTR—this became the seventeenth section 301 case.

The 6 tobacco product cases amount to less than 8 percent of the 79 total section 301 cases and about 16 percent of the 38 agricultural product cases initiated through February 1990. USTR self-initiated 17 (about 22 percent) of the total 79 section 301 cases. USTR self-initiated two of the six tobacco product cases based on explicit directions from the President. This amounts to a little less than 12 percent of the 17 self-initiated cases. Initiation of the remaining four tobacco product cases was based on USTR acceptance of industry petitions that met the legal requirements for section 301 action. These 4 cases represent less than 7 percent of the total 62 cases initiated through industry petitions.

USTR does not maintain records that would allow us to measure the time and effort that they have spent on each of the section 301 cases. At best any such measures would be imprecise. Because trade cases vary in

their complexity, they require varying amounts of USTR time and other resources for their resolution. Moreover, during the course of a given section 301 action, negotiations and consultations may encompass issues related to more than one trade case, further complicating an accurate measure of resource expenditure.

**USTR Officials Claim That
the Cigarette Section 301
Actions Have Not Received
a Disproportionate Share
of USTR's Resources**

USTR did not appear to give preferential treatment to tobacco products over other items in its efforts to remove unfair foreign trade barriers. USTR officials said that they have not given preferential treatment to the resolution of the cigarette section 301 cases and claim that they have not spent a disproportionate share of their resources on these cases. We found no basis on which to disagree with this statement. According to USTR officials, it is USTR's policy that if it is petitioned by an industry with a legally sound complaint dealing with unfair trade practices, it would be remiss in its responsibility not to aggressively act on the petition. The officials told us that tobacco products are legally sold in foreign markets and, when it comes to trade negotiations, they should be treated no differently than other products. Even if cigarettes were to be viewed as toxic substances, there are no official guidelines that preclude the use of section 301 to remove existing foreign import restrictions. For example, certain pharmaceuticals and pesticides can be viewed as toxic chemicals; nevertheless, they are traded and can take advantage of the section 301 process.

An assistant U.S. Trade Representative involved in the cigarette section 301 actions told us that USTR is a complaint-driven organization, and it does not look for extra business. He noted that when a section 301 case is active, USTR continues to equally push its agenda for other products and commodities. For example, in the case of Taiwan, this agenda included handling merchandise trade problems, service industry problems such as life insurance, the customs valuation system, and protection of intellectual property rights.

A USTR official stated that if the petitioner's allegations pass "statutory muster" (i.e., show clear-cut discriminatory import barriers), the case is difficult to turn down. This decision was the case in both the South Korea and Thailand cigarette section 301 industry petitions. The Taiwan cigarette section 301 case, on the other hand, was self-initiated by USTR because Taiwan failed to abide by an initial nonsection 301 agreement.

USTR self-initiated the cigarette section 301 action against Japan on September 16, 1985, based on instructions from the President. As related in

his September 7, 1985, radio address, the President instructed USTR "to begin investigations of unfair trading practices on the part of our trading partners." The President announced trade initiatives against several countries, including an investigation of restrictive tobacco product import practices of Japan. An assistant U.S. Trade Representative told us that in late 1985, the administration was under a lot of pressure from Congress, due in part to the growing trade deficit, to demonstrate that it was taking more aggressive action throughout the world to market U.S. commodities. Thus, the government began an aggressive campaign to solve longstanding trade problems. The Trade Policy Review Group identified obvious unfair trade practices where the U.S. government could self-initiate and aggressively pursue section 301 actions.

Section 301 Actions Were a Last Resort

The U.S. cigarette companies had been trying through various means to gain access to the restricted cigarette markets for several years in many Asian countries. They had limited success in establishing commercial arrangements in some of these countries, but had been substantially frustrated in their efforts to gain any significant market access in Japan, Taiwan, Korea, and Thailand. According to USTR officials, the cigarette section 301 actions were taken as a last resort and have been substantially successful in removing the government-imposed import restrictions.

Few Reported Instances of U.S. Cigarette Companies Violating Cigarette Trade Agreements and Applicable Industry Code Provisions

In the three targeted Asian countries, there were only a few reported incidents of U.S. cigarette companies not complying with the section 301 trade agreements, marketing restrictions, or applicable industry codes. Health advocacy groups and government authorities in Taiwan and Korea provided us with some examples of alleged violations in those countries. Moreover, we observed some possible violations by U.S. cigarette companies of the industry's own self-regulatory code of standards in Japan. (See app. IV for a more detailed description of cigarette market restrictions in Japan, Taiwan, and South Korea.)

In Japan, we observed that both U.S. cigarette companies and the Japanese tobacco monopoly engage in advertising and promotional practices that possibly violate certain industry code provisions. For example, a U.S. cigarette company placed a billboard containing a picture of a young woman, who appears to be smoking, near the entrance to a women's college near Tokyo. The Japan Tobacco Institute Code prohibits the targeting of women and children in cigarette advertisements.

Alleged violations of the section 301 agreement in Taiwan appear to result from conflicting interpretations of certain provisions of the agreement. For example, a U.S. cigarette company planned to promote a brand of cigarettes by holding a drawing for a luxury car. Although the agreement allows the use of certain sales promotions, Taiwan authorities objected primarily because they believed the prize was too costly to qualify as a promotional item. The conflict stemmed from nuances in the interpretation of the Chinese language version of the agreement. In another instance, the Taiwan tobacco monopoly alleged that U.S. cigarette companies violated the agreement's point-of-sale provisions by distributing free cigarettes at unlicensed establishments, such as discotheques and nightclubs frequented by young people. American government officials in Taiwan claimed that this practice only occurred immediately after the agreement and has since been discontinued.

Alleged violations of the section 301 agreement in South Korea include an accusation by Korean government officials that a U.S. cigarette company held a series of promotional beach concerts that targeted young people. The agreement with South Korea prohibits advertisements targeting women and children. U.S. embassy officials claimed that these concerts did not violate the agreement because people of all ages go to the beach. The U.S. cigarette company cancelled many of the concerts. On the other hand, U.S. cigarette companies claimed that the tobacco monopoly interferes with their marketing activities by harassing their local retailers, tearing down point-of-sale signboards, and disrupting their promotional activities.

Regulatory Environment Differs in the Three Targeted Countries

The governments of Japan, Taiwan, and South Korea attempt to control cigarette marketing activities, including the advertising and promotion of cigarettes, through various laws and regulations and through self-regulatory mechanisms, such as voluntary codes of standards, that the cigarette companies institute. The Japan agreement contains no restrictions on cigarette advertising and promotional activities. Japan relies to a great extent on industry self-regulation to assure compliance with cigarette marketing guidelines, codes, and regulations. The cigarette trade agreement with Taiwan contains many provisions relating to advertising and promotional activities; the Taiwan authorities rely to a much lesser extent than Japan on self-regulation by the cigarette industry.

South Korea regulates the advertising and promotional practices of cigarette companies more heavily than either Japan or Taiwan. The cigarette trade agreement with Korea, the most recent section 301 based

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cigarette trade agreement, contains the most specific and comprehensive provisions on cigarette advertising and promotional activities, including prohibitions against targeting women and children in cigarette advertisements and promotions.

USTR Official Maintains That U.S. Government Is Not Responsible for Assuring Compliance With Foreign Cigarette Marketing Restrictions

A USTR official maintains that section 301 based trade agreements are government-to-government agreements, whereby the foreign government agrees to remove certain unfair trade barriers and the U.S. government in return terminates the section 301 action. The official further states that the USTR does not consider the government to be responsible for monitoring or enforcing compliance by U.S. companies with terms of the agreements, which may restrict activities of the U.S. companies, or with any applicable foreign laws, rules, or regulations. According to the official, compliance, oversight, and enforcement are the responsibilities of the foreign government or its instrumentalities. The only monitoring responsibility that USTR has is to track foreign government compliance with its obligations under an agreement.

U.S. Government and Cigarette Exporting Companies Resist Further Restrictions on Cigarette Marketing

In response to growing antismoking movements, health ministry officials in Japan, Taiwan, and South Korea have proposed expanding their restrictions on cigarette advertising and promotional activities: strengthening requirements for health caution labels; and, where applicable, reflecting these new restrictions in amendments to the section 301 based cigarette trade agreements. In certain cases, U.S. cigarette companies, with the assistance of U.S. government officials, have opposed these efforts because they believe that the proposed changes would unfairly discriminate against U.S. cigarette manufacturers. Some of these efforts are discussed below.

Japan

In mid-1989, based on recommendations from an advisory committee, the Japanese Ministry of Finance was considering whether to further restrict cigarette TV advertising, require more stringent health caution labels on cigarette packs, and restrict the use of outdoor cigarette vending machines. A USTR official, acting at the request of U.S. cigarette companies, asked the Ministry of Finance to delay the implementation of the new regulations. The United States viewed the proposed regulations as discriminatory because they worked to the disadvantage of new entrants into the market. According to a U.S. embassy memorandum, a meeting between a USTR official and the Ministry of Finance probably resulted in the ministry's decision to phase in the television advertising

restrictions over 2 years, rather than implementing the regulation immediately as the advisory group had recommended.

Taiwan

During 1988 consultations with American Institute in Taiwan officials, the Taiwan authorities stated their intent to amend the section 301 agreement in order to ban cigarette promotional activities and magazine advertisements. According to records of the consultations, this ban was sought because the Taiwanese were concerned about the negative effect of cigarette advertising on young people and women. They cited the results of a study noting an increase in the number of young smokers and women smokers since implementation of the agreement in 1987.

Based on the belief that any changes to the agreement would limit the competitiveness of U.S. cigarettes, American Institute in Taiwan officials argued against such a ban and also against changes to the agreement's provisions on advertising and promotions. The officials believed that Taiwan authorities were using the cigarette advertising and promotion issue to avoid discussions of other market issues, such as excise taxes. To address the concerns of Taiwan officials, the U.S. cigarette industry proposed the establishment of a self-regulatory industry association and advertising code similar to those operating in Japan.

South Korea

Through a change in regulations, the Korean government strengthened health warning labels for domestic and imported cigarettes in late 1989. Both the U.S. government and U.S. cigarette companies have accepted this change without raising any market access issues.

Thailand

With certain minor exceptions, such as airport duty free shops, the sale of foreign cigarettes in Thailand is prohibited. In April 1988, the Thai government ordered the tobacco monopoly to discontinue cigarette advertising. The Thai government claims that foreign cigarette companies continued to advertise, and so, in February 1989, the government totally banned cigarette advertising. Despite the exclusion of foreign cigarettes from the market and the total ban on cigarette advertising, the Thai government alleges that foreign cigarette companies continue to advertise. Thai officials provided us with the following examples:

- A billboard that reads "WINSTON - American Country Life Style" was placed in a well-known night life section of Bangkok;

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- A billboard that reads "WINSTON" was erected at a motor speedway in Pattaya;
- Tickets to attend "Winston Cup" racing are given to customers at gas stations;
- A "Salem" billboard was erected at the Pro-Am Golf Championship held on February 28, 1990; and
- A "Benson & Hedges" billboard was erected at a cricket game in Chiang Mai.

During our visit to Thailand, we observed some of these advertisements. A high level Public Health Ministry official told us that all of these infractions have been submitted to the Thai Consumer Protection Board for legal action.

Health Considerations of Cigarette Market Access

According to the Surgeon General's 1989 report, the prevalence of smoking among adults in the United States decreased from 40 percent in 1965 to 29 percent in 1987. It appears that to help offset this decrease in U.S. cigarette consumption, the major U.S. cigarette companies have sought market opportunities abroad. In recent years they have focused their attention on certain Asian countries, such as Japan, Taiwan, and South Korea.

At the same time, these countries are becoming increasingly aware of the health consequences of smoking. As cigarette consumption increases in these countries, there has been an increased prevalence of smoking-related illnesses such as lung cancer and heart disease. To the extent that the introduction of U.S. cigarettes to these markets and any associated increase in advertising have contributed to an increased incidence of smoking, U.S. trade actions contribute to these adverse health impacts.

Overall smoking rates for Japan, Taiwan, and South Korea are higher than those in the United States. While the smoking rates in Japan have gradually declined, the overall consumption rates in Taiwan and South Korea continue to rise. Smoking rates for women in these countries are substantially lower than for men.

The increased incidence of smoking in Taiwan and South Korea is generally attributed to a number of variables, including changes in social values, consumer tastes and preferences, rising incomes, and increased advertising since the introduction of U.S. cigarettes.

The role advertising plays in affecting demand for cigarettes in these three countries is controversial. On the one hand, cigarette industry representatives told us that advertising plays no role in attracting new smokers; it only affects switching between brands. On the other hand, health advocates argue that advertising plays a key role in attracting new smokers, especially those from young and female population groups.

Current Smoking Trends in the Targeted Asian Countries

The current smoking trends in Japan, Taiwan, and South Korea can be summarized as follows:

- The smoking population of Japan has declined significantly. In 1975, 76.2 percent of the adult male population were smokers. By 1988, the percentage had dropped to 61.2 percent, according to Japan Tobacco

Incorporated. During the period between 1982 and 1987, the total number of smokers in Japan fell 7.3 percent. While smoking rates have declined substantially for men, the overall rate for women has remained relatively constant at between 12 and 16 percent. Because smoking is illegal for minors, the government does not collect data on smoking rates for people under age 20.

- For Taiwan, good data are not available on the percentage of the population that smokes. Estimates of the prevalence of smoking for men range from 50 to 65 percent, and for women from 2 to 7 percent. Better statistics exist for actual consumption, which shows an increase of 20 percent from 1982 to 1988. Furthermore, consumption statistics are misleading because estimates of the large quantities of contraband cigarettes smuggled into Taiwan are not included.
- The South Korean cigarette market was characterized by growth between 1982 and 1986, although the rate of growth decreased. Industry experts had predicted that the market would plateau. However, after cigarette import restrictions were removed in 1988, South Korean consumption rose 6 percent over the 1987 level. According to a Gallup poll, 74 percent of Korean men smoked in 1987, up from 68 percent in 1982. Another private survey found that 71 percent of men and 19 percent of women smoked, and smoking rates for male teenagers rose from 18.4 percent in 1988 to 29.8 percent in 1989. For female teenagers, the rates rose from 1.6 percent to 8.7 percent during that same time period.

These changes in the incidence of smoking are attributed to a number of socioeconomic factors as well as to the altered marketing environment following the removal of import barriers.

Socioeconomic Factors

The sharp rise in disposable income associated with rapid economic growth in Japan, Taiwan, and South Korea has made an increase in smoking economically feasible.

In addition, as a result of industrialization, the traditional role of women is changing in those countries. Changes can be seen in relationships at home, in school, and in the workplace. More women are entering the work force, thereby providing them with the independence and disposable income with which to buy luxury items such as cigarettes. For example, according to a health advocacy group in South Korea, women who have moved to Seoul from rural areas have an increased incidence of smoking.

New Cigarette Marketing Strategies

Since the entry of U.S. cigarette companies into Asian markets, a number of sophisticated marketing techniques appear to have been adopted. Prior to the market openings, cigarette monopolies had control of the cigarette industry, including production and distribution. Most of these monopolies advertised little, if at all, because competition was minimal. Moreover, there is little evidence that cigarette advertising targeted at specific population groups, such as women, existed prior to the market openings.

Since the markets we studied have opened to foreign cigarettes, marketing has changed significantly. For example, in Japan, U.S. cigarette firms introduced sophisticated advertising. Japan Tobacco Incorporated responded by upgrading and increasing its own advertising. Japanese television advertising of cigarettes rose significantly in both frequency and length within 1 year after the trade agreement was signed. For example, sources we identified indicated that cigarette commercials, in a large Japanese district which includes Tokyo, went from 138th in total air time in 1983, to 15th in 1987, to 11th in 1989.

In Taiwan, as a result of the terms of the section 301 agreement, the Ministry of Economic Affairs has proposed a set of regulations to enact specific restrictions on cigarette advertising. These regulations, which have not yet been enacted, include a ban on special promotions and on television, radio, and newspaper advertising. According to the section 301 agreement, only magazine and point-of-sale advertisements can be used. Disputes have occurred between U.S. cigarette companies and the Taiwan tobacco monopoly concerning the interpretation of the new advertising restrictions. Taiwan tobacco monopoly officials claim that the U.S. cigarette companies target women in their advertising campaigns and use promotional activities such as sponsoring athletic and cultural activities to encourage smoking. One measure of the impact of imported cigarettes is that a 1987 survey of teenage smokers conducted by the John Tung Foundation, a local antismoking organization, found that 80 percent of those polled prefer imported cigarettes.

In 1987, according to the CEA section 301 petition to the USTR, South Korea banned all cigarette advertising and promotional activities, with the exception of certain point-of-sale advertisements. However, the 1988 section 301 cigarette market-opening agreement with South Korea allows restricted cigarette advertising and promotional activities. Since the market opening, the Korean tobacco monopoly has developed and marketed cigarette brands intended for women, such as "Lilac," "Jade," and "Rose." U.S. cigarette companies have also introduced brands into

the Korean market targeted to women, such as "Finesse" and "Virginia Slims."

A combination of factors—industrialization, more women entering the work force, new marketing techniques—are generally viewed as contributing to the changing cigarette consumption patterns in Japan, Taiwan, and South Korea. It will be some time before the full impact of the opening of these markets can be determined. However, increased smoking in segments of the population in which smoking incidence had historically been low has been identified by antismoking groups as an area of concern.

Antismoking Awareness Has Intensified in the Targeted Asian Countries

Concurrent with the success of U.S. market access efforts, there has been an increased awareness in Asia of the health consequences of smoking. The governments in the targeted Asian countries are aware that smoking has decreased in the United States over the past 25 years, that use of cigarettes in the United States is low compared to rates in their countries, but that U.S. cigarette exports have increased to their countries. More and more, cigarette smoking is being identified as a significant factor in the incidence of lung cancer and heart disease.

Grassroots health groups formed in the late 1970s-1980s in Japan, Taiwan, and South Korea and gained greater support after the markets opened to foreign cigarettes. However, U.S. cigarette exporters have alleged that the health issue has been used by the governments of these countries as a pretext for protecting their national cigarette monopolies. These monopolies have been an important source of government revenue and employment. USTR officials also believe that these governments are using the health issue as a pretext for protecting national monopolies.

The Japan Action on Smoking and Health (JASH) was formed in 1978 to increase the public awareness of nonsmokers' rights. JASH has had some limited success in getting smoking restricted in public places. It has developed antismoking educational programs and actively pursues the abolition of cigarette advertising on television and cigarette sales through vending machines.

The antismoking movement was strengthened in 1987 when Japan hosted the Sixth World Conference on Smoking and Health in Tokyo, a meeting of international antismoking groups, including WHO and various U.S. health organizations. The conference agreed to a public resolution

stating that tobacco should be treated differently from other products in international trade because of its adverse health effects.

In Taiwan, the John Tung Foundation was formed in 1984. Its primary objective is to teach young people about the dangers of smoking. For example, the Foundation hosts no-smoking clubs and parties for high school and university students. The Chairman of the John Tung Foundation established and provided initial funding in early 1989 for an Asian antismoking group called the Asian Pacific Association for the Control of Tobacco. This pan-Asian group is currently active in trying to prevent USTR from opening Thailand's cigarette market to U.S. exports.

In South Korea, the Korean Association on Smoking and Health (KASH) was formed in 1988, the same year the market opened to foreign cigarettes. KASH publishes articles, brochures, and newsletters and sponsors conferences concerning the dangers of smoking. This association submitted a proposal to the Ministry of Health that would require that all public places maintain separate smoking and nonsmoking areas. The Ministry of Health announced the proposal to Parliament in 1989.

The Seventh World Conference on Tobacco and Health was held in Perth, Australia, in April 1990. Participants from 70 countries attended. According to some of the participants, it is apparent that the international antismoking movement is growing and uniting in its efforts to decrease worldwide cigarette consumption. The conference participants agreed to two resolutions dealing with tobacco product trade. The first resolution urges nations "not to use trade leverage to compel other nations to repeal ... restrictions on the ... manufacture, import, distribution, sale or advertisement of tobacco products, and specifically the U.S. government is called upon to cease pro-tobacco trade actions against Thailand and other countries." The second resolution "urges GATT to acknowledge that tobacco products are uniquely hazardous and that nations have the right to tax, prohibit or restrict the manufacture, import, distribution, sale or advertisement of tobacco products."

According to a presentation at the Perth Conference by a U.S. government official, premature deaths from smoking are currently 2.5 million per year. A WHO epidemiologist projected an increase in mortality due to increases in smoking. He predicted that during the 1990s there would be about 3 million deaths a year from smoking. But, by the time the young people of today reach middle age, increased smoking would lead to about 10 million deaths per year.

The American Cancer Society presented GLOBALINK at the conference. GLOBALINK is a plan for a computer-based system tracking worldwide smoking, mortality and morbidity rates, smoking control activities, and tobacco industry activities. The Cancer Society will be providing technical assistance to developing countries on how to participate in the GLOBALINK plan.

Because of the growth of antismoking sentiment in Asia, the ongoing section 301 cigarette case directed at Thailand is receiving a lot of media attention in both the American and Thai press. Much of the activity at the conference in Perth included reference to the ongoing Thai section 301 case.

U.S. Antismoking Efforts

Responding to growing health concerns over smoking, Congress has passed a number of laws that have restricted the marketing and use of tobacco products. In addition, the U.S. government has supported increased education, both domestically and internationally, about the health implications of tobacco use.

In 1965, Congress enacted the Cigarette Act requiring all cigarette packages (not including cigarette advertisements) to include the statement: "Caution: Cigarette Smoking May Be Hazardous To Your Health." This caution was strengthened in the 1970 Cigarette Labeling Act to read: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health." Congress also enacted a ban on all cigarette advertising on television and radio, effective January 1971.

In 1982, Congress increased the excise tax on cigarette products for the first time since 1951, raising the per-pack tax charged from 8 cents to 16 cents. Two years later, Congress enacted the Comprehensive Smoking Education Act, which required (1) replacing the existing health caution warning with four stronger, more specific health warnings on cigarette packages, cigarette advertisements, and cigarette billboards; (2) creating a statutory mandate for a federal office on smoking and health; and (3) disclosing to the Department of Health and Human Services all chemicals and other ingredients added to cigarettes during the manufacturing process. In 1987, Congress banned all smoking aboard commercial aircraft on all flights of 2 hours or less. And, in 1989, Congress extended the ban on smoking aboard commercial aircraft to include all domestic flights, except those to Alaska and Hawaii, regardless of the length of the flight.

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Health Considerations of Cigarette
Market Access

HHS has the lead role in the U.S. government's efforts in the area of smoking and health. It chairs the statutorily established Interagency Committee on Smoking and Health, which advises the Secretary of HHS on a wide range of these issues, including the international health implications of tobacco use. The 1989 Surgeon General's Report reported that HHS expenditures on smoking and health prevention activities amounted to \$39.5 million for fiscal year 1986.

The Office of Smoking and Health, under the Assistant Secretary for Health, is the focal point for all HHS activities related to smoking and health. That office, with a 1990 budget of \$3.4 million, coordinates HHS smoking prevention education and research efforts both nationally and internationally.

At a recent World Conference on Tobacco and Health, the Assistant Secretary for Health made the keynote address, which strongly criticized the marketing activities of transnational cigarette companies in developing countries. Also, the Secretary of HHS has recently publicly addressed the health consequences of smoking and criticized the marketing techniques and strategies of cigarette companies.

The United States also supports the efforts of international organizations to curb tobacco use through its membership in and financial support of WHO. As a member of WHO, the United States contributes 25 percent of the total WHO budget. WHO has established a global program to discourage tobacco use and bring greater awareness of the health consequences of smoking. WHO's budget for 1990-91 for antismoking programs is about \$1.2 million.

Furthermore, a U.S. government agency with international programs, the Overseas Private Investment Corporation (OPIC), has established a policy that recognizes the dangers of smoking. OPIC encourages and facilitates private U.S. investment in developing countries by providing loans and political risk loan guaranty insurance. In 1984, OPIC established a policy that requires consideration of the health consequences of smoking cigarettes in evaluating requests for OPIC support. As a result, OPIC has denied assistance to U.S. cigarette companies wishing to promote their enterprises overseas. This policy decision was made because of the Surgeon General's concerns about the health and economic consequences of smoking.

Concerns have been expressed that U.S. policy and programs for assisting the export of tobacco and tobacco products work at cross purposes

to U.S. health policy, both domestically and internationally. In September 1989, the former Surgeon General, C. Everett Koop, testified at a USTR hearing on the Thailand cigarette case, and was critical of U.S. tobacco trade policy because it does not include consideration of the health impact of that policy. He stated that he believes the inconsistency between U.S. tobacco trade policy and U.S. health policy is obvious and works against U.S. interests in the international health community. He added that the United States is in the process of reversing its positive influence in the cause of public health through its aggressive tobacco trade policy, and that this trade policy is "all the more questionable" because the United States is taking a firm public health stand domestically against tobacco use.

Matters for Congressional Consideration

The U.S. government's role in helping the export of cigarettes and other tobacco products raises important policy issues. On the one hand, the government is committed to help U.S. exporters overcome foreign market barriers to the export of legal products. On the other hand, the U.S. government has determined that smoking is hazardous to health and is actively working to reduce smoking and the use of other tobacco products.

If Congress believes that trade concerns should predominate, then it may choose to do nothing to alter the current trade policy process. The U.S. government can simultaneously continue to actively help U.S. cigarette exporters overcome foreign trade barriers while promoting awareness of the dangers of smoking and further restricting the circumstances in which smoking may take place.

If Congress believes that health considerations should have primacy, Congress may choose to grant HHS the responsibility to decide whether to pursue trade initiatives involving products with substantial adverse health consequences.

Alternatively, rather than having one policy dominate, Congress may specifically require that health matters be included in the interagency trade policy process so that health issues receive some consideration on a case-by-case basis. Such a change would necessitate that HHS participate in the interagency trade policy decision-making process.

Impact of Increased U.S. Cigarette Exports on U.S. Tobacco Farmers

Global Tobacco Situation

Tobacco and tobacco products are produced and traded throughout the world. About 30 percent of the world's tobacco production is traded internationally. World production of tobacco was about 6.3 million metric tons in 1989. While China was the largest producer of tobacco in 1989, with about a 40 percent share, the United States was the world's leading exporter of tobacco, accounting for about 15 percent of world tobacco exports. Other major producers of tobacco and their shares in 1989 were the United States (9 percent), India (7 percent), Brazil (6 percent) and the Soviet Union and Turkey (3 percent each). Other major exporters of tobacco and their shares in 1989 were Brazil (14 percent), Greece (9 percent), and Zimbabwe, Italy, and Turkey (8 percent each).

Cigarette production accounts for about 85 percent of the products manufactured from tobacco. World cigarette production was about 5.3 trillion in 1988. About 8 percent of world cigarette production is exported. China was the largest producer of cigarettes in 1988, with about a 29 percent share, but the United States was the largest exporter of cigarettes, accounting for about 26 percent of world cigarette exports. Other major producers of cigarettes and their shares in 1988 were the United States (13 percent), the Soviet Union (7 percent), and Japan (5 percent). Other major exporters of cigarettes and their shares in 1988 were Bulgaria (16 percent), the Netherlands (13 percent), West Germany (10 percent), Hong Kong (9 percent), and the United Kingdom (8 percent).

U.S. Domestic Tobacco Situation

In 1987, tobacco was grown on about 137,000 farms in the United States, with an average of about 5 acres per farm. This was a decrease in the number of farms from about 179,000 in 1982 and about 500,000 in the 1950s. There are several kinds of tobacco grown on U.S. farms, with flue-cured and burley—both cigarette tobaccos—accounting for over 90 percent of total production.

Tobacco is the sixth largest U.S. cash crop, after corn, soybeans, wheat, hay, and cotton. In 1988, farmers received about \$2.25 billion at auctions for their tobacco. However, consumer spending for tobacco products was about \$38 billion in 1988. (Only about 6 percent of the price of a pack of cigarettes reflects the price of the tobacco leaf in the cigarettes.) From these sales, an estimated \$9.3 billion in taxes was collected in 1988—\$4.4 billion by the federal government and \$4.9 billion by state and local governments.

The Agricultural Adjustment Act of 1933 established price supports that guarantee established prices to the growers if they adhere to strict marketing quotas or acreage allotments that restrict production. The

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price support activities are administered by producer-owned cooperative associations through loan agreements with the Commodity Credit Corporation (CCC). Under these agreements, the association uses the CCC loans to pay the growers the support price and the costs to process and store the tobacco until it is sold. According to the U.S. Department of Agriculture (USDA), the growers have benefited from the higher prices they receive because of the marketing quotas and price supports, and the cigarette manufacturers have been assured adequate supplies of the types and qualities of leaf needed for their product. Since 1982, the program has been operated on a "no net cost" to the government basis. Farmers and cigarette manufacturers now pay a special assessment into a CCC account to cover the cost of the price support program. USDA estimates that the federal government spent \$56 million in fiscal year 1988 for administering the price support program and providing a variety of research, marketing, and information services to tobacco growers.

U.S. Tobacco Farmers
Benefiting From
Increased Cigarette
Exports

Despite reduced domestic cigarette consumption, U.S. production of tobacco has risen in the last 4 years: 29 percent for flue-cured tobacco and 38 percent for burley tobacco, the primary tobaccos used in U.S. cigarettes. These tobacco production increases were partly caused by the large rise in U.S. cigarette exports, which grew from about 64 billion cigarettes in 1986 to about 142 billion cigarettes in 1989. About 55 percent of this increase is attributable to imports of U.S. cigarettes by Japan, Taiwan, and South Korea. Therefore, it would appear that not only have the cigarette manufacturers benefited from the increased U.S. exports, but also the U.S. tobacco growers have gained from the greater U.S. cigarette exports. In addition, since U.S. tobacco is considered to be the finest quality in the world, exports of U.S. tobacco leaf to these countries have also increased since 1986; Japan, Taiwan, and South Korea are now using more U.S. tobacco to improve the quality of their domestically produced cigarettes to compete with foreign imports.

We have reviewed a number of studies performed by the USDA's Economic Research Service and Foreign Agricultural Service, the cigarette industry, and academia, and have interviewed a number of tobacco industry officials to determine whether the U.S. tobacco grower has benefited from the increased cigarette exports. Some tobacco industry officials had expressed concern that these increased cigarette exports could have an adverse impact on U.S. shipments of tobacco leaf. However, these studies conclude that, thus far, the U.S. growers have benefited.

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For example, a Foreign Agricultural Service study of the tobacco trade with Japan, South Korea, and Taiwan following trade liberalization concluded that

"...tobacco exports in the form of cigarettes do have a positive impact on the net tobacco trade balance. However, it cannot be concluded that exports of tobacco in cigarettes are displacing or substituting for leaf shipments."

[Text omitted.]

"Still it appears that U.S. leaf tobacco exports have benefited incidentally from expanded cigarette exports to these markets. Cigarette manufacturers in these countries have shown greater interest in U.S. leaf tobacco as new cigarette brands using more U.S. leaf are being developed to compete with the U.S. cigarette brands. Indeed, this has led to increased purchases of U.S. tobacco in Taiwan and South Korea."

A September 1989 study by the Tobacco Merchants Association concluded that the liberalization of the Japanese, Taiwan, and South Korean markets has resulted in multimillion dollar and multimillion pound net gains in leaf sales to the U.S. producers. The study stated that

"Specifically, over the period 1986-88 the study shows that U.S. leaf producers sold over 108 million pounds more tobacco leaf than would have been sold had there been no U.S. cigarette market entry in Japan, Taiwan, and Korea. Valued at more than \$175 million on the auction floor, such net additional U.S. tobacco leaf exports include both a negative total leaf impact in Taiwan for flue-cured as well as a negative direct leaf impact for Japan...."

"As U.S. cigarette exports gain an even greater foothold in Asia, one would expect that the foreign monopoly demand for direct burley shipments, along with high quality U.S. flue-cured, will grow as the monopolies compete head-to-head against U.S. cigarette blends."

Also, in an August 1989 study of the effects of the U.S. cigarette export market on U.S. burley tobacco demand, the University of Kentucky, College of Agriculture, Cooperative Extension Service, concluded that

"With U.S. cigarette consumption projected to decline another 20-25% by the year 2000, the importance of the international market for the U.S. burley tobacco industry is obvious. Unmanufactured U.S. burley leaf exports have exhibited some growth during the 1980s, but the major area of growth has been in manufactured form through the U.S. cigarette export market. U.S. cigarette exports increased 56% in 1987, 18% in 1988, and 23% during the first quarter of 1989 as U.S. cigarette manufacturers benefited from the removal of various trade restricting barriers in several Asian markets. As a result, U.S. burley quotas increased 2% in 1988, 24% in 1989, and are projected to increase again in 1990."

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[Text omitted.]

"Therefore, it appears that the international consumption of U.S. burley will continue its increasing trend leading into the 21st century, combating the expected decline in domestic U.S. burley consumption and putting upward pressure on the U.S. burley quota."

An executive of the Tobacco Growers Association of North Carolina told us in December 1989 that the flue-cured tobacco growers are currently in the most stable situation they have been in over the past 20 years and that increased cigarette exports have a lot to do with it. He stated that the flue-cured tobacco quotas have risen over the past 3 years, and the projected 1990 effective quota is also higher. Total tobacco sales for 1989 rose 3 percent over 1988 sales, and the "average over support price" rose from \$17.17 to \$20.72 per 100 pounds, and only 3 percent of total tobacco available for sale went into stabilization stocks.

He believes there will be fewer fluctuations for the tobacco growers than in the past during the next 10 years because (1) there is a commitment from cigarette manufacturers to buy more U.S. tobacco, (2) there are new markets for U.S. tobacco and cigarettes, for example, in the Pacific Rim, where there is a potential for growth, and (3) tobacco growers have committed themselves to making heavy investments in equipment, fertilizers, and pesticides.

On this same subject, a tobacco specialist from Agriculture's Economic Research Service told us in April 1990 that between 1986 and 1990, tobacco production will likely have increased about 350 million pounds. Grower incomes rose, and the grower's expense of no-net-cost assessments were smaller. According to the tobacco specialist, more tobacco is being used largely because of higher U.S. cigarette production resulting from growth in U.S. cigarette exports. A rough estimate is that about one-quarter of the increase, or about 85 million pounds of tobacco, may be attributed to rising cigarette exports. The specialist also stated that because U.S. consumption is declining, any future production increase beyond 1990 will likely result from increased exports of cigarettes and leaf.

Appendix II

Tobacco and Tobacco Product Balance of Trade

As set forth in Table II.1, the United States has exported more tobacco and tobacco products than it has imported. During the period 1986-89, the net trade surplus of the U.S. tobacco industry grew over 100 percent, from \$2 billion to \$4.3 billion. This growth was due to several factors, such as the gains in disposable income in importing countries, the weakening of the U.S. dollar, the growing popularity of U.S.-blended cigarettes, and the removal of trade barriers, especially in certain Asian countries.

Specifics on the trade surplus of U.S. tobacco and tobacco products during the period follow.

Table II.1: U.S. Tobacco and Tobacco Product Trade Balance

Dollars in Thousands				
All Countries	1986	1987	1988	1989
Exports				
Unmanufactured tobacco	\$1,209,600	\$1,029,900	\$1,252,800	\$1,340,600
Manufactured	1,522,200	2,339,600	2,900,900	3,632,000
Total	\$2,731,800	\$3,399,500	\$4,153,700	\$4,972,600
Imports				
Unmanufactured tobacco	\$609,300	\$620,000	\$557,200	\$550,400
Manufactured	79,500	30,500	86,100	87,700
Total	\$688,800	\$710,500	\$643,300	\$638,100
Net Trade Balance	\$2,043,000	\$2,689,000	\$3,510,400	\$4,334,500

Source: United States Department of Agriculture.

Table II.2: U.S. Tobacco and Tobacco Product Trade Balance With Japan

Dollars in Thousands				
	1986	1987	1988	1989
Exports				
Unmanufactured tobacco	\$232,000	\$300,800	\$212,000	\$299,100
Manufactured	130,700	491,900	606,300	871,200
Total	\$362,700	\$792,700	\$818,300	\$1,170,300
Imports				
Unmanufactured tobacco	\$600	\$3,100	\$6,900	\$500
Manufactured	600	600	1,100	600
Total	\$1,200	\$3,700	\$8,000	\$1,100
Net Trade Balance	\$361,500	\$789,000	\$810,300	\$1,169,200

Source: United States Department of Agriculture.

**Appendix II
Tobacco and Tobacco Product Balance
of Trade**

**Table II.3: U.S. Tobacco and Tobacco
Product Trade Balance With South Korea**

Dollars in Thousands				
	1986	1987	1988	1989
Exports				
Unmanufactured tobacco	\$5,600	\$800	\$10,000	\$10,900
Manufactured	5,700	6,100	56,400	106,400
Total	\$11,300	\$6,900	\$66,400	\$117,300
Imports				
Unmanufactured tobacco	\$25,000	\$16,700	\$18,900	\$5,400
Manufactured	000	100	000	000
Total	\$25,000	\$16,800	\$18,900	\$5,400
Net Trade Balance	\$(13,700)	\$(9,900)	\$47,500	\$111,900

Source: United States Department of Agriculture.

**Table II.4: U.S. Tobacco and Tobacco
Product Trade Balance With Taiwan**

Dollars in Thousands				
	1986	1987	1988	1989
Exports				
Unmanufactured tobacco	\$41,400	\$18,000	\$55,400	\$110,000
Manufactured	4,400	118,800	119,200	98,000
Total	\$45,800	\$136,800	\$174,600	\$208,000
Imports				
Unmanufactured tobacco	\$000	\$000	\$100	\$700
Manufactured	000	000	000	000
Total	\$000	\$000	\$100	\$700
Net Trade Balance	\$45,800	\$136,800	\$174,500	\$207,300

Source: United States Department of Agriculture.

U.S. Foreign Market Development Programs for Tobacco

The export of U.S. tobacco is assisted by three federally funded market development programs. They are the Department of Agriculture's Cooperator Market Development Program, the Targeted Export Assistance Program, and the Export Credit Guarantee—GSM 102-103—programs.

In the Cooperator Market Development Program, which was initially authorized by the Agriculture Trade Development and Assistance Act of 1954, Agriculture's Foreign Agricultural Service authorizes about 50 private, nonprofit agricultural organizations to conduct market development activities overseas to increase both consumer and commercial uses of U.S. agricultural commodities and their derivatives by overcoming constraints to exports. These market development activities involve technical assistance, trade servicing, and consumer protection. In fiscal year 1990, total funding for the Cooperator Program is about \$35 million, of which about \$150,000 is allocated to Tobacco Associates, the tobacco cooperator.

The Targeted Export Assistance Program, which was authorized by the Food Security Act of 1985, is modeled after the Cooperator Program and was established to counter or offset the adverse effects of subsidies, import quotas, or other unfair trade practices of foreign competitors on U.S. agricultural exports. In fiscal year 1990, the program has an appropriated funding level of \$200 million, of which \$5 million is allocated to Tobacco Associates.

Through the program, Tobacco Associates provides certain countries with the technology, equipment, and training necessary to manufacture a U.S.-blended cigarette that uses significant amounts of U.S. flue-cured and burley tobaccos. The specific objective of these activities is to benefit the U.S. tobacco growers through (1) regular sales of U.S. tobacco to these countries, (2) favorable economic activity from increased exports of U.S. tobaccos, and (3) the establishment of new foreign markets. Countries where these activities are underway or planned are Turkey, South Korea, Taiwan, and Thailand. Agreements were entered into with Turkey and South Korea to develop U.S. blended cigarettes that would include significant amounts of U.S. tobacco.

Agriculture's Export Credit Guarantee Programs—GSM 102 and 103—were established to expand the export sale of U.S. agricultural commodities by stimulating U.S. bank financing of foreign purchases on credit terms. The GSM-102 Program guarantees the repayment of credit extended on credit terms of up to 3 years; GSM-103 guarantees up to 10 years. A total of 66 companies received GSM guarantee credits on 127 million pounds of tobacco valued at \$214 million and loan guarantees of

**Appendix III
U.S. Foreign Market Development Programs
for Tobacco**

about \$210 million, shipped during the period October 1985 through September 1988. Shipments of tobacco under these programs were stopped in 1989 after \$27.2 million of tobacco was shipped to Iraq following allegations against some tobacco exporters of mixing foreign tobacco with U.S. tobacco and exporting it as completely U.S. tobacco. Such activity is not authorized under the program and is the subject of a current U.S. attorney's investigation.

Cigarette Marketing Restrictions in Targeted Asian Nations

Japan

The first cigarette section 301 agreement was concluded in October 1986 with Japan. The terms of the agreement only relate to marketing issues such as tariff rates, cigarette pricing, and distribution. The agreement does not refer to cigarette promotional activities or to any health warning label requirements. In fact, the section 301 agreement does not even contain provisions requiring the U.S. cigarette companies to comply with its terms.

Shortly after the section 301 agreement was signed, the Japan tobacco monopoly and the foreign cigarette companies doing business in Japan established the Tobacco Institute of Japan. This voluntary self-regulatory association attempts to oversee cigarette marketing activities by promoting compliance by members with established cigarette marketing guidelines, codes, and regulations. According to Japanese government officials, Japanese law requires health warning labels on cigarette packs and prohibits smoking by minors. These officials add, however, that the Japanese government has no law or regulation that governs cigarette advertisements or promotions. Instead, the government issues informal guidelines to the Tobacco Institute and relies on it to self-regulate cigarette advertisements and promotional activities.

According to a Tobacco Institute official, the institute operates as "a social club" because it has no legal authority to enforce the advertising code. It relies on the Japanese government to enforce legal requirements and on its members' own sense of professionalism to assure compliance with those provisions that go beyond existing laws and regulations.

Taiwan

The section 301 agreement with Taiwan contains many provisions relating to advertising and promotional activities. Moreover, the Taiwan authorities rely to a much lesser extent than Japan on self-regulation by the cigarette industry. The section 301 agreement places restrictions on cigarette advertising and requires health warning labels on cigarette packs, but allows for special cigarette promotions and certain promotional displays.

Soon after the agreement, the Taiwan monopoly issued regulations to implement the terms of the agreement. According to American Institute in Taiwan officials, a recent law prohibits the sale of cigarettes to minors and proposed legislation would prohibit cigarette companies from targeting minors in cigarette advertisements. U.S. cigarette companies are currently working with USTR to establish an industry association and a self-regulatory advertising code for Taiwan. The Taiwan monopoly officials claim that the monopoly supports the U.S. efforts, but it

has not participated in developing the code nor agreed to join an industry self-regulatory association.

South Korea

South Korea regulates the advertising and promotional practices of cigarette companies more heavily than either Japan or Taiwan and, thus, relies less on self-regulation or voluntary compliance. The section 301 agreement with South Korea contains the most specific and comprehensive provisions on cigarette advertising and promotional activities, including prohibitions against targeting women and children in cigarette advertisements and promotions. The agreement also requires health warnings on cigarette packs and in magazine advertisements. Cigarette advertising, with the exception of minor point-of-sale activity, had been prohibited through a March 1987 law.

According to industry documents, the South Korean law that implements the section 301 agreement places a few restrictions on advertising that go somewhat beyond the terms of the agreement. For example, cigarette advertising can only inform smokers of the brand names, kinds, and characteristics of cigarettes. It cannot attempt to attract new smokers or violate the intentions of the health warning labels.

A cigarette industry group consisting of the three major U.S. cigarette exporting companies and the South Korean tobacco monopoly has not developed an industry code of conduct nor become a self-regulatory body.

Major Contributors to This Report

National Security and International Affairs Division, Washington, D.C.

Phillip Thomas, Assistant Director
John Bachkosky, Project Manager
Michael Kassack, Evaluator-in-Charge
Jo Ann Scandola, Evaluator
Craig Anderson, Evaluator

Far East Office

Peter Konjevich, Assignment Manager
Elizabeth Guran, Evaluator
Judith McCloskey, Evaluator
Raymond Ridgeway, Evaluator