

ALL CHILDREN DESERVE PROTECTION FROM TOBACCO, BELLAMY SAYS
UNICEF Chief Praises Koop-Kessler View that U.S. Should Pursue Global Curbs

NEW YORK, 28 July -- UNICEF welcomes a public-health panel's recommendation to the US Congress that the United States should actively promote tobacco control on a worldwide scale, especially in developing countries, Carol Bellamy, Executive Director of the United Nations Children's Fund, said today.

Bellamy spoke in response to a report by the Koop-Kessler Advisory Committee on Tobacco Policy and Public Health, a group formed to advise Congress on a proposed US tobacco liability settlement negotiated by state attorneys general, plaintiffs' lawyers and cigarette makers. The panel is chaired by former US Surgeon-General C. Everett Koop and former US Food and Drug Administration Commissioner David A. Kessler.

"The members of the Committee deserve the highest praise for their recognition that tobacco is a wholly preventable threat to the health and development of young people in every country," Bellamy said. "They understand that the US, as the world's largest tobacco exporter, has a special responsibility not only for the children within its borders, but in every land."

Of the world's children and teen-agers, it is estimated that some 300 million will die of tobacco-related causes in adulthood if current trends continue.

"The global marketing of tobacco is a direct challenge to UNICEF's mission to ensure the survival of children in developing countries," Bellamy said. "Acute respiratory infections are killing 4 million children in those regions every year, a figure that will surely rise in direct proportion to the expanded marketing activities of the tobacco industry. It defies logic to spend millions every year on strategies to save these children, as USAID is doing, while standing by as the tobacco industry targets them as consumers."

The Koop-Kessler Committee's report, Bellamy said, is an important contribution to helping the international community develop a global strategy to treat tobacco products commensurate with the harm they cause, beginning with prohibitions on all direct and indirect tobacco advertising and promotional activities aimed at children and young people.

Among its recommendations, the Committee urged that US international policy initiatives include support for tobacco-control activities by such multilateral groups as UNICEF, the World Health Organization, and the Pan-American Health Organization.

UNICEF's role in advocating worldwide curbs on tobacco grows out of the 1989 Convention on the Rights of the Child, which obligates governments to safeguard the health of infants and children; protect children from drugs and exploitation; and promote health education. The Convention, ratified as of last month by 191 countries, is the most universally accepted human rights instrument in history.



"Children have an absolute right to health and development, and their use of tobacco is frequently a consequence of the denial of those rights," Bellamy said. "We know, for example, that most people who become addicted to tobacco begin using it in the second decade of life -- and that this often happens because they do not have access to information or opportunities to develop the life skills that would help them resist enticements to use tobacco."

In May, the UNICEF Executive Director urged that the US tobacco liability talks be used as a first step toward worldwide restrictions on the sale and promotion of tobacco products, particularly to children and young people in developing countries.

In its report, commissioned by a bipartisan group in Congress and made public on 9 July, the Koop-Kessler panel urges US support for a proposed International Framework Convention for Tobacco Control that would be legally binding on all countries; amendment of US trade legislation that allows American tobacco exporters to pressure countries to let US products compete with domestic brands; and support for an International Tobacco Control Commission that would set standards, monitor global tobacco control efforts, and assist non-governmental organizations (NGOs).

Of the world's 1.1 billion smokers, some 3 million die each year of tobacco-related causes, 2 million of them in industrialized countries. If current trends continue, the global death toll is expected to rise to 10 million a year by the 2020s or 2030s -- 7 million in the developing countries. There is also a higher rate of miscarriages among expectant mothers who smoke, and smoking during pregnancy has been linked to low birth weight, a factor strongly associated with infant mortality and illness. Smoking in the home has also been linked to an increased incidence of asthma and acute respiratory infections in children.

Bellamy said tobacco-related health problems will undermine development efforts in poor countries, not only by burdening already strained health-care systems, but through economic losses connected to such problems as absenteeism, reduced productivity, fire losses related to smoking, and lost income because of premature death.

"It is encouraging to see the growing public outcry against tobacco marketing efforts in the US, especially those aimed at children and adolescents -- a trend dramatized by the recent decision by the RJ Reynolds Tobacco Company to retire its 'Joe Camel' marketing cartoon," Bellamy said. "But it is clear that the industry's willingness to modify its advertising and accept some liability for the health effects of their products in the US is linked to something much bigger: the vast potential for profit and growth in the overseas market, particularly in terms of cigarette sales to children and women in the developing world."

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GLOBAL TOBACCO CURB NEED NOT HINGE ON U.S., BELLAMY SAYS
UNICEF Chief Sees Severity of Threat to Children as Reason Enough

NEW YORK, 15 May -- The possibility of a setback in efforts to settle tobacco liability cases in the United States does not relieve governments of responsibility to curb the industry's power to entrap children and adolescents elsewhere in the world, Carol Bellamy, Executive Director of the United Nations Children's Fund (UNICEF) said today.

"Whatever the outcome of the US negotiations, the international community urgently needs a comprehensive, long-term strategy to combat tobacco, particularly in the developing world," Bellamy said. "Given the tobacco industry's increasing focus on developing country sales, the need for action is more pressing than ever."

Bellamy spoke in the wake of press reports this week that optimism is fading for an omnibus liability settlement between major US-based tobacco companies and the attorneys general of some two dozen states. Ideally, Bellamy said, any future restrictions on the sale and promotion of tobacco products in the US market should be applied globally.

On 1 May, the UNICEF chief urged that the US talks be a first step toward worldwide restrictions on the promotion and sale of tobacco products, especially to children and young people in developing countries. She said the marketing of tobacco products is undermining UNICEF's efforts to save the lives of millions of children a year from preventable diseases.

An estimated 300 million of today's children and teen-agers will eventually die of tobacco-related illness, a third of them in developing countries. The total is projected to rise substantially within 30 years, with the proportion of developing world deaths jumping to two-thirds.

Bellamy said UNICEF welcomed a recent pledge by environmental officials from the Group of 7 leading industrial nations, the Russian Federation and the European Union to work together to promote education and public awareness of the environmental hazards of tobacco smoke to children. The officials affirmed that tobacco smoke, a known human carcinogen, is a "significant public health risk to young children" that weakens lung capacity and causes respiratory disorders.

Medical researchers have established clear links between smoking in the home and the incidence of acute respiratory infections and asthma in children exposed to second-hand tobacco smoke.



"Acute respiratory infections already kill 4 million out of the 12 million children under five who die each year in developing countries," Bellamy said. "Without across-the-board action to curb smoking, those numbers are likely to rise in direct proportion to the global marketing activities of the tobacco industry."

Bellamy today reiterated the need for prohibitions on the sale of tobacco to minors; greatly increased taxation of tobacco products; and intensified efforts to make the public aware of the addictive qualities of nicotine and the overall dangers of smoking. She said these and other measures are mandated by the 1989 Convention on the Rights of the Child, which requires governments to take steps to promote the health of infants and children; protect them from drugs and exploitation; and ensure that there is adequate health education.

She stressed that rather than recommending specific mechanisms through which governments might address the tobacco issue, UNICEF hoped to draw attention to the urgency of the problem and the range of steps that might be used to bring pressure to bear on the tobacco industry. Since the US talks began, advocates for global tobacco curbs have been discussing which elements of a possible settlement could be useful in fashioning worldwide curbs, and how, in practical terms, this might come about.

"There is obviously a great deal of groundwork that needs to be done," Bellamy said. Under debate are such ideas as a requirement that US-based tobacco companies not market tobacco products to nonsmoking women and children, or any nonsmoking population anywhere in the world; that US trade officials agree not to help companies penetrate closed markets outside the United States; that the tobacco industry be required to make substantial lump-sum contributions to help multilateral agencies promote tobacco regulation and education; and that any eventual settlement of tobacco-liability lawsuits in the US -- a sum that could total \$375 billion over 25 years -- not be financed by international sales.

Smoking among people who took up the habit at an early age currently claims 3 million lives a year worldwide, a third of them in developing countries. If current smoking rates continue to rise, that figure is expected to jump to 10 million a year, with 70 per cent of the deaths occurring in the developing world.

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UNICEF CHIEF CALLS FOR GLOBAL CURBS ON TOBACCO
Young in Developing World Increasingly at Risk, Bellamy Says

NEW YORK, 1 May -- Negotiations on the future of the tobacco industry in the United States should be a first step toward worldwide restrictions on the promotion and sale of tobacco products, especially to children and adolescents in the developing world, Carol Bellamy, Executive Director of the United Nations Children's Fund (UNICEF), said today.

"With the industry increasingly under siege in industrialized countries," Bellamy said, "there is no more promising market for new smokers than the predominantly young populations of the world's developing regions. The tobacco companies know that their best customers are those they snare early in life."

Cigarette sales in developing countries have risen substantially in recent years, Bellamy said, and there are already signs of the devastation to come. It is estimated that of today's children and teen-agers, 300 million will be killed by tobacco in adulthood if current trends continue. A third of such deaths currently occur in developing countries, with the figure projected to rise to two-thirds early in the next century.

"The calculated expansion of the tobacco market to these regions is a direct challenge to UNICEF's day-to-day efforts to save impoverished children from diseases that are largely preventable," Bellamy said. "There is no cause of death more preventable than smoking."

The World Health Organization has projected that 10 million people a year will die worldwide from tobacco-related illness by the year 2025, more than triple the current toll -- and that 7 million of these deaths will be adults in the developing world, most of whom began smoking at a young age.

The UNICEF chief called for an urgent effort by the international community, including the World Trade Organization, to develop a global strategy to treat tobacco products commensurate with the harm they cause, beginning with prohibitions on all direct and indirect tobacco advertising and promotional activities aimed at children and young people.

Other measures, the Executive Director said, should include a ban on sales of tobacco products to minors; substantial tax increases on tobacco products; and a stepped-up educational campaign to promote awareness of the addictiveness of nicotine and the dangers of smoking.

Such steps, Bellamy said, would be in accord with the provisions of the 1989 Convention on the Rights of the Child, which obligates governments to safeguard the health of infants and children; protect children from drugs and exploitation; and promote health education.



With smoking generally on the decline among more affluent, health-conscious adults in industrialized countries, major tobacco companies are pinning their hopes for profits and growth among the young and the poor, especially in the vast, unregulated markets of Asia, Latin America and the countries of Eastern Europe and the former Soviet Union.

Sales of tobacco overseas by the companies based in the United States, the world's largest tobacco exporter, have more than tripled in the quarter-century since overall smoking rates in the US began to decline.

Like their counterparts in the industrialized world decades ago, young women in developing countries have become especially inviting targets for tobacco promoters in the 1990s, Bellamy said. This marketing strategy has grave implications not only for them but their children.

Although bodily damage to children and young people who become addicted to nicotine is usually not apparent until middle age, there is mounting evidence that tobacco use also harms the very youngest, Bellamy noted.

Mothers who smoke risk a higher rate of miscarriages, and studies have linked smoking during pregnancy to low birth weight in infants, a factor strongly associated with infant mortality and illness. Smoking by parents and others in enclosed environments in the home has also been linked to an increased incidence of asthma and acute respiratory infections in children.

Beyond the loss of life, the economic consequences of smoking are extensive, various international surveys suggest, not only in added strains on already overburdened health-care systems, but in losses stemming from such factors as absenteeism from work, reduced productivity, fire losses, and lost income because of early death.

In developing countries already struggling with crushing health-care problems, the additional burden of tobacco-related illness is unsupportable.

"The unregulated growth of the tobacco market in these regions," Bellamy said, "not only threatens millions of additional lives a year, but undermines the whole fabric of economic and social development."

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DRAFT

August 6, 1997

MEMORANDUM TO: Bruce Reed
FROM: Daniel K. Tarullo
SUBJECT: Tobacco: International Policy Issues

The international issues working group has reviewed various policies relating to the international tobacco trade. In general, our work concentrated in three areas – trade policy; export and business facilitation; and public health. We were able to make substantial progress towards forging a new consensus on how the U.S. Government deals with tobacco issues overseas. More work still must be done in articulating this policy consensus, however.

Trade Policy

U.S. policy is to treat as presumptively valid any foreign country's non-discriminatory health policy measures intended to reduce tobacco consumption. Pursuant to this policy, the U.S. will not object to foreign countries' adoption or enforcement of measures necessary to protect public health, including advertising and promotion restriction. The U.S. will not object to tobacco control interventions by foreign governments, either existing or proposed, which are based on sound public health principles and that do not contravene "national treatment" or "most favored nation" (MFN) principles – that is, if they are applied in a non-discriminatory manner to both imported and domestic tobacco products. However, the U.S. reserves the right to object to such measures when they are deemed to be discriminatory, i.e., when they are not health-based.

HHS participates in the most senior trade policy decision-making body (the TPRG), and U.S. health and trade officials work closely together to evaluate the health implications of each trade negotiation. Policy is implemented on a case-by-case basis. There are many issues that can arise in trade negotiations which need to be assessed to determine the basis of a trade measure and the resulting U.S. negotiating position. By being at the table, HHS is able to work constructively in a venue outside of public health fora and allows for a greater range of health, safety and environmental factors to be considered in international trade discussions. This not only permits a close review by HHS of the merits of a trade case with respect to the health basis of a trade action, but permits health experts to make this evaluation side-by-side with trade negotiators which creates a mechanism to assure an effective evaluation.

Circumstances may ultimately warrant that the USG seek to lower tariffs and/or non-tariff trade barriers in international trade negotiations and/or to defend against discrimination against U.S. industry in a tobacco-related trade dispute where foreign practice cannot properly be justified on health grounds. It has been argued that the power and prowess of the U.S.-based multinational

tobacco firms is such that their entry into a foreign market fundamentally alters the dynamics of that market, resulting in greater tobacco consumption by more individuals. If such is the case, then any efforts to reduce tariffs or other trade barriers would not be consistent with our stance on controlling the growth of tobacco use.

Alternatively, a clear signal that the U.S. will no longer seek to lower tariffs or remove discriminatory measures contradicts the principles underlying our trade policy and may provide an advantage to others who may not share our health policy concerns. The incentives to cheat without fear of retaliation can create distortions – opportunities for commercial or governmental gain, corruption or public rent seeking (i.e., increased revenues from excise taxes or government monopoly income) – that create other policy dilemmas.

USTR developed a draft statement (copy attached, Tab 1) of policy on the relationship between the trade and health policy objectives in addressing trade issues relating to tobacco and tobacco products. There is concurrence (among USTR, HHS and the Departments of State, Treasury, Commerce and Agriculture) regarding the substance of this policy statement, though there is also agreement that it should be reworded in light of the changing environment, including proposed new legislation (see below).

Export Promotion and Commercial Facilitation

The activities of U.S. Ambassadors and their Foreign and Commercial Services staffs in commercial advocacy efforts involving the tobacco industry should be consistent with U.S. Government treatment of tobacco companies domestically. Heretofore, personnel from the Departments of State and Commerce, through our embassies overseas, have sometimes intervened on behalf of any U.S. company, including tobacco growers or cigarette manufacturers, to provide access to a foreign government and in commercial advocacy efforts involving the industry.

State and Commerce have worked with HHS in developing new guidelines (draft attached at Tab 2) that will be issued to posts limiting involvement in marketing and/or export promotion of tobacco products. These guidelines would only affect the involvement of the U.S. Government and not affect the tobacco companies' rights and obligations to conform to the tobacco marketing and other health regulations of the foreign government. With regards to official financing of exports and investments, the U.S. Export-Import Bank and the Overseas Private Investment Corporation (OPIC) do not currently finance the export of tobacco or tobacco products or overseas investments in cigarette manufacturing plants and equipment. No changes are anticipated in current practice.

Proposed Legislation

Several pieces of legislation have been proposed that would codify the international recommendation of the Koop-Kessler report, including the "International Tobacco Responsibility

Act of 1997" (H.R. 2135, introduced by Representative Doggett) and the "Worldwide Tobacco Disclosure Act of 1997" (S. 1060, introduced by Senator Lautenberg).

The Lautenberg bill would prohibit funding for any USG efforts that "seek, through negotiations or otherwise, the removal or reduction by any foreign country of any nondiscriminatory law or regulation ... that restricts the advertising, manufacture, packaging, taxation, sale, importation, labeling, or distribution of tobacco products; or to encourage or promote the export, advertising, manufacture sale or distribution of tobacco products." The trade language is consistent with a 1990 GATT decision which holds that a member nations can use various policies to protect health as long as they are applied evenly to domestic and foreign products. The bill would also require labeling of cigarettes for export that, at a minimum, are consistent with U.S. domestic labeling requirements.

The Doggett bill also has tobacco product export labeling requirements. However, that bill's "restrictions on activities abroad regarding the marketing of tobacco products" are far more loosely worded than those in the Lautenberg bill, and it is thus more problematic. The House bill, for example, does not include reference to nondiscriminatory practices in referring to foreign laws or regulations, and would only more narrowly prohibit export promotion activities overseas.

Dubin bill?

New International Public Health Initiatives

It is anticipated that ongoing international public health efforts aimed at controlling the use of tobacco and tobacco products will be increased (irrespective of a settlement). HHS is preparing an action plan for reducing tobacco use world-wide, particularly in developing countries (draft attached at Tab 3). The range of proposed new international public health initiatives relating to smoking and tobacco control will draw on existing work being done, both bilaterally and through multilateral fora, by HHS. The new initiatives will also take advantage of the work already being done by the World Health Organization (WHO), various non-governmental organizations, and the multilateral development banks, including the World Bank.

One effort certain to receive increased support is the International Framework Convention on Tobacco Control to encourage nations to adopt comprehensive tobacco control policies. It can be anticipated that the U.S. will take a more prominent leadership role in promoting this multilateral endeavor.

**Office of the U.S. Trade Representative
USTR's Role in Tobacco Exports**

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.

At the beginning of the Clinton Administration, a significant step was taken to ensure that the expertise of the Department of Health and Human Services (HHS) was integrated into the tobacco trade policy process. The active participation of HHS at all stages of policy development ensures a balanced approach to tobacco export policy. U.S. trade and health officials now work together to evaluate the health implications of each trade policy issue on a case-by-case basis.

This Administration has worked 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, 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.

This requirement of non-discrimination is the cornerstone of the international trading system, as embodied in the Uruguay Round Agreements. The 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 manufacturers. By the same token, we will respect other countries' legitimate health-based measures.

As an example of the Administration's policy of pro-actively addressing health issues in the context of developing trade policy, in August 1995 negotiations with Korea the U.S. Government agreed to modify a market access agreement with the Koreans to allow them greater flexibility to impose legitimate health-based measures to restrict the use of tobacco products. We insisted, however, that Korea dismantle a discriminatory structure allocating cigarette tax revenue and that any health-based measure adopted by the Koreans not arbitrarily or unjustifiably discriminate against U.S. manufacturers or operate as a disguised restriction on trade. USTR led these negotiations with experts from across the U.S. Government, including from HHS, Treasury, and State, joining us at the negotiating table. In addition, consultations were held with public health groups and the U.S. industry prior to negotiations. Negotiations with South Korea were successfully completed and South Korea has implemented public health measures, including limitations on cigarette advertising.

Draft Guidelines for U.S. Diplomatic Posts **for Dealings with U.S. Tobacco Companies**

General Policy

In light of the serious health consequences of tobacco use [and consistent with Presidential Decision Directive XXXXX and/or that Executive Order XXXXX], the U.S. Government (USG) will not support the activities of individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products that increase or foster tobacco use or promote the overall demand for tobacco products. The USG respects the rights of foreign governments to establish and maintain sound public health practices; at the same time, the USG retains the right to challenge discriminatory foreign practices that do not have a legitimate public health basis. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

General Guidelines

1. Posts should not challenge or interfere in any way with host country regulations based on sound public health principles and following the principle of "national treatment," i.e. applied in a non-discriminatory manner to both imported and domestic tobacco products.
2. Posts may, after consultations with the State/Commerce/Agriculture Departments and in accordance with instructions: (a) address unfair or discriminatory trade practices against U.S. tobacco firms or tobacco products; and (b) engage in problem-solving, such as those involving customs or port problems (e.g., inconsistently-applied customs procedures or restrictions), problems related to phytosanitary regulations, taxation problems, IPR problems (e.g., trademark violations), or smuggled imports.
3. Posts may assist U.S. tobacco companies with normal "business facilitation" problems such as access to officials and business contacts; market information; fact-finding. This assistance should not have the effect of challenging or undermining non-discriminatory regulations (especially health regulations) or increasing the number of smokers and the overall demand for tobacco products.

Prohibited Activities

1. Posts may not assist, participate in, or encourage activities of U.S. tobacco companies that are designed to or likely to contribute to increasing the number of smokers and the overall demand for tobacco products. Posts should particularly avoid association with or facilitating 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 women and children.

2. Posts may not accept monetary contributions to embassy events (such as a July 4th reception) from individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products except to the extent that they do not involve any quid pro quo other than a mention of a corporate name (but not a brand name) in a program or list of sponsors.

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.

Encouraged Activities

Posts are encouraged to assist and promote tobacco-control efforts sponsored by host country health officials and other health agencies. Examples of such alternatives are:

- 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.

Draft of August 6, 1997

Reducing Tobacco Use World-Wide: An Action Plan

HHS Draft Proposal -- 8/6/97

I. Background

According to the World Health Organization, worldwide deaths from tobacco are likely to exceed ten million per year by 2025, with 70 percent of those deaths occurring in developing countries. The total is likely to exceed deaths from tuberculosis, malaria, acute viral infections (such as *Ebola*), and maternal conditions combined. In fact, early in the next century, tobacco will be the leading global cause of premature death and preventable illness. Through HHS, and in collaboration with multilateral organizations, the United States Government (USG) should seek to mobilize the international health community to reduce the consumption of tobacco products, particularly as it affects the health of children and youth.

II. Objective

To reduce the consumption of tobacco products, particularly in developing countries.

III. Plan to Achieve the Objective

A. Domestic Elements

- Issue a Presidential decision directive, similar to the directive on emerging infectious diseases, that recognizes the reduction of tobacco use as both a domestic and international health priority, and calls for improved international cooperation, training, surveillance, research and public awareness of this health threat.
- Strengthen the role of HHS as the USG focal point for international health issues related to tobacco, and provide adequate resources and staffing to:
 - broadly stimulate, support and implement tobacco control and prevention activities, particularly in developing countries;
 - educate and train U.S. diplomatic posts regarding tobacco use and its adverse health effects;
 - consult with the Departments of State, Commerce, Agriculture, Treasury, and the USTR to develop comprehensive and science-based Federal policies, which treat tobacco commensurate with the harm that it causes.
- Support HHS' and the Department of Treasury's cooperative activities with the World Bank, which establish a global policy that makes tobacco control, and reduction in tobacco consumption an economic development priority for all countries.

B. International Elements

- ***Bilateral Collaborations:*** Expand existing bilateral cooperative agreements or establish new agreements with key countries to promote the development of national and international tobacco control and prevention programs. Key countries include, at minimum, Russia, India, China, Thailand, and Poland, in which a concentration of new resources and collaborative technical assistance would significantly improve existing tobacco control and prevention programs.
 - Agreements would provide a framework for HHS to provide comprehensive technical assistance, including training, exchange of public health experts, organization of workshops and symposia, and exchange of publications and information related to tobacco control and prevention.
 - Agreements would promote globally consistent and reinforcing regulations that restrict tobacco advertising and minors' access to tobacco products, and to collaborate on efforts to access industry documents that reside offshore.
- ***Regional Collaborations:*** Working particularly through the regional multilateral development banks (MDBs), expand existing regional alliances or establish new alliances that facilitate and promote collaboration and cooperation on tobacco-related issues, such as resource development, trade and taxation policies, and smuggling.
- ***Framework Convention:*** Participate in the development of the proposed framework convention, as recommended in May 1996 by the World Health Assembly. U.S. contributions to the development of the framework convention should be concentrated on those issues and activities that can reduce the appeal and access of tobacco products to children and youth.
- ***WHO:*** Support global strategies, such as WHO's Tobacco or Health Plan of Action (1996 - 2000), which promotes comprehensive national tobacco programs, advocates strong tobacco control policies, and disseminates global and country-specific health data and tobacco prevention and control strategies. HHS will evaluate various options for support, including level and type of technical assistance, staffing and funding. Examples include:
 - Promoting the development of self-sustaining tobacco control units by supporting country missions that place public health experts at health ministries and multilateral or development organizations to provide epidemiologic, programmatic or policy development or training assistance;
 - Supporting a global electronic clearinghouse and communications network to standardize, strengthen and facilitate the global exchange of tobacco-related information, particularly supporting epidemiologic data collection, analyses and surveillance; and

- Updating, promoting and disseminating WHO guidelines and protocols on epidemiologic surveillance and program evaluation to promote global standardization of these measurements.

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Other Multilateral Collaborations: Cooperate with UN agencies, MDBs, and other development agencies in their expansion of tobacco use reduction efforts. HHS will evaluate various options to work with these organizations to ensure maximum benefit, promote cooperation, and provide technical assistance and consultation on public health issues.

- Regarding the MDBs, HHS will work with the Treasury Department toward the following objectives:

I. If funds from a settlement are available, the USG should:

- (a) contribute a portion of the funds to the World Bank and Asian and European development banks in the form of grants to supplement financing for existing activities and/or to establish new programs aimed at discouraging tobacco usage and production, and to deal with the health effects of tobacco use; and
- (b) encourage the banks to pursue and expand their other efforts in tobacco-related areas, including policy advice the banks give to borrowing governments. Such advice can relate to regulatory issues (such as advertising bans); trade policies (to incorporate effective health and safety measures); and tax and fiscal policies (to help governments reduce reliance on revenues from tobacco sales).

II. If funds from a settlement are not available, the USG should pursue the course outlined in I (b) above.

- Pending resolution of the funding issue, initiate discussions with the World Bank and regional MDBs to lay the groundwork for a feasible level of cooperation, given available resources.
- The United Nations will be encouraged to implement resolutions involving collaboration on issues such as crop substitution and similar problems of developing countries whose economies depend on tobacco production.

- **International Research:** Establish funds for non-governmental (NGO) and multilateral organizations to conduct research on international tobacco policy, prevention effectiveness of developing country tobacco interventions, economic cost-benefits, health risks and outcomes, and macro-effects of tobacco agriculture and production.

IV. Budget

HHS will implement this proposal by building upon existing networks of contacts around the world through WHO, regional and bilateral working relationships and in collaboration with development institutions such as the World Bank and others as described. To implement this global strategy, HHS proposes an initial budget of \$50 million, which would increase as capacity and knowledge to conduct more aggressive and effective programs also increases.

Funds will be used to:

- establish USG international tobacco control policies that are consistent with USG domestic tobacco control policies;
- increase U.S. domestic capacity, including, but not limited to, developing an infrastructure and training USG employees stationed abroad; and
- increase international capacity building, including developing bilateral and multilateral collaborations, participating in the Framework Convention development, providing technical assistance, and supporting global strategies for tobacco control by collaborating and cooperating with UN agencies, MDBs, WHO and among those other development organizations.



Sherman G. Boone

07/21/97 11:47:49 AM

Record Type: Record

To: Elizabeth Drye/OPD/EOP

cc:

Subject: international tobacco issues -- up-date

fyi.

----- Forwarded by Sherman G. Boone/OPD/EOP on 07/21/97 11:47 AM



Sherman G. Boone

07/21/97 11:47:08 AM

Record Type: Record

To: Daniel K. Tarullo/OPD/EOP

cc: Kristen E. Panerali/OPD/EOP

Subject: international tobacco issues -- up-date

I will forward a copy of the initial draft of the State/Commerce guidelines for dealing with tobacco companies overseas. The draft is currently being revised to incorporate comments from HHS and USTR (as well as from me).

I will also provide a copy of the USTR policy discussion paper which too will be re-written in light of a Friday afternoon discussion. USTR and HHS (as well as USDA, State and Commerce) appear to be in agreement re: current policy given current (trade) law, though I will push for a sharper statement of this policy.

Inter-agency disagreement centers around what to do in those cases where tariff/non-tariff barriers are found to be discriminatory and **not** health-based; it is here that fundamental policy principles can come in conflict. There exists proposed legislation to amend the Trade Act and/or force policy change through appropriations, though it is not clear how much support there is (in the Administration or on the Hill) for such legislation. I will attempt to distill the debate into a decision-oriented format.

HHS is working on a paper with proposed new international health initiatives that could be afforded by settlement proceeds; I expect a final draft by Wednesday. Treasury is working on a similar exercise re: the World Bank and regional development banks which I will push to integrate into the HHS exercise.

I would like to schedule a few minutes with you late today to discuss how to incorporate the international issues into the larger tobacco effort.

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

SENDER: DANIEL K. TARULLO

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DATE: July 23, 1997

SUBJECT: Tobacco: International Trade & Commercial Issues

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HHS	Andy Hyman	690-6318	690-7998
HHS/CDC	Michael Eriksen	205-9221	205-8313
State/EB	Terry Miller	647-3090	647-2302
USDA/FAS	Lana Bennett	720-9519	690-1171
USDOC	Troy Cribb	482-3737	482-2331
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Treasury/OASIA	Meg Lundsager	622-0168	622-5304
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CEA	Carrie Thompson	395-3517	395 935-6853
DPC	Elizabeth Drye	456-5573	456-7028
	Paul Weinstein	456-5577	456-7028
OVP	John Norris	456-9500	456-9518

Attached is a short paper that I drafted to provide an up-date/overview of where we are on international issues (at least as of yesterday). I anticipate that there may be some differences of opinion regarding my representations -- and welcome your comments either by telephone (456-5363) or fax (456-5334). I look forward to your input. Thanks.

UNCLASSIFIED

DRAFT**Tobacco: International Issues****Trade Policy**

- o The tobacco settlement review process has prompted the Administration to develop a statement of policy on the relationship between trade and health policy objectives in addressing trade issues relating to U.S. tobacco and tobacco products.
 - The U.S. treats as presumptively valid any foreign country's non-discriminatory health policy measures intended to reduce tobacco consumption. Pursuant to current policy, the U.S. will not object to foreign countries' adoption or enforcement of measures necessary to protect public health, including advertising and promotion restrictions.
 - U.S. export policy is to not object to tobacco control interventions by foreign governments, either existing or proposed, which are based on sound public health principles and that do not contravene "national treatment" or "most favored nation" (MFN) principles – that is, if they are applied in a non-discriminatory manner to both imported and domestic tobacco products.
 - However, the U.S. will continue to reserve the right to object to such measures when they are deemed to be discriminatory and do not contribute to improving public health.
- o Current policy ensures that HHS participates in all negotiations and that health considerations are included in all policy decisions.
 - Policy is implemented on a case-by-case basis. The details of how a particular measure would be viewed and addressed is left to the inter-agency process.
 - By being at the table, HHS is able to work constructively in a venue outside of the usual public health fora, allowing for a greater range of health, safety and environmental factors to be considered in international commercial discussions.
 - This permits review by HHS of merits of health-based policies to assure that they are effective -- and not a subterfuge for gaining commercial advantage.

Export Promotion and Commercial Facilitation

- o Also in light of the settlement review, the State and Commerce Departments are drafting new **guidelines** for their personnel in overseas embassies and missions that mirror U.S. trade policy: the guidelines assert the primacy of host country regulations based on sound public health principles.

- o Generally, posts may not assist, participate in or encourage activities of U.S. tobacco companies that are aimed at increasing the number of smokers or the demand for cigarettes.
- o With regards to official financing of exports and investments, the U.S. Export-Import Bank and the Overseas Private Investment Corporation (OPIC) do not currently finance the export of tobacco or tobacco products or overseas investments in cigarette manufacturing plants and equipment; no changes are anticipated in current practice.

New International Public Health Initiatives

- o It is anticipated that many ongoing public health efforts aimed at controlling the use of tobacco and tobacco products will be increased irrespective of a settlement.
 - HHS is currently reviewing the range of domestic and international public health activities relating to smoking and tobacco control, but it is premature at this time suggest the outcome of this program review – or contemplate new spending that may arise.
- o One initiative which likely will receive increased Administration support, however, is the **International Framework Convention on Tobacco Control** to encourage nations to adopt comprehensive tobacco control policies.
 - It can anticipated that the U.S. will take a more prominent leadership role in this multilateral endeavor.
- o Any new public health initiatives will undoubtedly take advantage of the work already be being done by the **World Health Organization (WHO)** and the multilateral development banks, including the **World Bank**. These multilateral organizations have an important role to play, particularly in the developing world, in reducing the global burden of disease. Tobacco use is a large and growing part of this burden.

Draft 7/22/97

Written paper

DRAFT

THE U.S. & INTERNATIONAL TOBACCO TRADE: A PERSPECTIVE

The U.S. is one of the largest tobacco producing and exporting countries in the world. The value of the U.S. tobacco crop in 1995 was about \$2.3 billion, or 2.7% of cash crops. The value of shipments by tobacco manufacturers was about \$33 billion. The value added in tobacco manufacturing – income earned by labor, capital and other factors of production engaged in manufacturing – was about \$24.7 billion. Consumers spent \$47.2 billion on tobacco products; this was about 1% of consumer expenditures.

From a global perspective, the U.S. produced 11% of the world's tobacco and accounted for approximately 13% of the tobacco that moved into international trade in 1996. For 1994-96:

- **U.S. exports of tobacco leaf have been between \$1.3-1.4 billion annually.** Tobacco is produced by an estimated 124,000 farmers in the U.S. Almost 40% of the tobacco grown is exported, with a farm value of over \$1 billion. **Exports of finished tobacco products have been between \$5.0-5.3 billion per year.** Cigarettes are major tobacco export items, accounting for over 80% of total tobacco exports. In 1996, 760 billion cigarettes were produced in the U.S.; approximately one-third of these were exported (containing 50,000 tons of U.S.-grown tobacco with a farm value of over \$200 million).
- **Imports of tobacco leaf varies more widely: \$692 million in '94, \$555 million in '95 and \$1.1 billion in 1996.** Some 35% of imports are of oriental-type tobaccos primarily from Greece and Turkey and not grown in the U.S. Imports of competing tobaccos – including those from major competitors such as Brazil, Argentina, Zimbabwe and Malawi – are limited to about 150,000 tons by a tariff rate quota. Although the quota has not been filled since becoming effective in September 1995, it is expected that most suppliers will fill their portion of the quota in the future. Imports in excess of the quota are assessed a 350% duty, though most of this can be drawn back if the tobacco is included in cigarettes that are exported. **U.S. imports of finished product were only about \$280 million in 1996.**

The international tobacco trade is a major source of U.S. farm income and contributed \$5.3 billion to the U.S. balance of payments in 1996. However, there has been a net long term trend downward in the U.S. share of global tobacco leaf production and trade (the 1996 figures for production and trade are down from 20% and 30%, respectively, in 1970) as other major producing and exporting countries have increased their output and exports of leaf tobacco.

- According to the WHO (1996), there are 1.1 billion smokers in the world – about one-third of the world's population aged 15 and over. The vast majority of these are in developing countries (800 million), and most are men (700 million). In China (which prohibits the import of U.S. tobacco), there are some 300 million smokers – about the same as in all the developed countries combined. About one-third of regular smokers in developed countries are women, compared to only about 1-in-8 in LDCs.

Despite a downward trend in global share of leaf production and trade, foreign markets are growing – and are the major source of growth for the U.S. cigarette industry.

Cigarette Consumption and Trade

(in billions of pieces)

	1994	1995	1996	Annual growth
World Cigarette Consumption	5,206.5	5,284.6	5,295.8	0.85%
U.S. Cigarette Exports	220.2	231.1	243.9	5.24%
U.S. Exports/Consumption	4.2%	4.4%	4.6%	

International sales will continue to grow, despite the increasing tobacco control efforts in the U.S., because there is increased access to markets that were previously closed. Further international sales growth may come from increased per capita consumption in developing countries as a consequence of higher disposable incomes, more aggressive marketing and innovative packaging. However, many countries, including developing countries, have regulations governing advertising and the labeling of cigarette packages due to health considerations.

- 96% of all smokers live outside of the U.S. (though the U.S. accounts for approximately 9.2% of global consumption), with Asia being the largest market: China alone is estimated to account for 33% of all cigarettes smoked. Asian countries have male smoking rates up to 70%, compared to around 28% in the U.S.

As of 1993, according to WHO figures, most of the tobacco manufacturing industry is controlled by a small number of state monopolies and multinational corporations. The largest of these is **China's** state industry which sold 1,700 billion cigarettes – 31% of the global market, about the same as the three largest multinationals combined. The U.S. is the second largest producer of cigarettes, accounting for 13% produced (by count) in 1995.

While dominating the domestic markets, selling half of the cigarettes sold in the U.S., foreign sales (including exports) accounted for more than half of **Phillip Morris'** \$68 billion in 1996 revenues, "primarily due to demand for cigarettes in markets not as attuned to the health risks of smoking as the United States," according to the Journal of Commerce. A settlement leading to less domestic smoking in the U.S. may result in greater export capacity, according to another industry analyst, although this is downplayed by Philip Morris which notes that some 75% of cigarette sales by volume already is exported and that "overseas tobacco is 'our star business.'" **RJR**, the second largest firm, with about a quarter of the U.S. market, has about 40% of its net sales abroad.

Companies operating overseas also do not face the same obstacles and legal liabilities – through product liability suits, with large contingency fees and punitive damage awards, for example – faced in the U.S. Indeed, many countries are dependent on the tobacco industry for employment and for tax revenue and are therefore hesitant to act against smoking.

- In **India**, the world's third largest producer and consumer of tobacco, tobacco contributes 10 percent of the total revenue collected through excise duties; some 6 million farmers and farm hands are engaged in the tobacco industry, directly or indirectly.

Tobacco is also a major source of export revenue for several developing and transition economy countries.

- Tobacco exports accounted for 64.1% of **Malawi's** foreign exchange earnings in 1993. Other top earners (by percentage) include **Zimbabwe** (23.5%), **Albania** (7.2%) and **Bulgaria** (4.4%).

Tariff and non-tariff barriers (from state monopolies) and threats (e.g., to intellectual property) continue to challenge U.S. tobacco companies in these markets, however.

- **China's** nearly 240% tariff on cigarette imports has helped to limit foreigners' market share to between 4-6% – not counting sales through Hong Kong and the considerable smuggling that takes place.

The negative health impacts of smoking are also global in nature. Tobacco use is a major source of mortality outside of the United States: of the current 3 million tobacco related deaths annually, 85% occur outside of the U.S. The World Health Organization (WHO) predicts that the number of deaths will increase to 10 million per year worldwide by 2025, with 70% of these deaths occurring in developing countries.

- The global burden of disease (in terms of premature death and disability) attributable to tobacco, according to a World Bank/WHO report, is expected to outweigh that caused by any single disease, with a 9% share of the total disease burden by the year 2020.

The costs in terms of lost productivity and additional health care expenditures as a consequence of smoking are substantial.

- Tobacco use is a major drain on the world's financial resources, with a global net loss of \$200 billion/year, according to a World Bank estimate.

Much of this is borne by countries ill prepared to shoulder the cost.

July 9, 1997

U.S. INTERNATIONAL TOBACCO POLICIES: AN OVERVIEW

Trade Policy

Current U.S. tobacco export policy is to not object to tobacco control interventions by foreign governments, either existing or proposed, which are based on sound public health principles and follow the principle of “national treatment,” that is, if they are applied in a non-discriminatory manner to both imported and domestic tobacco products. The U.S. trade policy coordination committee structure (TPRG and TPSC), chaired by USTR, has involved the HHS and EPA since early in the Clinton Administration to ensure that these health-oriented agencies are involved in the determination and implementation of trade policy, including those relating to tobacco products.

Staff of USTR and HHS have worked together to develop a statement of policy on the appropriate relationship between the trade and health policy objectives in addressing trade issues relating to U.S. tobacco and tobacco products. The policy’s thrust is that the U.S. treats as presumptively valid any foreign country’s non-discriminatory health policy measures intended to reduce tobacco consumption that do not contravene either national treatment or “most favored nation” (MFN) principles. USTR does not object to foreign countries’ adoption or enforcement of measures necessary to protect public health, including advertising and promotion restrictions. However, USTR reserves the right to object to such measures when they are discriminatory.

The Office of Consumer Goods (OCG) within the **Department of Commerce** provides industry analysis to the tobacco industry and industry advocates within the context of trade negotiations. OCG’s industry analysis has focused on determining the competitiveness of U.S. tobacco products in world markets. Most efforts occurred during the 1980s in Section 301 actions during the negotiation of market-opening trade agreements with Japan, Korea, Thailand and Taiwan. More recent activities have focused on Taiwan’s accession to the WTO regarding the privatization of Taiwan’s government-owned tobacco and wine monopoly. There have been limited discussions about leaf tobacco in the context of the China market access negotiations.

The Foreign Agricultural Service (FAS) of the **Department of Agriculture** collects, compiles, analyzes and publishes information and data related to world production, consumption and trade in tobacco. The information and analysis services other USG agencies, the U.S. tobacco farming sector, industry, as well as other interests (including the health sector). The world situation and outlook analysis is utilized in the administration of the no-net-cost U.S. farm policy program concerning tobacco. FAS is also involved in market access and other trade policy issues to assure U.S. tobacco fair access to foreign markets, as well as issues concerning foreign access to the U.S. market.

The **State Department** and the Department of Commerce, through our embassies overseas, promote the adherence by other nations to bilateral and multilateral trade rules and agreements to address issues around unfair treatment or discrimination by a foreign government. A question that emerges is the discretion to defend U.S. industry in tobacco trade negotiations and disputes. In negotiations with other countries – regarding WTO accession, for example – tobacco may or may not be on the list of items for possible tariff reduction. Tobacco could wind up on the table

during the course of negotiations even if U.S. policy was to ignore high tariffs or non-tariff barriers to tobacco in trade negotiations.

Issues for discussion: *Should U.S. trade policy be revised to limit further the circumstances in which trade officials will take action to enhance market access (e.g., tariff and non-tariff barriers) for tobacco and tobacco products? Are there any legal constraints on the ability to do so? Would these constraints, if any, be less significant were tobacco no longer legally traded within the United States?*

open

Export and Investment Promotion

The State Department and the Department of Commerce, through our embassies overseas, in general are willing to intervene on behalf of any U.S. company, including tobacco growers or cigarette manufacturers, to provide access to a foreign government and in commercial advocacy efforts involving the industry.

Commerce is surveying its international offices to determine the extent to which U.S. tobacco companies seek its services. The search has uncovered no promotional activities for the U.S. tobacco industry and only limited instances of advocacy on issues such as taxes, import restrictions and illegal imports. USDOC General Counsel is not aware of any statutory, administrative or Departmental restrictions on its assistance to the tobacco industry.

Tobacco is no longer included in market development and export credit programs administered by the FAS. The Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act of 1994 precludes the use of funding made available to the FAS and the Office of the General Sales Manager to promote sales of tobacco abroad; Foreign Market Development (FMD) and Market Promotion Program (MPP) funding for tobacco had been limited to trade servicing and technical assistance and did not include consumer promotion. No GSM-102 Export Credit Guarantees have been allocated to tobacco since 1989 and tobacco has not been sold under the PL-480 direct credit program since the early 1980s. Tobacco was never included in the Export Enhancement Program.

Issue for discussion: *The activities of U.S. Ambassadors and their Foreign and Commercial Services staffs in commercial advocacy efforts involving the tobacco industry should be consistent with U.S. Government treatment of tobacco companies domestically. State proposes that guidelines be issued to posts allowing Department of State and Department of Commerce involvement in marketing and/or export promotion of tobacco and tobacco products only to the extent that firms are engaged in activities that would be permitted in the United States. These guidelines would only affect the involvement of the U.S. Government and not affect the tobacco companies' rights and obligations to conform to the tobacco marketing and other health regulations of the foreign government.*

Export and Investment Financing

Export-Import Bank support is available to assist in the export of tobacco and tobacco related products – there are no explicit prohibitions on any of these products. Ex-Im does not pick or distinguish the support it provides based on industry sector, but rather responds to the demand for financing support from the market that meet its criteria, i.e., that foreign credit risk prevents private lenders from participating without Ex-Im assistance and/or USG assistance is needed to neutralize financing offered by a foreign government.

Since January 1988, Ex-Im has provided support for tobacco and related products through its short and medium-term export credit insurance programs. Specifically, Ex-Im has offered support in a total of five transactions with a total value of only \$2.75 million, with the most recent authorization having occurred in 1992. Of these transactions, three (valued at \$1.75 million) involved the export sale of tobacco curing and processing equipment; the other two probably supported some tobacco products, though this is not clear from the exporter's insurance policy which referenced "food, wine, spirits and tobacco."

The **Overseas Private Investment Corporation (OPIC)** reviews on a case-by case basis proposed projects involving the growing or processing of tobacco. In considering applications for OPIC support of such projects, OPIC considers the public health and related economic consequences of tobacco consumption, as well as the project-related developmental and U.S. economic effects. OPIC has not assisted any projects involving the growing of tobacco or the processing of tobacco products since this policy was articulated in the mid-1980s.

Issue for discussion: *Explicitly including health and safety concerns into credit support decisions, including the costs imposed by tobacco consumption, may be appropriate. A broader prohibition of official support for tobacco and tobacco-related exports and investments might also be warranted, though the practical benefit of such a prohibition would be minimal.*

International Development Policy

The Foreign Assistance Appropriations Act, for several years, has included the "Bumpers' Amendment" [Section 513(b) in the 1997 Act] which generally prohibits **USAID** from expending funds on programs which support the production of agricultural commodities for export that could compete with U.S. agricultural exports. USAID's development programs, therefore, normally do not involve or relate to tobacco production.

(In Malawi, however, USAID has a program designed to develop policies which could liberalize agricultural production and marketing, and thereby increase the incomes of small-scale farms. Because tobacco is so important to the rural economy of Malawi, this initiative (which received a special exception) could not do much in the agricultural production arena without dealing in some way with that crop.)

Issues for discussion: *What are the policy issues raised by including tobacco and tobacco products as eligible under the Generalized System of Preferences (GSP)? How would their removal effect the Administration's Africa initiative? What is the trade-off between the economic development and public health considerations?*

USDA
doing
paper

Of the five multilateral development banks (MDBs), the **World Bank** has the most comprehensive policy regarding the growing and sale of tobacco. Pursuant to the policy adopted by its Board in 1992, the Bank will not lend directly for, invest in or guarantee loans for tobacco production, processing or marketing; lend indirectly for tobacco production activities; or finance imports of unmanufactured and manufactured tobacco, tobacco processing machinery and equipment or related services.

Exceptions may be allowed for countries that are heavily dependent on tobacco as a source of income (especially poor farmer and farm workers) and foreign exchange. The Bank's policy is to help such countries to diversify away from tobacco, and no exceptions have been granted in recent years. Of the regional MDBs, the European Bank for Reconstruction and Development has a 1991 management policy that it will not finance investments in the tobacco industry or imports of tobacco. The African, Inter-American and Asian Development Banks do not have formal policies on tobacco but, in practice, do not support the local tobacco industry.

Issue for discussion: *A more formal USG statement of policy regarding tobacco-related development financing would clarify any policy ambiguities.*

International Health Policy

The MDBs, through **Treasury Department**-led policy coordination and budgetary support, are supportive of public health efforts to promote education and help counter the effects of tobacco use. The **State Department** supports international health and educational programs in the United Nations systems. The UN's Economic and Social Council will discuss this month strategies by which member states can curtail smoking and other uses of tobacco.

- Through its International Organizations (CIO) account, State contributes over \$150 million annually to the regular budgets of the World Health Organization (WHO) and the Pan American Health Organization (PAHO), both of which have small tobacco education and research programs. Another \$1.7 million goes to the International Agency for Research on Cancer which devotes a significant part of its activities to the connection between tobacco and cancer.

USAID's international health focus is on maternal and child health but does not include tobacco-related health programs. According to UNICEF, an estimated 300 million of today's children and teen-agers will eventually die of tobacco-related illness, a third of them in developing countries; the total is projected to rise significantly, with the developing world's share of deaths doubling within 30 years.

EPA is working to reduce the exposure to environmental tobacco smoke (ETS) of infants and young children whose parents smoke, since they are most seriously effected by this exposure.

- EPA's 1992 risk assessment estimated that ETS exposure is responsible for between 150-300,000 lower respiratory tract infections in infants and children under 18 months of age annually in the U.S., while 200,000 to 1 million asthmatic children per year have their condition made worse by exposure to ETS.

Coordination with the environment ministries of the Eight resulted in the recent Denver Summit call for a reduction in children's exposure to ETS. HHS provided technical assistance to EPA as part of this initiative. HHS also provides technical and scientific support to the WHO's Tobacco or Health Program through a cooperative agreement with the **Centers for Disease Control and Prevention (CDC)**. This includes support for the core program components of the WHO Tobacco or Health Plan of Action, 1996-2000.

- Currently, WHO invests approximately \$1 million for tobacco control activities. In addition, HHS contributes \$150,000 to WHO through a CDC-cooperative agreement.

HHS serves as the only WHO Collaborating Center for Tobacco designated for North America and, in collaboration with WHO, is developing a global network of clearinghouses on tobacco prevention and control that will include the six WHO Regional Offices, the nine WHO Collaborating Centers on Tobacco or Health, other WHO-related collaborating centers, tobacco-related clearinghouses, and other electronic information systems. HHS is also involved in economic analyses of tobacco use through the World Bank, and in promoting public health education about the effects of tobacco use through UNICEF, the NIH-CDC-PAHO Secretariat for Latin America and the Tobacco Control Commission of Africa; bilateral efforts with Mexico, Poland, India, Russia, Canada and other nations; and through participation in numerous conferences and symposia, including many involving tobacco control and regulatory issues.

Issue for discussion: *Some proceeds from a settlement could be used to promote additional international health measures through the WHO, the MDBs and other bilateral and multilateral fora.*

Last month, HHS participated in a preparatory meeting which involved discussions on formulating a consultative group to define and promote the objectives of an **International Framework Convention on Tobacco Control** pursuant to a World Health Assembly resolution adopted in May 1996. This resolution recognized that tobacco, although controlled by various legislation and restrictions in many countries, is produced, promoted and used legally in practically all parts of the world. The purpose of the framework strategy is to encourage nations to adopt comprehensive tobacco control policies to reduce the global incidence of premature death and disability due to tobacco.

Issue for Discussion: *While supportive of efforts in the UN system to limit the use of tobacco, the U.S. abstained from the World Health Assembly resolution authorizing the new*

convention (confident that it would pass anyway), primarily because of fears that it would not be ratified by the Senate and that resources devoted to its negotiation therefore would be wasted. As part of the current policy review, the USG should reconsider the level of political support given to this endeavor.

July 9, 1997

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

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DATE: July 17, 1997

SUBJECT: Tobacco: International Trade & Commercial Issues Meeting

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State/EB	Terry Miller	647-3090	647-2302
USDA/FAS	Lana Bennett	720-9519	690-1171
USDOC	Troy Cribb/Les Simon	482-3737	482-2331
Treasury/OASIA	Meg Lundsager/Whit Warthin	622-0168	622-5304
CEA	Carrie Thompson	395-3517	935-6853
DPC	Elizabeth Drye	456-5573	456-7028
	Paul Weinstein	456-5577	456-7028
OVP	John Norris	456-9500	456-9518

There will be a follow-up meeting of the inter-agency working group to review drafts of policy papers emanating from last week's meeting (on tobacco trade policy, business facilitation issues and new international public health initiatives) in light of the Koop-Kessler report recommendations and proposed legislation. The State-Commerce draft is attached; it is anticipated that the other paper will be available at or before the afternoon meeting. Our goal will be to ensure inter-agency agreement on these policy iterations and how to frame those issues requiring decisions at the Deputy or Principal level.

The meeting is set for **Friday, July 18 at 3:30 pm in Room 231 of the OEOB**. Please RSVP with date of birth and Social Security number to Fax # 456-5334 for clearance into the White House complex. Thank you.

UNCLASSIFIED

*- Walker
- Durbin legislation
- Framework Convention
- framing the issues.
- doing a good job
to clarify.*

2

Attachments:

- Koop-Kessler report proposals
- Rep. Waxman bill (H.R. 2135)
- State-Commerce draft guidelines

From the Final Report of the Advisory Committee on Tobacco Policy and Public Health (Koop-Kessler), July 1997:

International Tobacco Policy

Regulatory Policy

- The U.S. should actively promote tobacco control worldwide.
- Included within this recommendation are such specific proposals as:
 - The U.S. should actively pursue the global adoption of U.S. domestic tobacco control policies through all appropriate international activities.
 - The U.S. should support the development and implementation of tobacco control activities by multilateral organizations, including the Pan-American Health Organization, the World Health Organization, UNICEF, and the Framework Tobacco Control Convention.
 - The U.S. should support the development and implementation of tobacco control activities by non-governmental organizations.
 - The U.S. should support bilateral and multilateral treaties making the Framework Convention legally binding on all countries.
 - The U.S. should remove tobacco products from Section 301 of the 1974 Trade Act and should prohibit U.S. government interference in international activities of other countries.
 - The U.S. should support the development of a non-governmental International Tobacco Control Commission, governed by public health leaders. Such a commission would (1) monitor international control efforts; (2) develop uniform standards, review procedures, and provide support for non-governmental organizations advocating tobacco control; and (3) administer an international information exchange of all available tobacco industry documents.

Research Policy

- The U.S. should support international research efforts to determine the most effective means of prevailing the initiation of tobacco use and of smoking cessation.

Fiscal Policy

- The U.S. should provide financial support for international governmental and non-governmental efforts to control tobacco use.

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International Tobacco Responsibility Act of 1997 (Introduced in the House)

HR 2135 IH

105th CONGRESS

1st Session

H. R. 2135

To make exports of tobacco products and the advertising of tobacco products abroad subject to the restrictions on labeling and advertising applicable to tobacco products in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 10, 1997

Mr. DOGGETT (for himself, Mr. WAXMAN, Mr. HANSEN, Mr. MEEHAN, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. CAPPS, Ms. DEGETTE, Mr. DELLUMS, Mr. HINCHEY, Mr. KIND, Mr. LEWIS of Georgia, Mr. LUTHER, Mr. MILLER of California, Mr. OLVER, Ms. PELOSI, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make exports of tobacco products and the advertising of tobacco products abroad subject to the restrictions on labeling and advertising applicable to tobacco products in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'International Tobacco Responsibility Act of 1997'.

SEC. 2. EXPORTS OF TOBACCO PRODUCTS AND ADVERTISING OF TOBACCO PRODUCTS ABROAD.

TOBACCO PRODUCTS ABROAD.

(a) LABELING REQUIREMENTS FOR EXPORTS-

(1) **REQUIREMENTS FOR CIGARETTES-** It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to export from the United States or any other country any cigarettes the package of which does not contain the label statements, in the primary language of the country in which the cigarettes are intended for consumption, required by section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) for cigarettes manufactured, imported, or packaged for sale or distribution within the United States.

(2) **SMOKELESS TOBACCO WARNING-** It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to export from the United States or any other country any smokeless tobacco product the package of which does not contain the label statements, in the primary language of the country in which the smokeless tobacco product is intended for consumption, required by section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986.

(3) **WAIVERS-** The President may waive the prohibition contained in paragraph (1) or (2) if the President determines that the country in which the exported cigarettes or smokeless tobacco product are intended for consumption has in effect requirements for labeling of cigarette packages or smokeless tobacco product packages substantially similar to or more stringent than those set forth in section 4 of the Federal Cigarette Labeling and Advertising Act or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986. The President shall publish in the Federal Register all waivers granted under this paragraph.

(b) LABEL STATEMENTS REQUIRED FOR ADVERTISING ABROAD-

(1) **REQUIREMENTS FOR CIGARETTES-** It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to advertise or cause to be advertised abroad any cigarette unless the advertising contains the label statements, in the same language as the advertising message, required for advertising under section 4 of the Federal Cigarette Labeling and Advertising Act.

(2) **SMOKELESS TOBACCO REQUIREMENTS-** It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to advertise or cause to be advertised abroad any smokeless tobacco product unless the labeling contains the label statements, in the same language as the advertising message, required for advertising by section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986.

(3) **WAIVER-** The President may waive the prohibition contained in paragraph (1) or (2) with respect to a country in which the advertising is carried out if the President determines that the country has in effect requirements for advertising of cigarettes or smokeless tobacco products substantially similar to or more stringent than those set forth in section 4 of the Federal Cigarette Labeling and Advertising Act or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986. The President shall publish in the Federal Register all waivers granted under this paragraph.

SEC. 3. PENALTIES.

(a) **FINE-** Any person who violates the provisions of section 2 shall be fined not more than \$100,000.

(b) **INJUNCTION PROCEEDINGS-** The district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 2 upon

jurisdiction, for cause shown, to prevent and restrain violations of section 2 upon
the application of the Attorney General of the United States.

SEC. 4. REPEAL.

Section 12 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1340) is repealed.

SEC. 5. RESTRICTIONS ON ACTIVITIES ABROAD REGARDING THE MARKETING OF TOBACCO PRODUCTS.

(a) PROHIBITION- No funds appropriated by law may be used by any officer, employee, department, or agency of the United States or of any State or local government--

(1) to seek, through negotiation or otherwise, the removal or reduction by any foreign country of any restrictions which that country imposes or may impose on the advertising, manufacture, packaging, taxation, or sale or distribution of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco, that is produced in that foreign country; or

(2) to promote the export of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco to, or the sale or distribution of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco in, any foreign country.

(b) EXPORT PROMOTION ACTIVITIES- For purposes of this section, the term 'promote the export of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco' includes any activity designed to stimulate or assist United States businesses in marketing those products abroad competitively with businesses from other countries, including, but not limited to--

(1) trade development and dissemination of foreign marketing opportunities and other marketing information to United States producers of those products, including the expansion of foreign markets for those products;

(2) the development of regional and multilateral economic policies that enhance United States trade and investment interests in such products, and the provision of marketing services with respect to foreign countries and regions; and

(3) the exhibition of such products in other countries.

SEC. 6. COMPOSITION OF SECTION 301 COMMITTEE.

Any interagency committee established to assist the United States Trade Representative in performing the functions vested in the Trade Representative under section 301 of the Trade Act of 1974, shall include, with respect to any case under such section 301 that involves cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco, representatives of the Department of Health and Human Services.

SEC. 7. INTERNATIONAL CONFERENCE ON TOBACCO USE.

It is the sense of the Congress that the President should urge the United Nations, acting through the United States Permanent Representative to the United Nations, to create a United Nations Conference to address the use of tobacco worldwide and to implement regulations to decrease the use of tobacco.

SEC. 8. REGULATORY AUTHORITY.

The President may issue such regulations and orders as may be necessary to carry out this Act.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) **CIGARETTE**- The term 'cigarette', 'United States', 'package', and 'sale or distribution', have the meanings given those terms in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

(2) **FOREIGN SUBSIDIARY**- A person is a 'foreign subsidiary' of another person if the person is located outside the United States or is organized under the laws of a foreign country, and that person is directly or indirectly owned or controlled by that other person to the extent of 10 percent or more of its voting stock (in the case of an incorporated enterprise) or an equivalent interest (in the case of an unincorporated enterprise), and such term includes a branch of that other person.

(3) **SMOKELESS TOBACCO**- The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

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DRAFT

Guidelines for U.S. Diplomatic Posts for Dealings with U.S. Tobacco Companies

General Policy

The U.S. Government (USG) will continue to support activities to eliminate discriminatory foreign practices, and the USG will seek national treatment in advocating U.S. industry interests. In light of the serious health consequences of smoking, the USG, respecting the rights of foreign governments to establish and maintain sound public health practices, will not encourage activities of U.S. tobacco companies that are aimed at increasing the number of smokers or the demand for cigarettes.

General Guidelines

1. Posts should not challenge or interfere in any way with host country regulations based on sound public health principles and following the principle of "national treatment," i.e. applied in a non-discriminatory manner to both imported and domestic tobacco products.
2. Posts may, after consultations with the Department and upon instructions, challenge unfair or discriminatory trade practices against U.S. firms.
3. Posts may assist U.S. tobacco companies with normal "business facilitation" problems such as access to officials, customs problems, import restrictions, taxation problems, IPR problems, or illegal imports, provided that such problems are not arising as a result of host country legitimate health concerns or regulations that are not discriminatory against U.S. tobacco firms.

Prohibited Activities

1. Posts may not assist, participate in, or encourage activities of U.S. tobacco companies that are designed to or likely to contribute to underage smoking. Almost all forms of non-text advertising, such as the use of cartoon characters, are considered to appeal to minors. Sales of tobacco products other than in face-to-face transactions, e.g. through vending machines, are also considered to promote underage smoking.
2. Posts may not solicit contributions to embassy events (such as a July 4th reception) from tobacco companies unless such companies are conglomerates selling non-tobacco as well as tobacco products in the host country. Monetary contributions may be accepted to the extent that they do not involve any quid pro quo other than a mention of a corporate name (but not a brand name) in a program or list of sponsors. Advertisements of tobacco products or brand names may not be accepted.
3. Ambassadors or embassy staff may not attend receptions or trade promotions sponsored by U.S. tobacco companies where tobacco brand names will be featured.

DRAFT

From the Final Report of the Advisory Committee on Tobacco Policy and Public Health (Koop-Kessler), July 1997:

International Tobacco Policy

Regulatory Policy

The U.S. should actively promote tobacco control worldwide. Included within this recommendation are such specific proposals as:

1. The U.S. should actively pursue the global adoption of U.S. domestic tobacco control policies through all appropriate international activities.
2. The U.S. should support the development and implementation of tobacco control activities by multilateral organizations, including the Pan-American Health Organization, the World Health Organization, UNICEF, and the Framework Tobacco Control Convention.
3. The U.S. should support the development and implementation of tobacco control activities by non-governmental organizations.
4. The U.S. should support bilateral and multilateral treaties making the Framework Convention legally binding on all countries.
5. The U.S. should remove tobacco products from Section 301 of the 1974 Trade Act and should prohibit U.S. government interference in international activities of other countries.
6. The U.S. should support the development of a non-governmental International Tobacco Control Commission, governed by public health leaders. Such a commission would (1) monitor international control efforts; (2) develop uniform standards, review procedures, and provide support for non-governmental organizations advocating tobacco control; and (3) administer an international information exchange of all available tobacco industry documents.

Research Policy

The U.S. should support international research efforts to determine the most effective means of prevailing the initiation of tobacco use and of smoking cessation.

Fiscal Policy

The U.S. should provide financial support for international governmental and non-governmental efforts to control tobacco use.

To: Les Simon
Department of Commerce
Fax: (202)482-3981

Sherman Boone
National Economic Council
Fax: (202)456-5334

From: Michael Eriksen *ME*
Department of Health and Human Services
Fax: (202)205-8313

Date: July 17, 1997

Subject: Comments on Draft "Guidelines for U.S. Diplomatic Posts for Dealing with U.S. Tobacco Companies"

Thank you for forwarding the draft guidelines. HHS has a number of comments that we would like you to consider:

General Policy:

Because this document pertains to the global treatment of tobacco by the USG, we suggest the following:

"In light of the serious health consequences of tobacco use [and consistent with Presidential Policy Directive XXXXX], the USG will not encourage activities of U.S. tobacco companies that are aimed at increasing or fostering tobacco use or the demand for tobacco products. The USG respects the rights of foreign governments to establish and maintain sound public health practices."

General Guidelines:

2. We fundamentally disagree with the premise that Posts (as opposed to USTR) should intervene on behalf of tobacco companies if there are concerns about discriminatory trade practices. Since this document is to provide guidance to U.S. officials overseas, we suggest that you delete the second bullet.

Additionally, pending legislation would treat tobacco products differently than other legal products and this might result in what could be considered discriminatory practices against U.S. firms. HHS would like to minimize the possibility of discriminatory treatment, but is open to the possibility of new legislation that would treat tobacco products uniquely and that might result in actions that could be perceived as discriminatory.

*Elizbeth -
Pls call
me @ 6-5363
or stop by...
SyB*

3. We would add to the end of this sentence, “....against U.S. tobacco firms, *and that this assistance will not increase the number of smokers and the demand for cigarettes.*”

Prohibited Activities:

1. For the purposes of consistency, we would suggest that this paragraph be directed toward “not increasing the number of smokers and the demand for cigarettes.” Thus, we suggest adding, “.....designed to or likely to contribute to *increasing the number of smokers and the demand for cigarettes, especially as it effects* underage smoking.”

2. Suggest you strike the exemption for conglomerates selling non-tobacco products. The only exception should be tobacco companies which do not sell tobacco products in the host country. Otherwise, the prohibited activity loses its meaning, since all US companies are conglomerates and sell something, other than tobacco, in most countries.

3. We suggest adding “...not attend receptions or trade promotions, *or any events*, sponsored by”

General Comments:

This document must include actions steps, which include at a minimum:

- 1) requiring cables to all Posts communicating the final guidelines,
- 2) providing training on approved USG tobacco trade policy to all USG employees stationed in overseas posts.

We hope these comments are helpful. Please do not hesitate to contact me at 202-205-8500 to discuss these further.

DRAFT

Guidelines for U.S. Diplomatic Posts for Dealings with U.S. Tobacco Companies

General Policy

The U.S. Government (USG) will continue to support activities to eliminate discriminatory foreign practices, and the USG will seek national treatment in advocating U.S. industry interests. In light of the serious health consequences of smoking, the USG, respecting the rights of foreign governments to establish and maintain sound public health practices, will not encourage activities of U.S. tobacco companies that are aimed at increasing the number of smokers or the demand for cigarettes.

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DRAFT

AMENDMENT NO. _____

Calendar No. _____

Purpose: To prohibit the use of funds to facilitate the export
or promotion of tobacco products.

IN THE SENATE OF THE UNITED STATES—105th Cong., 1st Sess.

S. _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

1 At the appropriate place, insert the following new sec-
2 tion:

3 SEC. ____ PROHIBITION ON USE OF FUNDS TO FACILITATE
4 THE EXPORT OR PROMOTION OF TOBACCO
5 PRODUCTS.

6 No funds appropriated by this Act may be used by
7 any officer, employee, department, or agency of the United
8 States—

1 (1) to assist or encourage the export, sale, man-
2 ufacture, advertising, promotion, or distribution of
3 cigarettes, cigars, little cigars, snuff, chewing to-
4 bacco products, pipe tobacco, or other similar to-
5 bacco products; or

6 (2) to seek, through negotiation or otherwise,
7 the removal or reduction by any foreign country of
8 any restrictions or proposed restrictions in that
9 country on the importation, sale, manufacture, ad-
10 vertising, promotion, distribution, packaging, label-
11 ing, or taxation, of cigarettes, cigars, little cigars,
12 snuff, chewing tobacco products, pipe tobacco, or
13 other similar tobacco products.



Sherman G. Boone

07/17/97 06:52:01 PM

Record Type: Record

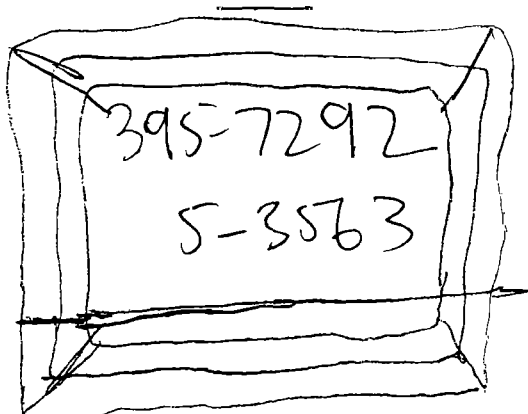
To: Elizabeth Drye/OPD/EOP, Caroline Thompson/CEA/EOP, Paul J. Weinstein Jr./OPD/EOP, Joseph J. Minarik/OMB/EOP

cc:

Subject: Tobacco/Int'l Trade & Commercial Issues Meeting

There will be a follow-up meeting of the inter-agency working group to review drafts of policy papers emanating from last week's meeting (on tobacco trade policy, business facilitation issues and new international public health initiatives) in light of the Koop-Kessler report recommendations and proposed legislation. The State-Commerce draft is attached; it is anticipated that the other papers will be available at or before the afternoon meeting. Our goal will be to ensure inter-agency agreement on these policy iterations and how to frame those issues requiring decisions at the Deputy or Principal level.

The meeting is set for **Friday, July 18 at 3:30 pm in Room 231 of the OEOP**.



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

SENDER: DANIEL K. TARULLO

William J. Antholis ☐
Sherman G. Boone ☒
Barbara A. Matzner ☐

PH: 202-456-9288

FAX: 202-456-9280

PAGES: 1

DATE: July 18, 1997

SUBJECT: Tobacco: International Trade & Commercial Issues Meeting --
NOTE: ROOM & TIME CHANGES

<u>Agency</u>	<u>Name</u>	<u>Phone #</u>	<u>Fax #</u>
OMB	Joe Minarik	395-5873	395-1198
USTR	Jan McAlpine	395-9582	395-4579
HHS	Andy Hyman	690-6318	690-7998
HHS/CDC	Michael Eriksen	205-9221	205-8313
State/EB	Terry Miller	647-3090	647-2302
USDA/FAS	Lana Bennett	720-9519	690-1171
USDOC	Troy Cribb/Les Simon	482-3737	482-2331
Treasury/OASIA	Meg Lundsager/Whit Warthin	622-0168	622-5304
CEA	Carrie Thompson	395-3517	395-6853
DPC	Elizabeth Drye	456-5573	456-7028
	Paul Weinstein	456-5577	456-7028
OVP	John Norris	456-9518	456-9500

TODAY'S MEETING HAS BEEN RE-SCHEDULED TO 3:00 PM AND MOVED TO ROOM 180 OF THE OEOP. Apologies for the short notice. Again, please remember to RSVP with dates of birth and Social Security numbers of those attending (to fax # 456-5334) for clearance into the building. Thank you.

UNCLASSIFIED

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Elizabeth
2/1
8/5

105th CONGRESS
1st Session

R. R. 2135

To make exports of tobacco products and the advertising of tobacco products abroad subject to the restrictions on labeling and advertising applicable to tobacco products in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 10, 1997

Mr. Doggett (for himself, Mr. Waxman, Mr. Hansen, Mr. Meehan, Mr. Brown of California, Mr. Brown of Ohio, Mr. Capps, Ms. DeGette, Mr. Dellums, Mr. Hinchey, Mr. Kind, Mr. Lewis of Georgia, Mr. Luther, Mr. Miller of California, Mr. Olver, Ms. Pelosi, and Ms. Woolsey) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make exports of tobacco products and the advertising of tobacco products abroad subject to the restrictions on labeling and advertising applicable to tobacco products in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Tobacco Responsibility Act of 1997".

SEC. 2. EXPORTS OF TOBACCO PRODUCTS AND ADVERTISING OF TOBACCO PRODUCTS ABROAD.

(a) Labeling Requirements for Exports.--

(1) Requirements for cigarettes.--It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to export from the United States or any other country any cigarettes the package of which does not contain the label statements, in the primary language of the country in which the cigarettes are intended for consumption, required by section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) for cigarettes manufactured, imported, or packaged for sale or distribution within the United States.

(2) Smokeless tobacco warning.--It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of

either directly or through a foreign subsidiary or agent of that person, to export from the United States or any other country any smokeless tobacco product the package of which does not contain the label statements, in the primary language of the country in which the smokeless tobacco product is intended for consumption, required by section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986.

(3) Waivers.--The President may waive the prohibition contained in paragraph (1) or (2) if the President determines that the country in which the exported cigarettes or smokeless tobacco product are intended for consumption has in effect requirements for labeling of cigarette packages or smokeless tobacco product packages substantially similar to or more stringent than those set forth in section 4 of the Federal Cigarette Labeling and Advertising Act or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986. The President shall publish in the Federal Register all waivers granted under this paragraph.

(b) Label Statements Required for Advertising Abroad.--

(1) Requirements for cigarettes.--It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to advertise or cause to be advertised abroad any cigarette unless the advertising contains the label statements, in the same language as the advertising message, required for advertising under section 4 of the Federal Cigarette Labeling and Advertising Act.

(2) Smokeless tobacco requirements.--It shall be unlawful for any person subject to the jurisdiction of the United States, either directly or through a foreign subsidiary or agent of that person, to advertise or cause to be advertised abroad any smokeless tobacco product unless the labeling contains the label statements, in the same language as the advertising message, required for advertising by section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986.

(3) Waiver.--The President may waive the prohibition contained in paragraph (1) or (2) with respect to a country in which the advertising is carried out if the President determines that the country has in effect requirements for advertising of cigarettes or smokeless tobacco products substantially similar to or more stringent than those set forth in section 4 of the Federal Cigarette Labeling and Advertising Act or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986. The President shall publish in the Federal Register all waivers granted under this paragraph.

SEC. 3. PENALTIES.

(a) Fine.--Any person who violates the provisions of section 2 shall be fined not more than \$100,000.

(b) Injunction Proceedings.--The district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 2 upon the application of the Attorney General of the United States.

SEC. 4. REPEAL.

Section 12 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1340) is repealed.

SEC. 5. RESTRICTIONS ON ACTIVITIES ABROAD REGARDING THE MARKETING OF TOBACCO PRODUCTS.

(a) Prohibition.--No funds appropriated by law may be used by any officer, employee, department, or agency of the United States or of any State or local government--

(1) to seek, through negotiation or otherwise, the removal or reduction by any foreign country of any restrictions which

that country imposes or may impose on the advertising, manufacture, packaging, taxation, or sale or distribution of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco, that is produced in that foreign country; or

(2) to promote the export of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco to, or the sale or distribution of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco in, any foreign country.

(b) Export Promotion Activities.--For purposes of this section, the term "promote the export of cigarettes, little cigars, snuff, chewing tobacco, or smokeless tobacco" includes any activity designed to stimulate or assist United States businesses in marketing those products abroad competitively with businesses from other countries, including, but not limited to--

(1) trade development and dissemination of foreign marketing opportunities and other marketing information to United States producers of those products, including the expansion of foreign markets for those products;

(2) the development of regional and multilateral economic policies that enhance United States trade and investment interests in such products, and the provision of marketing services with respect to foreign countries and regions; and

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It is the sense of the Congress that the President should urge the United Nations, acting through the United States Permanent Representative to the United Nations, to create a United Nations Conference to address the use of tobacco worldwide and to implement regulations to decrease the use of tobacco.

SEC. 8. REGULATORY AUTHORITY.

The President may issue such regulations and orders as may be necessary to carry out this Act.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) Cigarette.--The term "cigarette", "United States", "package", and "sale or distribution", have the meanings given those terms in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332).

(2) Foreign subsidiary.--A person is a "foreign subsidiary" of another person if that person is located outside the United States or is organized under the laws of a foreign country, and that person is directly or indirectly owned or controlled by that other person to the extent of 10 percent or more of its voting stock (in the case of an incorporated enterprise) or an equivalent interest (in the case of an unincorporated enterprise), and such term includes a branch of that other person.

(3) Smokeless tobacco.--The term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

<all>