Tobacco
Int'l
tobacco

A Responsible U.S. Policy To Address International Tobacco Use and Promote Global Public Health

Tobacco use is a growing threat to global public health. Today, tobacco products account for three million deaths worldwide each year; by 2025, that number is expected to rise to ten million per year, with over 70 percent of tobacco-related deaths occurring in developing nations.

As the world's leading exporter of tobacco products, the United States has a moral responsibility to address the adverse impact of its products on global public health. As a part of any effort to address tobacco use, Congress should establish a responsible international health policy by enacting these five proposals:

1. **End U.S. Government Support for Tobacco Abroad.** The federal government should be prohibited from promoting the sale or export of tobacco or tobacco products abroad. It should also be prohibited from attempting to weaken a foreign tobacco regulation unless the regulation discriminates against U.S. products in an arbitrary and unjustifiable manner and is not a reasonable means of protecting public health.

2. **Adequately Fund Global Non-governmental Tobacco Control Efforts.** A private, nonprofit organization should be established to assist public health organizations in other countries through public education programs, technical assistance to health professionals, mass media campaigns, grants and other general assistance.

3. **Establish a Code of Conduct for Labeling and Advertising Overseas.** U.S. tobacco companies should be required to print health warning labels on tobacco products sold overseas that are as stringent as those required in the United States. U.S. tobacco companies should also be prohibited from selling, advertising or marketing tobacco products to children in other countries, with the same standards applied to their overseas conduct as at home.

4. **Stop International Tobacco Smuggling.** The Bureau of Alcohol, Tobacco and Firearms, which currently regulates alcohol smuggling, should be given authority to deter tobacco smuggling through, among other things, a system of export permits and increased record keeping.

5. **Fund International Tobacco Control Through a Tobacco Control Fee.** Every U.S. tobacco company should pay a two-cent fee for each package of cigarettes it sells overseas. The money raised through such a fee should be used for tobacco control efforts by governmental and non-governmental entities.

The United States has the opportunity to act as a world leader in promoting public health. If Congress passes any measure to confront domestic tobacco use, it must also tackle the health problems caused by the use of American tobacco products abroad. We strongly endorse these proposals to establish a responsible U.S. policy for the promotion of global public health.

■ UNITED STATES SENATOR ■

Frank Lautenberg

NEW JERSEY

For Immediate Release
Thursday, February 26, 1998

For Further Information
Steven Goldstein (202) 224-5885

LAUTENBERG AND COLLEAGUES UNVEIL NEW INTERNATIONAL TOBACCO PROPOSALS FOR INCLUSION IN COMPREHENSIVE TOBACCO LEGISLATION

Washington D.C. -- Senators Frank R. Lautenberg (D-NJ), Dick Durbin (D-IL), Ron Wyden (D-OR) and Paul Wellstone (D-MN), and Reps. Lloyd Doggett (D-TX) and Frank Pallone (D-NJ) today unveiled legislation that would fight the scourge of tobacco use overseas.

"On the run in America, tobacco companies are aggressively seeking to peddle their poison to children overseas," said Lautenberg. "Our war against teen smoking should not stop at our nation's borders."

Lautenberg said the package of proposals unveiled today are designed to alter the current projection of 10 million deaths a year worldwide within the next thirty years, the majority of which are to occur in developing countries.

The proposals build on "The Worldwide Tobacco Disclosure Act" introduced by Lautenberg and Doggett. Parts of that measure were included in last year's Commerce, Justice, State appropriations bill.

"This proposal tells tobacco companies to change the way they do business. It demands accountability," said Lautenberg. "Including all of these proposals in any tobacco legislation Congress enacts may be the best and last chance we have to alter the impending global health epidemic that will otherwise occur over the next few decades."

###

LLOYD DOGGETT
10TH DISTRICT, TEXAS

COMMITTEE ON THE BUDGET

COMMITTEE ON RESOURCES

Congress of the United States
House of Representatives

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For Immediate Release:
February 26, 1998

Contact: **Matt Miller**
202-225-4865

Statement of Rep. Lloyd Doggett at News Conference Announcing International Tobacco Control Initiatives February 26, 1998

I join my colleagues as we continue working to change the policy of the United States from promoting nicotine addiction to preventing it. We already know that the world's children are being targeted by tobacco companies that are addicted to making money at the expense of human lives. Just last week, we learned that Brown & Williamson has been exporting cigarettes that contain twice the levels of nicotine found in the cigarettes they sell in America.

The proposal that Senator Durbin just outlined takes the next step in tightening the amendment that I authored last year, which we were able to enact with the help of Senator Lautenberg and others here today. We recently saw the first positive results of that amendment when the administration ordered embassies to stop promoting tobacco. Now it is time to take the next step.

Our proposal to require a worldwide code of conduct for U.S. companies forces tobacco companies to act responsibly in two areas. First, we require uniform limitations on marketing tobacco to children anywhere. The Marlboro Man is not vanishing; he is only taking a trip to the pages of a youth-oriented magazine in another language or to a sign across from a school overseas. Around the world, U.S. tobacco companies are using the methods they perfected on our children to addict the children of other nations to nicotine. Last August, at the very time tobacco companies were asking this Congress to approve their tobacco settlement, one of them paid reporters from countries like Brazil, Argentina, and Chile to fly to Miami and hear company officials attack restrictions on smoking and advertising as

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scientifically unsound.

Two decades ago, the U.S. set a higher ethical standard by making it illegal for any U.S. company to bribe an adult in a foreign government; today we should prohibit any U.S. tobacco company from bribing children into a life of addiction through clever marketing techniques.

Our proposal also requires health warning labels as stringent as those in America be printed on tobacco products sold overseas. This is the same requirement that I sought by introducing H.R. 2135 last summer. In Japan, one warning label suggests meagerly: "Let's carefully observe smoking manners." In some other countries, no warnings are required. Requiring tobacco sold in America to include warnings of its hazardous effects while exporting it throughout the world with no such warning shows a shameful disregard for children.

Every year, 3 million people die worldwide from the effects of tobacco products. Without action, that number is expected to rise to 10 million by the year 2025, with over 70 percent of all deaths coming in developing nations. For our government to allow companies to pay their debts at home by hooking foreign children abroad and pushing them down a path to cancer, heart disease, and emphysema would be an unprecedented act of hypocrisy.

As the Congress moves toward consideration of legislation to reduce youth smoking, we must not default on our obligation as a world leader. The proposed tobacco settlement did nothing to address whether tobacco companies should be required to admit to the harmful nature of their products wherever they do business. We should seize this unique opportunity to be a leader in promoting global public health by acting responsibly ourselves. The code of conduct we propose requires such responsible action from U.S. tobacco companies around the world. All we say to them is comply with a common, uniform standard: don't market to children anywhere; warn consumers of the deadly effects of your products anywhere.

In one recent survey, 69% of the American people agreed that the same rules should apply to marketing tobacco to children in other countries as in the U.S. Our code of conduct, along with our other four proposals, establishes a responsible United States policy for addressing our country's long complicity in the export of death. After so much talk about the "global" tobacco settlement, it is time to make it truly global.

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UNITED STATES SENATOR★ILLINOIS

DICK DURBIN

PRESS RELEASE

For Immediate Release
Contact: Melissa Merz
(202) 224-7028
February 26, 1998

******RADIO ACTUALITY AVAILABLE******
DIAL 1-800-511-0763/PIN #2900/MESSAGE #1

DURBIN, COLLEAGUES PROPOSE INTERNATIONAL TOBACCO PROTOCOL AS PART OF TOBACCO LEGISLATION

Washington, D.C. – Joined by Senate and House colleagues and public health groups, U.S. Sen. Dick Durbin today proposed an international tobacco control protocol to ensure any tobacco agreement doesn't allow American companies to ship the problem of underage smoking overseas.

Speaking at a news conference, Durbin said any tobacco legislation passed by Congress should include controls on the promotion and marketing of U.S. tobacco sales overseas. Failure to include such provisions would amount to granting tobacco companies a license to market their products to children abroad as tougher tobacco controls are enacted at home.

"It will be a shameful legacy if our tobacco control efforts end up protecting America's kids at the expense of children in other countries," Durbin said. "Products labeled 'MADE IN THE USA' should make us proud. Tobacco products which addict and kill fail that test."

Working with U.S. Sens. Frank Lautenberg, Ron Wyden, Paul Wellstone and U.S. Reps. Frank Pallone and Lloyd Doggett, Durbin joined in drafting five international tobacco control initiatives:

- Ending U.S. government support for tobacco abroad by prohibiting the federal government from supporting the sale or export of tobacco products in other countries. The government also would be prohibited from attempting to weaken a foreign tobacco regulation unless the regulation discriminates against U.S. products in an arbitrary and unjustifiable way and is not a reasonable protection of public health.

- Funding global nongovernmental tobacco control efforts by establishing a private, non-profit organization to assist public health organizations abroad with public education programs, technical assistance to health professionals, mass media campaigns, grants and other assistance.

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- Establishing a code of conduct for labeling and advertising overseas by requiring U.S. tobacco companies to print health warning labels on products sold overseas that are as stringent as those required in the United States. U.S. tobacco companies also would be prohibited from selling, advertising or marketing tobacco products to children in other countries in ways not permitted in the United States.

- Stemming international tobacco smuggling by giving the Bureau of Alcohol, Tobacco and Firearms the authority to deter tobacco smuggling through a system of export permits and increased record keeping.

- Funding international tobacco control through a fee of two-cents fee for each package of cigarettes U.S. tobacco companies sell overseas. Revenues from such a fee would be used for tobacco control efforts by governmental and nongovernment entities.

In proposing the five initiatives, Durbin noted that by the year 2025, tobacco is projected to be the leading cause of premature death and preventable disease around the world. Premature deaths caused by tobacco in the developing world will exceed the expected deaths from AIDS, tuberculosis and complications of childbirth combined.

"Tobacco use in developing countries threatens to turn back the clock on public health advances in those nations," Durbin said. "As the world's leading exporter of tobacco products, the United States has a moral responsibility to address the health devastation tobacco is causing in other countries. If we don't, people will equate our country with the tobacco epidemic they suffer."

Groups endorsing the initiatives unveiled today include the American Heart Association; the American Lung Association; the American Cancer Society; the National Center for Tobacco-Free Kids; the American Public Health Association; the World Federation of Public Health Associations; Americans for Nonsmokers' Rights; and others.

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U.S. Senator For Minnesota

PAUL WELLSTONE

Washington, D.C. (202) 224-8440 • St. Paul, MN (612) 645-0323

For Immediate Release
February 26, 1998

Contact: Linda Marson or
Andrew McDonald (202) 224-8440

Wellstone Announces International Tobacco Control Initiatives

(Washington, D.C.) -- Senator Paul Wellstone appeared at a press conference today to announce a set of international tobacco control initiatives designed to protect children's health worldwide and limit the ability of tobacco companies to market their dangerous products to children abroad. Wellstone was joined at the press conference by Senators Richard Durbin (D-Ill.), Frank Lautenberg (D-N.J.) and Ron Wyden (D-Ore.) and Representatives Lloyd Doggett (D-Tex.) and Frank Pallone (D-N.J.).

"Comprehensive tobacco control legislation would be incomplete without strong international tobacco controls," Wellstone said. **"Unless we include strong international controls as part of tobacco control legislation, this outlaw industry will continue to exploit the overseas market, preying disproportionately on people in developing countries. Tobacco control legislation must protect children and protect public health at home and abroad while conceding no special protections to the tobacco industry."**

Today, an estimated three million people annually die from tobacco-related diseases worldwide. By 2020, the World Health Organization (WHO) estimates that 10 million people will die annually, 70% of them in developing countries. Philip Morris and R.J. Reynolds sell approximately 2/3 of their cigarettes overseas and earn nearly half their profits from overseas sales.

"We must put limits on the ability of tobacco companies to export their products abroad. We must not put strict controls on tobacco at home while flinging the door wide open for the tobacco industry to market their products abroad. Children all over the world must be protected from the manipulations of this outlaw industry. It is a matter of fairness," Wellstone said.

Wellstone and the other Senators and Representatives have formed an informal working group to help ensure that international tobacco controls are part of any comprehensive tobacco control legislation. Attached is the working group's Statement On International Tobacco Initiatives, the group's proposals for international tobacco control legislation.

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Statement on International Tobacco Initiatives

Tobacco use is a growing threat to global public health. Today, tobacco products account for three million deaths worldwide each year; by 2025, that number is expected to rise to ten million per year, with over 70 percent of tobacco-related deaths occurring in developing nations.

As the world's leading exporter of tobacco products, the United States has a moral responsibility to address the adverse impact of its products on global public health. As a part of any effort to address tobacco use, Congress should establish a responsible international health policy by enacting these five proposals:

1. **End U.S. Government Support for Tobacco Abroad.** The federal government should be prohibited from promoting the sale or export of tobacco or tobacco products abroad. It should also be prohibited from attempting to weaken a foreign tobacco regulation unless the regulation discriminates against U.S. products in an arbitrary and unjustifiable manner and is not a reasonable means of protecting the public health.

2. **Adequately Fund Global Nongovernmental Tobacco Control Efforts.** A private, nonprofit organization should be established to assist public health organizations in other countries through public education programs, technical assistance to health professionals, mass media campaigns, grants and other general assistance.

3. **Establish a Code of Conduct for Labeling and Advertising Overseas.** U.S. tobacco companies should be required to print health warning labels on tobacco products sold overseas that are as stringent as those required in the United States. U.S. tobacco companies should also be prohibited from selling, advertising or marketing tobacco products to children in other countries, with the same standards applied to their overseas conduct as at home.

4. **Stop International Tobacco Smuggling.** The Bureau of Alcohol, Tobacco and Firearms, which currently regulates alcohol smuggling, should be given authority to deter tobacco smuggling through, among other things, a system of export permits and increased record keeping.

5. **Fund International Tobacco Control Through a Licensing Fee.** Every U.S. tobacco company should pay a two-cent fee for each package of cigarettes it sells overseas. The money raised through such a fee should be used for tobacco control efforts by governmental and non-governmental entities.

The United States has the opportunity to act as a world leader in promoting public health. If Congress passes any measure to confront domestic tobacco use, it must also tackle the health problems caused by the use of American tobacco products abroad. We strongly endorse these proposals to establish a responsible U.S. policy for the promotion of global public health.

The International Tobacco Control Initiatives Announced Today by Members of the House and Senate Are Endorsed By:

American Cancer Society
American Heart Association
American Lung Association
American Medical Women's Association
American Public Health Association
Americans for Nonsmokers Rights
American Association of Physicians of Indian Origin
Asian and Pacific Islander Tobacco Education Network
Center for Communications, Health, and the Environment
Colorado Public Health Association
INFACT
Interreligious Coalition on Smoking or Health
Latino Council on Alcohol and Tobacco
National Center for Tobacco-Free Kids
New Hampshire Public Health Association
New York State Public Health Association
Overseas Development Network
San Francisco Tobacco-Free Coalition
San Francisco African-American Tobacco-Free Project
San Francisco Chinese Progressive Association
Southern California Public Health Association
The Data Center
US PIRG
World Federation of Public Health Associations

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American Heart Association[SM]
Fighting Heart Disease and Stroke

For Release:
February 26, 1998

Contact:
Trish Moreis (202) 785-7900

American Heart Association Calls for Establishment of a Responsible International Tobacco Health Policy

Washington, DC – The American Heart Association, concerned about the rise in sales and use of tobacco products outside of the United States, today joined with members of Congress calling for the establishment of a responsible international tobacco health policy. The AHA stated that any effort to address international tobacco use must:

1. End U.S. government support of tobacco abroad.
2. Provide significant funding for efforts by governmental and nongovernmental tobacco agencies to support tobacco control efforts.
3. Strengthen current Food and Drug Administration authority over tobacco exports.
4. Enact law enforcement measures to control rampant international tobacco smuggling.

"Prevention of cardiovascular diseases and stroke remains the primary goal of the American Heart Association. The international impact of tobacco on world health, particularly cardiovascular diseases, is frightening," stated Charlie W. Schaeffer, Jr., M.D., spokesperson, American Heart Association. "As the world's leading exporter of tobacco products, the United States has a moral responsibility to address the adverse impact of its products on global public health."

The World Health Organization (WHO) estimates that tobacco use will kill approximately 10 million people in developing countries by 2030; that's triple the present mortality rate. WHO data also shows that the burden of death and disease is shifting from developed nations to poorer developing nations that can least afford the resulting medical care costs and lost productivity.

The American Heart Association agrees with recommendations made in the final report of the Advisory Committee on Tobacco Policy and Public Health co-chaired by C. Everett Koop, M.D., and David A. Kessler, M.D. This report stated that the U.S. should substantially fund and utilize a broad range of international activities to actively promote the global adoption of U.S. domestic tobacco control policies through all international activities.

"Without effective international tobacco control programs, it is estimated that the number of smokers in the world will rise by 50 percent by 2025," said Schaeffer. "Strong action on international tobacco control policy is needed now to stop this world-wide public health epidemic."

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NEWS

AMERICAN LUNG ASSOCIATION®

International Tobacco Initiative

Statement of Paul G. Billings
February 26, 1998

For Immediate Release

Contact: Diane Maple
202-785-3355

Good Afternoon, I am Paul Billings, Deputy Director of Government Relations for the American Lung Association. The American Lung Association is pleased to support the international tobacco control package presented today by Senators Durbin, Lautenberg, Wellstone and Wyden and Representatives Doggett and Pallone.

Children around the world are prime targets for the tobacco industry. This legislative proposal outlines a common sense approach to prevent the tobacco companies from marketing to children and will help stem the worldwide tobacco problem that the World Health Organization calls a global epidemic.

Last month, the American Lung Association conducted a public opinion survey on tobacco issues. Nearly seven out of ten voters (69%) agree that the rules which apply to marketing tobacco to children in the US should apply to marketing tobacco to children in other countries.

-more-

When You Can't Breathe, Nothing Else Matters®

WASHINGTON OFFICE
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As Congress crafts tobacco legislation, the end result should not be to redirect the tobacco industry's focus from America's children to children elsewhere around the world. The international tobacco control measures proposed today will hold tobacco companies responsible for their actions and fund critical education and public health efforts to curb the marketing to children. The measures also will fight smuggling and get the U.S. government out of the tobacco promotion business.

These strong international tobacco control measures are part of the sound tobacco control policy outlined by public health community and leaders like Dr. Koop and Dr. Kessler. This approach also includes a significant increase in the cigarette excise tax, full authority for the Food and Drug Administration, complete document disclosure, strict penalties on the industry for marketing to children, protection from environmental tobacco smoke, potent public health programs and, of course, no special protections, like immunity, for the tobacco industry.

The American Lung Association looks forward to working with these leaders and the entire Congress on these critical issues.

The American Lung Association has been fighting lung disease for more than 90 years. With the generous support of the public and the help of our volunteers, we have seen many advances against lung disease. However, our work is not finished. As we look forward to our second century, we will continue to strive to make breathing easier for everyone. Along with our medical section, the American Thoracic Society, we provide programs of education, community service, advocacy, and research. The American Lung Association's activities are supported by donations to Christmas Seals® and other voluntary contributions. You may obtain additional information via our America Online site, keyword: ALA, or Web site at http://www.lungusa.org.

# # #

AMERICAN ASSOCIATION OF PHYSICIANS OF INDIAN ORIGIN

AAPI

American Association of Physicians of Indian Origin

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Ranga Reddy, MD
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Neil Parekh
Legislative Director

For Immediate Release
February 26th, 1998

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The American Association of Physicians of Indian Origin (AAPI) Supports a "Responsible US Policy for International Tobacco Use"

The American Association of Physicians of Indian Origin (AAPI) supports the call for a comprehensive approach to tobacco control legislation that includes several initiatives that address international tobacco use. We have a unique and historic opportunity to address the damage to public health caused by tobacco use worldwide.

We are proud to stand with Senators Durbin, Lautenberg, Wyden, Wellstone, and US Representatives Doggett and Pallone in supporting the following:

1. An end to US Government Support for Tobacco Abroad.
2. Adequate Funding for Global NGO Efforts
3. A Code of Conduct for Labeling and Advertising Overseas
4. Increased Efforts to Stop International Tobacco Smuggling
5. Increased Funds for International Tobacco Control

Given that two-thirds of the Asian Pacific Islander American population are immigrants, international tobacco control must be a critical component of any comprehensive legislation. According to the World Health Organization, India has one of the highest if not the highest smoking rates in the world when measured in terms of the number of cigarettes smoked per day, per daily smoker. We must broaden our attempts at education, prevention, and cessation domestically and assist others around the world to do the same. In order to be truly effective, these efforts must be culturally sensitive and language appropriate.

We do not live in a vacuum. As the world's leading exporter of tobacco products, America has an obligation to address this issue on the international scale.

# # #

LATINO COUNCIL ON ALCOHOL AND TOBACCO

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For Immediate Release
February 26, 1998

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Latino Council supports a "Responsible U.S. Policy for International Tobacco Use" as part of a comprehensive approach to tobacco-control legislation

The Latino Council on Alcohol and Tobacco (LCAT) is a national membership organization of over 1000 Latino public health professionals and community activists committed to combating alcohol and tobacco problems in the Latino community. Many Latinos living the United States are immigrants with strong family ties throughout Latin America where children are prey to intensive tobacco promotions and advertising. The United States, as the world's leading exporter of tobacco products, has an obligation to address the problems these products create for the world's children.

LCAT is proud to stand with Senators Durbin, Lautenberg, Wyden, Wellstone and Representatives Doggett and Pallone to support the following five proposals:

- An End to US Government Support for Tobacco Abroad
- Adequate Funding for Global NGO Efforts
- A Code of Conduct for Labeling and Advertising Overseas
- Increased Efforts to Stop International Tobacco Smuggling
- Increased Funds for International Tobacco Control

Any comprehensive tobacco control legislation must contain responsible international tobacco control measures to be congruent and responsible for the public health of the United States and of the world. Truly effective legislation must also place a primary emphasis on comprehensive, sustained and effective culturally sensitive and language appropriate public health strategies with the goal of changing initiation rates, consumption patterns and cultural norms among Latino and minority youth in the United States.

Public health issues have no borders. Migrations are part of the patterns of human existence. The health and welfare of one population affects that of all populations.

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INTERRELIGIOUS COALITION
ON SMOKING OR HEALTH

For Immediate Release

Contact: Roy Branson (202)547-7440
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The Interreligious Coalition on Smoking or Health, representing tens of millions of Christians (Catholic and Protestant), Jews, and Muslims, urges the U.S. Congress to extend tobacco control internationally.

Virtually all the Interreligious Coalition's 22 denominations and organizations, such as the American Muslim Council, the National Association of Evangelicals, the National Council of Churches of Christ, the Presbyterian Church (U.S.A.), and the United Methodist Church, include members around the world. Fellow believers are among the half billion people alive today who will die from tobacco-related causes.

We believe that the moral principles of revering life and protecting the vulnerable (particularly children) require that the U.S. Congress pass legislation that limits U.S. tobacco conglomerates from contributing annually to the killing of three million people worldwide.

# # #

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NEWS

FOR IMMEDIATE RELEASE

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American Public Health Association Supports Curbing Tobacco Overseas

February 26, 1998, Washington, DC – The American Public Health Association (APHA) today announces its support for five proposals to protect global public health from the ravages of tobacco.

"With greater emphasis on domestic tobacco control, international public health is increasingly threatened," said Mohammad N. Akhter, MD, MPH, executive director of APHA. "In the face of declining U.S. consumption, tobacco companies are expanding sales overseas to pay for national tobacco control policies, which could make the United States the world's leading exporter of death, disease and disability. Any tobacco legislation must put public health first, and as we seek to protect the kids in Boston, we must not forget the children in Bombay."

The five proposals set strong standards for legislation addressing the production, sale, marketing and distribution of tobacco products overseas as well as supporting international tobacco control efforts.

"Every 10 seconds, someone in the world dies as a result of tobacco use," said Akhter. "The World Health Organization estimates that cigarette smoking will kill 10 million people annually by 2025, accounting for almost 10 percent of the world's deaths. If we enforce only a domestic tobacco policy, even more lives will be lost to tobacco."

The World Federation of Public Health Associations, representing 55 countries and housed at APHA, has endorsed the five proposals as well.

The more than 50,000 members of the APHA, the largest and oldest organization of public health professionals in the world, passed resolutions in 1997 that strengthen and reaffirm the Association's long-standing commitment to protecting public health from tobacco here and abroad.

Several APHA affiliates have so far endorsed the five proposals, including the Colorado, New Hampshire, New York State and Southern California Public Health Associations.

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97-LB-9: International Tobacco Control Policy

The American Public Health Association,

Recognizing that significant developments regarding the US-based marketing of tobacco overseas have occurred recently, setting the stage for effective national regulatory limitations on the activities of American tobacco companies abroad; and

Noting that on September 26, 1997, the US House of Representatives passed an amendment to the Commerce, State and Justice appropriations bill which would prohibit the use of government funds to promote tobacco sales or exports overseas and prohibiting the Departments of Commerce, State, and Justice from seeking to weaken the tobacco control laws in any country; and

Noting further that, in addition to the amendment to the Commerce, State and Justice appropriations bill, Representative Doggett has introduced HR 2135, the International Tobacco Responsibility Act of 1997, which would require that American tobacco companies use the same warning labels of equal size in local language for exports that they are required by law to put on packages sold in the United States, and urges the President to seek the creation of a United Nations Conference to reduce tobacco use worldwide; and

Noting further that on July 9, 1997 the report of the Koop-Kessler Advisory Committee on Tobacco Policy and Public Health, formed at the request of the bipartisan group of Members of Congress, including Congressperson Waxman, addressed the omission of international tobacco policy;[2] and

Concerned that the aggressive marketing and promotion of tobacco in developing and transitional nations by American tobacco conglomerates has an adverse impact on the health of populations abroad, particularly women and children; and

Concerned that the United States government has contributed to the growth of the global tobacco pandemic by promoting the transnational activities of American tobacco conglomerates;[3] and

Reaffirming the long-standing policy of the American Public Health Association in support of strong tobacco control actions to protect the public's health; (APHA Public Policy Statements, 1948–present, cumulative, American Public Health Association, Washington, DC.);

1. Recommends that activities and legislation for an international tobacco control policy be developed that meets four basic principles: (a) the United States should actively promote global tobacco control; (b) the United States should assure that public health concerns overrule trade considerations in all trade negotiations and related proceedings; (c) the United States should actively support and allocate substantial resources to fund effective international governmental and non-governmental institutions engaging in tobacco control activities; (d) the United States should effectively regulate the activities of American-based tobacco conglomerates to support these global tobacco control efforts;

2. Specifically recommends that tobacco control legislation should: (a) remove tobacco products from Section 301 of the 1974 Table Act; (b) prohibit federal agencies from promoting American tobacco abroad, or interfering in any efforts by international or foreign public health authorities to control tobacco use within their sovereign borders; (c) require that US tobacco exports contain the same warning labels of equal size in the local language as are required by law in the United States; (d) provide for the surveillance and prevention of international tobacco smuggling, including strict penalties for companies shown to be supporting smuggling; and (e) require that all tobacco products be fire-safe; and

3. Specifically recommends that the United States adopt legislation and appropriate new funding to support international tobacco control activities, including (a) the promulgation and implementation of the World Health Organization Framework Convention on Tobacco Control;[4] (b) efforts by UNICEF (United Nation's Children's Fund) to promote eradication of tobacco use among children; and (c) efforts by all appropriate federal agencies, including Health and Human Services, to promote tobacco control internationally.

References

1. Proposed Resolution, June 20, 1997, *New York Times*, June 21, 1997, pp. 1, 8, 9; June 25, 1997 pp. A16, 17 (excerpts from agreement).
2. Final Report of the Advisory Committee on Tobacco Policy and Public Health, Cochairs C. Everett Koop, MD, ScD and David Kessler, MD, JD, July 1997.
3. See, e.g., Council on Scientific Affairs, The Worldwide Smoking Epidemic: Tobacco Trade, Use & Control, 263 *JAMA*, 3312 (1990). See also Recommendations of the 10th World Conference on Tobacco or Health, held in Beijing, China August 23-28, 1997 that "governments consider the international implications of tobacco control policies or settlements with the tobacco industry do not contribute to an increase in the world-wide epidemic of tobacco related diseases and death..."
4. *International Framework Convention for Tobacco Control*, WHA Res. 49.17, 49th Ass., 6th Plen. Mtg. WHO Doc. A49/VR/6 (1996). See generally Taylor A, Roemer R. International Strategy for Tobacco Control, WHO Doc. WHO/PSA/96.6 (1996); Taylor A", An International Regulatory Strategy for Global Tobacco Control. 21 *Yale Journal of International Law* 257 (1996).

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Essential Action Applauds Announcement of International Tobacco Control Legislative Package

For immediate release,
February 26, 1998

For more information, contact:
Robert Weissman, 202-387-8030

"The package of international tobacco control measures announced today by Senators Durbin, Lautenberg, Wellstone and Wyden and Representatives Doggett and Pallone represents a significant step forward in the effort to curb Big Tobacco's plan to export death and disease to the Third World and Eastern Europe and the former Soviet Union," said Robert Weissman, co-director of Essential Action, a corporate accountability group.

"The Merchants of Death scheme is clear: to hold smoking rates steady or accept modest declines in the United States while massively expanding abroad," Weissman said. "Philip Morris and RJR hope to hook kids and unsuspecting adults around the world on tobacco, using exactly the sorts of promotional and marketing techniques that have been abandoned or will be outlawed in the United States -- free cigarette giveaways, television advertising, promotional t-shirts, sports and popular music concert sponsorships, etc. The legislative package introduced today says: 'No Double Standards. We won't allow you to lure youth in the United States into nicotine addiction, and we won't tolerate it overseas, either.'"

"There is much more to be done -- including ensuring passage of the legislative package -- but a crucial step has been taken today," he said.

Essential Action is a Ralph Nader-founded corporate accountability group that focuses especially on international issues.

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CENTER FOR COMMUNICATIONS, HEALTH AND THE ENVIRONMENT

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26 February, 1998

CALL FOR GLOBAL MASS MEDIA CAMPAIGN

The Center for Communications, Health and the Environment (CECHE) — an American 501(c)(3) organization based in Washington DC — has been working with Congressional leaders in developing support for American leadership in promoting international tobacco control programs. CECHE supports and applauds the Congressional initiatives being announced today. A high priority among these initiatives is the establishment of a U. S. non-profit corporation to fund and assist international NGO's working at the local country level to avert and combat the health consequences of tobacco— which increasingly affect the world's children and women. A particularly effective strategy in CECHE's experience in working in Central and Eastern Europe and now in Asia, is the use of mass media for public education. At a CECHE-sponsored workshop at the *10th World Congress on Tobacco or Health* in Beijing last August, leading international tobacco control advocates appealed to President Clinton and members of Congress for a global mass media campaign (see attached letter) — a centerpiece of the above American non-profit entity dedicated to international tobacco control.

Founded in 1990, CECHE's mission is to assist the emerging democracies of Central Europe and the former Soviet Union and other developing nations around the world by undertaking and supporting programs to improve health and alleviate the adverse health effects of environmental pollution. CECHE specializes in the use of mass media for positive social impact in public health, especially in tobacco control. Over the last seven years, CECHE has worked with local partners to coproduce and broadcast public service announcements and television series in multiple languages on national channels in 17 countries, to disseminate critical information via other channels and to undertake community intervention programs — with an emphasis on tobacco control — and to evaluate the impact of these programs.

CECHE can address inquiries, provide information and make available leading tobacco control figures from Russia, China, India, Australia, the rest of Europe and Asia, and Africa and Latin America for discussions here in Washington with Congress, the media and other interested parties.

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September 18, 1997

The Honorable
William Clinton
President of the
United States
The White House

Dear Mr. President:

The United States has a unique opportunity to benefit from its extraordinary domestic revolution by leading a worldwide revolution against smoking. The United States also has a unique responsibility – America tobacco companies and American marketing genius are major causes of the sharp increases in smoking among women and children throughout the world. In fact, as smoking and the market in the United States have leveled off, American tobacco companies are primarily targeting women and children in Russia, China, India, and other emerging nations of Africa, Asia, Latin America, and Central and Eastern Europe.

As the advertising campaigns of the tobacco companies themselves have demonstrated, the most powerful way to affect individual behavior is television, radio and the print media. This is the basis for the provision in the agreement with the American tobacco industry "to spend $500 million annually for multi-media campaigns designed to discourage and deglamorize the use of tobacco products" in the United States. We propose that the United States take the lead in forging an alliance of global media companies (most of which are American) and national media organizations and anti-smoking activists throughout the world in a massive, persistent campaign to keep children from starting to smoke and to help others kick the habit.

The campaign will kick off with an hour-long splashy television program with globally known entertainment, political and spiritual figures and hard hitting investigative reporting on the industry and the effects of smoking. The mix of star quality, great popular music and revelation of new information will appeal to a younger as well as an older audience and be usable both on satellite and national terrestrial networks throughout the world. More generally, we will work with the multinational and national media companies to train their people in antismoking programming and to tie this programming into on-the-ground campaigns by governments, communities, professional associations and other NGO's and activists in schools, work places, legislatures, clinics and so forth. Just as American cigarettes can be exported, so can America's leading expertise in tobacco control—using our Madison Avenue skills to combat rather than promote this deadly addiction. The tools which will be used to achieve these ends in addition to training and coproduction must include direct grants to non-governmental entities.

If $500 million annually is needed to conduct such a media program in the United States (and if the tobacco industry itself spends much more on marketing), then clearly at least one-tenth that amount as America's contribution to this global campaign is required. We will leverage these funds many times. One of the best features of this program is that we will negotiate free air time and space—whereas the tobacco industry has to pay for its space. Furthermore, media companies would be expected to contribute to coproduction costs.

This program should not be dependent on whether there is a settlement with the tobacco industry. It also could be funded from a portion of the proceeds from a cigarette tax increase.

The signers of this proposal are leading antismoking activists from India, Russia, Hungary, Poland, Ukraine and China. The American signer is the Center for Communications, Health and the Environment (CECHE)—which has been working with global media companies and antismoking activists to train and coproduce effective antismoking media programming. We would like to work with you to make this global campaign a reality and to save tens of millions of lives around the globe.

Respectfully yours,

Dr. Kishore Chaudhry
New Delhi, India

Prof. David Zaridze
Moscow, Russia

Prof. Peter Makara
Budapest, Hungary

Witold Zatonski
Warsaw, Poland

Dr. Konstantin Krasovsky
Kiev, Ukraine

Junshi Chen, MD
Beijing, China

Dr. Sushma Palmer
Washington, DC

Mark Palmer
Washington, DC

1

AMENDMENT NO. ____ Calendar No. ____

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

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d 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 ____________________

Viz:

At the appropriate place, insert the following new section:

SEC. ____. PROHIBITION ON USE OF FUNDS TO FACILITATE THE EXPORTATION OR PROMOTION OF TOBACCO.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available by appropriations or otherwise made available may be used by any officer, employee, department, or agency of the United States—

(1) to promote or encourage the export, re-export, sale, manufacture, advertising, promotion, distribution, or use of tobacco or tobacco products to or in a foreign country; or

(2) to seek, through negotiation or otherwise, the removal or reduction by any foreign country of any restriction or proposed restriction in that country on the importation, export, re-export, sale, manufacture, advertising, promotion, distribution, packaging, labeling, use, content, imposition of tariffs, or taxation, of tobacco or tobacco products.

(b) EXCEPTION.—Subsection (a)(2) shall not apply to any restriction or proposed restriction by a foreign country if—

(1) the restriction is applied in a manner which constitutes a means of arbitrary or unjustifiable discrimination between countries;

(2) the Secretary of Commerce certifies in writing to Congress that the restriction is being applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination between countries; and

(3) the Secretary of Health and Human Services certifies to Congress in writing that the restriction is not a reasonable means of protecting the public health.

(c) DEFINITION.—In this section, the term "arbitrary or unjustifiable discrimination" means a restriction or proposed restriction by a foreign country that—

(1) is arbitrary or unjustifiable; and

(2) does not adhere to the principle of national treatment and applies less favorable treatment to goods that are imported into that country than the country applies to like goods that are the product, growth, or manufacture of that country.

2

AMENDMENT NO. ____ Calendar No. ____

Purpose: To establish the American Center on Global Health and Tobacco.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

(no.) ________

(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 ________________

Viz:

At the appropriate place, insert the following:

SEC. ___. AMERICAN CENTER ON GLOBAL HEALTH AND TOBACCO.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Tobacco use is estimated to have caused nearly 3,000,000 deaths a year worldwide in the early 1990's, and is projected to cause in excess of 10,000,000 additional deaths a year globally by 2030, more than any single disease. More than 70 percent of those deaths are expected in developing countries.

(B) Many countries are unprepared to address increases in tobacco deaths, including the impact on health systems and health costs. While tobacco consumption in the United States and other established market economies has fallen over the last decade, consumption is rising in China, India, East Asia, and former socialist economies. Tobacco companies in the United States and elsewhere have increasingly targeted those markets.

(C) Tobacco use markedly reduces good health and threatens to erode the major health gains in life expectancy of the last century. Only HIV/AIDS infection and tobacco are large and growing causes of death and disease worldwide. The total projected deaths from tobacco over the next 10 years likely will exceed deaths from HIV/AIDS, maternal and childhood conditions, and tuberculosis combined.

(D) The United States consistently has provided leadership and funding to address the world's most pressing public health needs, including HIV/AIDS, hunger, maternal and child health, and immunization.

(E) Through exports and overseas operations, United States tobacco companies sell more cigarettes overseas than they do in the United States. Foreign sales now account for more than half of all sales for the 2 leading United States tobacco manufacturers.

(F) United States companies spend billions of dollars on aggressive tobacco marketing campaigns overseas that associate smoking with the United States, affluence, freedom, and liberation. In many markets, American companies reach youthful audiences through television and radio advertising, free samples, and other methods that are outlawed in the United States.

(G) In light of the role the United States tobacco companies have played in spreading tobacco use globally, and in light of the large financial benefits they continue to enjoy from tobacco exports, it is appropriate that this section be enacted in order to provide assistance and funding for international public education and mass media programs to inform the public about the hazards of tobacco use.

(H) Smoking in United States films is pervasive and influences persons in other countries who seek to emulate "American activities" depicted in motion pictures. According to one study, more than half of the top-grossing United States films released between 1991 and 1996 exhibited smoking. In these films, 80 percent of the male lead characters and 27 percent of the female characters smoked. The motion picture industry is painting a distorted picture that smoking is a truly American activity.

(2) PURPOSE.—The purpose of this section is to establish the American Center on Global Health and Tobacco (ACT). ACT shall assist organizations in other countries to reduce and prevent the use of tobacco. Activities ACT shall support include—

(A) public education programs that inform the public about the hazards of tobacco use and of environmental tobacco smoke;

(B) mass media campaigns, including ~~paid~~ counter-tobacco advertisements, to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(C) education about the economic and societal costs of tobacco use, and effective tobacco use prevention and cessation strategies that are appropriate for the country involved.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established in the District of Columbia a private, nonprofit corporation to be known as the American Center on Global Health and Tobacco (in this section referred to as "ACT"). ACT shall—

(A) not be an agency or establishment of the United States; and

(B) except as otherwise provided in this section, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(2) RELATION TO UNITED STATES.—Nothing in this section shall be construed as making ACT an agency or establishment of the United States, or as making the members of the Board of ACT, or its employees, officers or employees of the United States.

(3) RELATION TO NONGOVERNMENTAL ORGANIZATIONS.—ACT shall have a limited staff, and, to the maximum extent practicable, utilize the available experience and talents of nongovernmental organizations with specialized experience in health, education, media, and tobacco.

(4) GOVERNING BOARD.—ACT shall be governed by a board of up to 25 members including—

(A) on a bipartisan basis, Members of the Senate and of the House of Representatives;

(B) the heads of American public health organizations;

(C) the heads of American media, marketing, and other nongovernment institutions and corporations; and

(D) individuals active in education, public health, and other relevant activities.

(5) INTERNATIONAL ADVISORY COUNCIL.—An International Advisory Council consisting of representatives from key global, regional, and national public health organizations, and leading individual educators and health professionals shall provide advisory assistance to ACT.

(c) FUNDING.—

(1) DEFINITION OF TRUST FUND.—In this section, the term "Trust Fund" means the ________ established in the Treasury of the United States and consisting of amounts that are appropriated or credited to the Trust Fund by law.

(2) ESTABLISHMENT OF GLOBAL PUBLIC HEALTH AND EDUCATION RESOURCE ACCOUNT.—There is established within the Trust Fund the Global Public Health and Education Resource Account that shall be accredited with $150,000,000 for each fiscal year.

(3) TRANSFER AUTHORITY.—The Secretary of the Treasury shall on October 1 of each fiscal year beginning after the date of enactment of this section, transfer $150,000,000 from the Global Public Health and Education Resource Account of the Trust Fund to the account of ACT to carry out the activities authorized under this section.

(4) TERMINATION OF TRANSFER AUTHORITY.—The authority of the Secretary of the Treasury to transfer funds from the Trust Fund shall expire with the expiration of the Trust Fund.

(d) REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL TRANSFERS FROM THE TRUST FUND.—

(1) OVERSIGHT.—ACT and its grantees shall be subject to the oversight and supervision of Congress, and shall annually submit a report of its activities to Congress in accordance with paragraph (5)(A)(iii).

(2) COMPLIANCE.—

(A) FUNDING CONTINGENT ON COMPLIANCE.—Annual payments from the Trust Fund may be made to ACT under this section only if ACT complies with the requirements specified in this section.

(B) USE OF FUNDS.—ACT may only fund programs for private sector groups, and may not carry out programs directly. ACT may provide funding only for programs which are consistent with the purposes of this section.

(3) SALARIES AND COMPENSATION.—

(A) NO OTHER SOURCE OF COMPENSATION.—Officers and employees of ACT may not receive any salary or other compensation from any source other than ACT for services performed for ACT.

(B) UNITED STATES OFFICERS AND EMPLOYEES.—An individual who is an officer or employee of the United States who also serves on the Board of Directors or as an officer or employee of ACT, may not receive any compensation or travel expenses in connection with services performed for ACT.

(4) STOCKS AND DIVIDENDS.—ACT shall not issue any shares of stock or declare or pay any dividends.

(5) AUDITS.—

(A) INDEPENDENT PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The accounts of ACT shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of ACT are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by ACT and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) CONTENT OF AUDIT.—The report of each audit conducted under clause (i) shall be included in the annual report required under this subsection. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly ACT's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of ACT during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(iii) REPORT.—Not later than December 31 of each year, ACT shall submit an annual report for the preceding fiscal year to the President for transmittal to Congress. The report shall include a comprehensive and detailed report of ACT's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as ACT deems appropriate.

(B) COMPTROLLER GENERAL.—

(i) IN GENERAL.—The financial transactions of ACT for each fiscal year may be audited by the Comptroller General in accordance with such principles and procedures and under such rules and regulations as the Comptroller General may prescribe. Any such audit shall be conducted at the place or places where accounts of ACT are normally kept. The Comptroller General shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by ACT pertaining to its financial transactions and necessary to facilitate the audit. All books, accounts, records, reports, files, papers, and property of ACT shall remain in the possession and custody of ACT.

(ii) REPORT.—A report of each audit shall be made by the Comptroller General to Congress. A copy of each report shall be furnished to the President and to ACT at the time the report is submitted to Congress.

(6) RECORDKEEPING.—

(A) IN GENERAL.—ACT shall ensure that each recipient of assistance from ACT under this section keeps such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) ACCESS.—ACT shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each recipient of assistance from

ACT that are pertinent to assistance provided through ACT under this section.

3

AMENDMENT TO H.R.

OFFERED BY M.

Add at the end the following:

TITLE -PROHIBITIONS RELATING TO TOBACCO PRODUCTS AND CHILDREN

SEC. . SHORT TITLE.

This title may be cited as the "".

SEC. . PROHIBITIONS RELATING TO TOBACCO PRODUCTS AND CHILDREN.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SEC. 804. PROHIBITION ON SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO CHILDREN.

"(a) GENERAL RULE.—It shall be unlawful for any domestic concern or any officer, director, employee, or agent of such concern to make use of the mails or any means or instrumentality of interstate commerce to cause or contribute, either directly or through a foreign subsidiary, joint venture, affiliate, or licensee, to—

"(1) the sale or distribution of tobacco products in a foreign country to children; or

"(2) the advertising or promotion of tobacco products in a foreign country in a manner that does not comply with Federal requirements for the advertisement or promotion of tobacco products in the United States

"(b) DEFENSE.—In an action brought to enforce subsection (a), it shall be an affirmative defense that the tobacco products involved were sold, distributed, advertised, or promoted in the foreign country involved in a manner that would be lawful if such conduct occurred in the United States.

"SEC. 805. LABELING.

"It shall be unlawful for any domestic concern or any officer, director, employee, or agent of such concern, either directly or through a foreign subsidiary, joint venture, affiliate, or licensee, to make use of the mails or any means or instrumentality of interstate commerce to cause or contribute to the export from the United States or the sale or distribution in, or export from, any other country any tobacco product the package of which does not contain a warning label that—

"(1) is in the primary language or languages of the country in which the tobacco product is sold or distributed to consumers; and

"(2) except for the requirement of paragraph (1)—

"(A) complies with Federal requirements for labeling of similar tobacco products manufactured, imported, or packaged for sale or distribution in the United States; or

"(B) complies with the labeling requirements of the foreign country in which the product is sold or distributed to consumers and which labeling requirements the Secretary determines are substantially similar to Federal requirements and are adequately enforced by such country.".

SEC. . ENFORCEMENT.

Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(aa) To carry out an act made unlawful by section 804 or 805.

SEC. . REWARD.

Section 303(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333)(b)(5)) is amended by adding at the end the following: "If a person provides information leading to the institution of a criminal proceeding against, and conviction of, a person for a violation of section 301(aa), such person shall be entitled to one-half of the criminal fine imposed and collected for such violation but not more than $125,000.".

SEC. . DEFINITIONS.

Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(kk) The term 'domestic concern' means—

"(1) any individual who is a citizen, national, or resident of the United States; and

"(2) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

"(ll) The term 'children' means an individual under the age of 18.".

4

Subtitle ____—Prevention of Tobacco Smuggling

SEC. ___01. DEFINITIONS.

(a) INCORPORATION OF CERTAIN DEFINITIONS.—In this subtitle, the terms "cigar", "cigarette", "person", "pipe tobacco", "smokeless tobacco", "State", "tobacco product", and "United States" shall have the meanings given such terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o), 5702(n)(1), 3306(j)(1), 5702(c), and 3306(j)(2) respectively of the Internal Revenue Code of 1986.

(b) OTHER DEFINITIONS.—In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons, and any one of 2 or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) INTERSTATE OF FOREIGN COMMERCE.—The term "interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the

District of Columbia, or between points within the same State but through any place outside thereof.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(4) PACKAGE.—The term "package" means the innermost sealed container irrespective of the material from which such container is made, in which a tobacco product is placed by the manufacturer and in which such tobacco product is offered for sale to a member of the general public.

(5) RETAILER.—The term "retailer" means any dealer who sells, or offers for sale, any tobacco product to any person other than a wholesaler.

SEC. ___02. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It shall be unlawful for any person to sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with this section.

(b) LABELING.—

(1) IDENTIFICATION.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall promulgate regulations that require each

manufacturer of tobacco products to legibly print a unique serial number on all packages of tobacco products manufactured for sale or distribution. Such serial number shall be designed to enable the Secretary to identify the manufacturer of the product, and the location and date of manufacture. The Secretary shall determine the size and location of the serial number.

(2) COUNTRY OF FINAL DESTINATION.—Each package of a tobacco product that is exported shall be labeled with the name of the country of final destination. The Secretary shall promulgate regulations to determine the size and location of the label and under what circumstances a waiver of this paragraph shall be granted.

(c) PROHIBITION ON ALTERATION.—It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this subtitle upon a tobacco product in or affecting commerce, except as authorized by Federal law or except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. ___03. REQUIREMENTS FOR THE TRACKING OF TOBACCO PRODUCTS.

(a) POSTING OF BOND.—

(1) IN GENERAL.—It shall be unlawful for any person to export any tobacco product unless such person—

(A) has posted with the Secretary a tobacco product bond in accordance with this section for such product that contains a disclosure of the country to which such product will be exported; and

(B) receives a written statement from the recipient of the tobacco products involved that such person—

(i) will not knowingly and willfully violate any law or regulation of such country with respect to such products; and

(ii) has never been convicted of any offense with respect to tobacco products.

(2) REGULATIONS.—The Secretary shall promulgate regulations that determine the frequency and the amount of each bond that must be posted under paragraph (1), but in no case shall such amount be less than an amount equal to the Federal tax imposed under chapter 52 of the Internal Revenue Code of 1986 on the value of the shipment of

the products involved if such products were consumed within the United States.

(b) RETURN OF BOND.—The Secretary shall return a bond posted under subsection (a) upon a determination by the Secretary (based on documentation provided by the person who posted the bond in accordance with regulations promulgated by the Secretary) that the tobacco products to which the bond applies have been received in the country of final destination as designated in the bond.

SEC. ___04. TOBACCO PRODUCT PERMITS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall establish a program under which tobacco product permits are issued to persons (desiring to sell or ship, or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for use, any tobacco product).

(b) CONDITIONS.—The issuance of a permit to a manufacturer under this section shall be conditioned upon the compliance of the manufacturer with the requirements of this subtitle.

(c) REVOCATION, SUSPENSION, AND ANNULMENT.—The program established under subsection (a) shall permit the Secretary to revoke, suspend, or annul a permit issued under this section if the Secretary determines that the terms or conditions of the permit have not been complied with. Prior to any action under this subsection, the Secretary shall provide the permittee with due notice and the opportunity for a hearing.

(d) RECORDS AND AUDITS.—The Secretary shall, under the program established under subsection (a), require permit holders to keep records concerning the chain of custody of the tobacco products that are the subject of the permit and make such records available to the Secretary for inspection and audit.

(e) RETAILERS.—This section shall not apply to retailers of tobacco products, except that retailers shall maintain commercial records of receipt, and such records shall be available to the Secretary for inspection and audit.

SEC. ____05. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____04—

(1) to engage in the business of importing into the United States tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____04—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged or warehoused.

(c) WHOLESALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____04—

(1) to engage in the business of purchasing for resale at wholesale tobacco products, or, as a principal or agent, to sell, offer for sale, negotiate for, or hold out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, the purchase for resale at wholesale of tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in or affecting commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 180 days after the date of enactment of this subtitle.

SEC. ___06. PRICING AND LABELING OF PRODUCTS SOLD ON MILITARY INSTALLATIONS OR BY NATIVE AMERICANS.

(a) MILITARY INSTALLATIONS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Defense, shall promulgate regulations that ensure that the price charged for a tobacco product sold on a military installation (as defined in section 2801(c)(2) of title X, United States Code) is equal to—

(A) the average price for which such product is sold in the metropolitan area immediately bordering the military installation; or

(B) the highest price (inclusive of Federal or State taxes) for which such product is sold on military installations located in the United States;

whichever is greater.

(2) LABEL.—The regulations under paragraph (1) shall require that each package of a tobacco product that is sold on a military installation be la-

beled as such. Such regulations shall include requirements for the size and location of the label.

(b) INDIAN TRIBES.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations that require that each package of a tobacco product that is sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9))) be labeled as such. Such regulations shall include requirements for the size and location of the label.

SEC. ___07. PROHIBITION AGAINST SALE OF TOBACCO PRODUCTS IN OR TO DUTY-FREE SHOPS OR FORWARDING THROUGH OR MANUFACTURE IN TRADE ZONES.

(a) DUTY-FREE SHOPS.—It shall be unlawful for any person to sell a tobacco product—

(1) in any duty-free shop located within the United States; or

(2) to any duty-free shop.

(b) TRADE ZONES.—No person may forward through or manufacture a tobacco product in any foreign trade zone, as defined for purposes of the Act of June 18, 1934 (19 U.S.C. 81a et seq.).

SEC. ___08. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States court for any Territory, of the District where the offense is committed or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—The provisions of section 3571 of title 18, United States Code, shall apply to any person convicted of violating any of the provisions of this subtitle as if such person were convicted of a felony under such title.

(c) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $10,000 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United

States may, on its own motion upon 5 days' notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

SEC. ___09. AMENDMENTS TO THE CONTRABAND CIGARETTE TRAFFICKING ACT.

(a) DEFINITIONS.—Section 2341 of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking "60,000" and inserting "30,000"; and

(B) by inserting after "payment of cigarette taxes," the following: "or in the case of a State that does not require any such indication of tax payment, if the person in possession of the cigarettes is unable to provide any evidence that the cigarettes are moving legally in interstate commerce,"; and

(2) in paragraph (4), by striking "and" at the end;

(3) in paragraph (5), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

"(6) the term 'tobacco product' means cigars, cigarettes, smokeless tobacco, and pipe tobacco (as such terms are defined in section ____01(a) of the ________________ Act); and

"(7) the term 'contraband tobacco product' means a quantity in excess of 30,000 of any tobacco product that is manufactured, sold, shipped, delivered, transferred, or possessed in violation of Federal laws relating to the distribution of tobacco products.".

(b) UNLAWFUL ACTS.—Section 2342 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or contraband tobacco products" before the period;

(2) in subsection (b)—

(A) by striking "cigarettes" and inserting "tobacco products";

(B) by striking "60,000" and inserting "30,000"; and

(C) by inserting before the period the following: "or knowingly to fail to maintain distribution records, alter or obliterate required markings, or interfere with any inspection as required with respect to such quantity of tobacco products"; and

(3) by adding at the end the following:

"(c) It shall be unlawful for any person knowingly to transport tobacco products under a false bill of lading or without any bill of lading.".

(c) RECORDKEEPING.—Section 2343 of title 18, United States Code, is amended—

(1) by striking "cigarettes" each place that such appears and inserting "tobacco products";

(2) in subsection (a), by striking "60,000" and inserting "30,000";

(3) in subsection (b), by striking "60,000" and inserting "30,000".

(d) PENALTIES.—Section 2344 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "or contraband tobacco products" after "cigarettes"; and

(2) by adding at the end the following:

"(d) Any proceeds from the unlawful distribution of tobacco products shall be subject to seizure and forfeiture under section 981(a)(1)(C).".

SEC. ___10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

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AMENDMENT TO H.R.

OFFERED BY M

At the end insert the following:

SEC. . LICENSURE.

(a) LICENSURE.—

(A) IN GENERAL.—Each domestic concern engaged in the manufacture of cigarettes or other tobacco products, either directly or through its foreign subsidiaries, affiliates, joint ventures, or licensees, shall hold a license issued by the Secretary of Health and Human Services under this section.

(B) FEE.—

(i) IN GENERAL.—The annual license fee shall be $1 per every 1000 cigarettes manufactured by a domestic concern either directly or through its foreign subsidiaries, affiliates, joint ventures, or licensees and an equivalent amount, as established by the Secretary, for other tobacco products.

(ii) CREDIT.—In any year, a domestic concern shall receive as a credit towards that portion of its license fee under clause (i) which is attributable to the manufacture of tobacco products subject to the Federal excise tax under section 5701 of the Internal Revenue Code of

1986 the amount of tax it paid under such section.

(C) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement the requirements of this section for a license.

(b) PENALTY.—Any domestic concern which engages in the manufacture of cigarettes or other tobacco products either directly or through its foreign subsidiaries, affiliates, joint ventures, or licensees without the license required by subsection (a) shall be considered to have committed a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(c) DEFINITION.—For purposes of this section, the term "domestic concern" means (1) any individual who is a citizen, national, or resident of the United States, and (2) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

(d) EFFECTIVE DATE.—No domestic concern shall engage in the manufacture of cigarettes or other tobacco products either directly or through its foreign subsidiaries, affiliates, or licensees on or after one year after the date of enactment of this Act unless the domestic concern is authorized to do so by a license issued pursuant to subsection (a) or is an employee or agent of a domestic concern which has been issued such a license.

SEC. . INTERNATIONAL TOBACCO CONTROL TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury an International Tobacco Control Trust Fund (referred to as the "International Trust Fund") which shall be funded by the license fees collected under section ....(b).

(b) USE OF INTERNATIONAL TRUST FUND.—Funds from the International Trust Fund shall be available for use as follows:

(1) AMERICAN CENTER ON GLOBAL HEALTH AND TOBACCO.—Annual funds of $150,000,000 may be used from the International Trust Fund for the American Center on Global Health and Tobacco as provided in appropriation Acts.

(2) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services may use the funds deposited in the International Trust Fund for grants and other forms of assistance to foreign governments, nongovernmental organizations, and international organizations to support tobacco control ac-

tivities in foreign countries as provided in appropriation Acts.

(3) ENFORCEMENT.—The Secretary may use funds deposited in the International Trust Fund for enforcement of any requirements related to the sale, distribution, marketing, or promotion of tobacco products internationally as provided in appropriation Acts.

Tob. Int'l

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

SENDER: **Sherman G. Boone** SB
PH: 202-456-9288
FAX: 202-456-9280

PAGES: **2** **DATE:** February 27, 1998

SUBJECT: **Tobacco: International Issues Meeting**

Agency	Name	Phone #	Fax #
CEA	Chad Stone	395-5086	395-6958
DPC	Tom Freedman	456-5587	456-7431
OMB	Joe Minarik	395-5873	395-1198
USTR	Jennifer Haverkamp	395-7320	395-4579
HHS	Andy Hyman	690-6318	690-7998
HHS/CDC	Michael Eriksen	770-488-5701	770-488-5767
	Michelle Larkin	205-9231	205-8313
HHS/FDA	Linda Horton	301-827-3344	301-443-6906
HHS/OPHS	Ripley Forbes	260-2255	260-1570
State/OES	Nancy Carter-Foster	647-2435	736-7336
State/EB	Terry Miller	647-3090	647-2302
State/IO	Ann Blackwood	647-1044	647-8902
USDA	Charlie Rawls	720-6158	720-5437
USDOC	Troy Cribb	482-3737	482-2331
Treasury/EP	Jon Gruber	622-0563	622-2633
Treasury/OASIA	Whit Warthin	622-1733	622-1731
	Gene Clapp	622-1261	622-2505

There will be an inter-agency working group meeting to discuss international tobacco issues on **Monday, March 2, 1998 at 2:00 p.m. in OEOB Room 180.** Attached is a copy of a synopsis of the five legislative proposals that were unveiled at the international tobacco event on the Hill yesterday. The goal of the meeting is to begin to develop Administration responses to these proposals, including alternative language where appropriate. (Copies of these legislative proposals were handed out at our January 23 meeting, updated versions would be distributed on Monday). To obtain clearance into the White House complex, please confirm your attendance (with name, birth date and social security number) via fax # 202-456-9290. Thank you.

Attachment: Press Release from February 26 event.

A Responsible U.S. Policy To Address International Tobacco Use and Promote Global Public Health

Tobacco use is a growing threat to global public health. Today, tobacco products account for three million deaths worldwide each year; by 2025, that number is expected to rise to ten million per year, with over 70 percent of tobacco-related deaths occurring in developing nations.

As the world's leading exporter of tobacco products, the United States has a moral responsibility to address the adverse impact of its products on global public health. As a part of any effort to address tobacco use, Congress should establish a responsible international health policy by enacting these five proposals:

1. **<u>End U.S. Government Support for Tobacco Abroad.</u>** The federal government should be prohibited from promoting the sale or export of tobacco or tobacco products abroad. It should also be prohibited from attempting to weaken a foreign tobacco regulation unless the regulation discriminates against U.S. products in an arbitrary and unjustifiable manner and is not a reasonable means of protecting public health.

2. **<u>Adequately Fund Global Non-governmental Tobacco Control Efforts.</u>** A private, nonprofit organization should be established to assist public health organizations in other countries through public education programs, technical assistance to health professionals, mass media campaigns, grants and other general assistance.

3. **<u>Establish a Code of Conduct for Labeling and Advertising Overseas.</u>** U.S. tobacco companies should be required to print health warning labels on tobacco products sold overseas that are as stringent as those required in the United States. U.S. tobacco companies should also be prohibited from selling, advertising or marketing tobacco products to children in other countries, with the same standards applied to their overseas conduct as at home.

4. **<u>Stop International Tobacco Smuggling.</u>** The Bureau of Alcohol, Tobacco and Firearms, which currently regulates alcohol smuggling, should be given authority to deter tobacco smuggling through, among other things, a system of export permits and increased record keeping.

5. **<u>Fund International Tobacco Control Through a Tobacco Control Fee.</u>** Every U.S. tobacco company should pay a two-cent fee for each package of cigarettes it sells overseas. The money raised through such a fee should be used for tobacco control efforts by governmental and non-governmental entities.

The United States has the opportunity to act as a world leader in promoting public health. If Congress passes any measure to confront domestic tobacco use, it must also tackle the health problems caused by the use of American tobacco products abroad. We strongly endorse these proposals to establish a responsible U.S. policy for the promotion of global public health.

Subtitle ____—Prevention of Tobacco Smuggling

SEC. ___01. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term "affiliate" means any one of 2 or more persons if 1 of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons, and any one of 2 or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(2) CIGAR.—The term "cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette or cigarillo within the meaning of paragraph (3) or (4)).

(3) CIGARETTE.—The term "cigarette" means any product which contains nicotine, is intended to be burned under ordinary conditions of use, and consists of—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(4) CIGARILLOS.—The term "cigarillos" means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (3)) and as to which 1,000 units weigh not more than 3 pounds.

(5) CIGARETTE TOBACCO.—The term "cigarette tobacco" means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by persons in a cigarette. Unless otherwise stated, the requirements of this Act pertaining to cigarettes shall also apply to cigarette tobacco.

(6) INTERSTATE OF FOREIGN COMMERCE.—The term "interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(7) LITTLE CIGAR.—The term "little cigar" means any roll of tobacco wrapped in leaf tobacco or

any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subsection (1)) and as to which 1,000 units weigh not more than 3 pounds.

(8) PERSON.—The term "person" means individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof.

(9) PIPE TOBACCO.—The term "pipe tobacco" means any loose tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as a tobacco product to be smoked in a pipe.

(10) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(11) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(12) SMOKELESS TOBACCO.—The term "smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco that contains nicotine and that is intended to be placed in the oral or nasal cavity.

(13) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigarillos, cigarette tobacco, little cigars, pipe tobacco, smokeless tobacco, and roll-your-own tobacco.

(14) UNITED STATES.—The term "United States" means the several States and Territories and the District of Columbia. The term "State" includes a Territory and the District of Columbia. The term "Territory" means Alaska, Hawaii, and Puerto Rico.

SEC. ____0~~7~~6. PROHIBITIONS.

(a) IMPORTATION AND SALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____0~~3~~7—

(1) to engage in the business of importing into the United States tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through affiliate, tobacco products so imported.

(b) MANUFACTURE AND SALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____0~~3~~7—

(1) to engage in the business of manufacturing, packaging or warehousing tobacco products; or

(2) for any person so engaged to sell, offer, or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, tobacco products so manufactured, packaged or warehoused.

(c) WHOLESALE.—It shall be unlawful, except pursuant to a permit issued by the Secretary under section ____0~~3~~7—

(1) to engage in the business of purchasing for resale at wholesale tobacco products; or

(2) for any person so engaged to receive or sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, tobacco products so purchased.

(d) NONAPPLICATION.—This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a permit under this subtitle.

(e) EFFECTIVE DATE.—The provisions of this section shall become effective on the date that is 180 days after the date of enactment of this subtitle.

SEC. ____07. TOBACCO PRODUCT PERMITS.

(a) ENTITLEMENT.—A person shall be entitled to receive a tobacco product permit if—

(1) such person submits an application for such permit to the Secretary;

(2) the Secretary determines that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has not—

(A) been convicted of a felony under Federal or State law; or

(B) during the 3-year period prior to date of the submission of such application, been convicted of a misdemeanor under any Federal law relating to a tobacco product, including the taxation thereof;

(3) the Secretary determines that such person is, by reason of the business experience, financial standing, or trade connections of the person, likely to—

~~(A) commence operations under the permit within a reasona~~ble period of time; or

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(B) maintain such operations in conformity with Federal law; and

(4) the Secretary determines that the tobacco product operations proposed to be conducted by such person under the permit are not in violation of the law of the State in which they are to be conducted.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary shall prescribe the manner and form of applications for tobacco product permits (including the facts to be set forth therein) and the form of all such permits, and shall specify in any such permit the authority that is conferred by the permit and the conditions thereof in accordance with the provisions of this subtitle.

(2) SEPARATE APPLICATION OR PERMIT.—To the extent determined necessary by the Secretary for the efficient administration of this subtitle, separate applications and permits may be required by the Secretary with respect to different types of tobacco products, and with respect to the various classes of persons entitled to permits under subsection (a).

(c) CONDITIONS.—A tobacco product permit shall be conditioned upon the compliance of the person with the requirements of this subtitle and with all other Federal laws relating to tobacco products, including taxes with respect thereto.

(d) REFUSAL OF PERMIT; HEARING.—

(1) IN GENERAL.—If upon the examination of any application for a tobacco product permit under subsection (a) the Secretary has reason to believe that the applicant does not meet the requirements of such subsection, the Secretary shall notify the applicant thereof and, upon request by the applicant, afford such applicant due notice and an opportunity for a hearing on the application.

(2) DETERMINATION.—If the Secretary, after notice and an opportunity for a hearing under paragraph (1), determines that the applicant does not meet the requirements of subsection (a), the Secretary shall by order deny the application and state the findings which are the basis for such order.

(e) REVOCATION, SUSPENSION AND ANNULMENT.—

(1) IN GENERAL.—A tobacco product permit shall by order of the Secretary, after due notice and an opportunity for a hearing to the permit holder—

(A) be revoked, or suspended for such period as the Secretary determines appropriate, if the Secretary finds that the permit holder has willfully violated any of the conditions of the permit, except that with respect to a first violation of the conditions of the permit, the Secretary may only suspend such permit;

(B) be revoked if the Secretary finds that the permit holder has not engaged in the operations authorized by the permit for a period of more than 2 years; or

(C) be annulled if the Secretary finds that the permit was procured through fraud, or misrepresentation, or concealment of a material fact.

(2) FINDINGS.—An order under paragraph (1) shall state the findings which are the basis for the order.

(f) DURATION OF PERMIT.—

(1) IN GENERAL.—A tobacco product permit shall continue in effect until suspended, revoked, or annulled as provided for in subsection (e), or voluntarily surrendered by the permit holder, except that if such permit is transferred by operation of law or if actual or legal control of the permit holder is acquired, directly or indirectly, whether by stock-ownership or in any other manner, by any person, then such permit shall be automatically terminated upon the expiration of the 30-day period beginning on the

date of such transfer or acquisition. If within such 30-day period an application for a new tobacco product permit is made by the transferee or acquiring person, respectively, then the outstanding permit shall continue in effect until such application is finally acted on by the Secretary.

(2) LIMITATION.—Except as provided in paragraph (1), a permit under this section may not be transferred.

(g) SERVICE OF ORDERS.—Orders of the Secretary with respect to the denial of a permit, the suspension, revocation or annulment of a permit, or any other proceeding, shall be served—

(1) in person by any officer or employee of the Secretary or any internal revenue or customs officer authorized by the Secretary for that purpose; or

(2) by mailing the order by registered mail, addressed to the applicant or permit holder at the last known address as contained in the records of the Secretary.

(h) APPEAL; PROCEDURE.—

(1) IN GENERAL.—An appeal may be taken by a permit holder or applicant for a permit from any order of the Secretary denying such application, or suspending, revoking, or annulling, a permit. Such

appeal shall be taken by filing, within 60 days after the date on which such order is entered, a written petition praying that the order of the Secretary be modified or set aside in whole or in part, in the court of appeals of the United States within any circuit wherein such permit holder or applicant resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia.

(2) RECORDS.— A copy of the petition under paragraph (1) shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by Secretary for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided for under section 2112 of title 28.

(3) JURISDICTION.—Upon the filing of a petition under paragraph (1), the court shall have exclusive jurisdiction to affirm, modify, or set aside the order involved, in whole or in part.

(4) GROUNDS FOR OBJECTION.—No objection to an order of the Secretary shall be considered by the court under this subsection unless such objection shall have been urged before the Secretary or unless there were reasonable grounds for failure to do so.

(5) FINDINGS OF FACT.—The finding of the Secretary as to the facts in any action under this subsection, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall demonstrate to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts by reason of the additional evidence so taken, and shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and the recommendation, if any, of the Secretary for the modification or setting aside of the original order.

(6) JUDGMENT OF COURT.—The judgment and decree of the court under this subsection affirming, modifying, or setting aside, in whole or in part, any order of the Secretary under this section shall be final, subject to review by the Supreme Court of the

United States upon certiorari or certification as provided for in sections 346 and 347 of title 28.

(7) STAY OF ORDER.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court to the contrary, operate as a stay of the Secretary's order.

(i) LIMITATION.—No proceeding for the suspension or revocation of a tobacco product permit for a violation of any condition thereof relating to compliance with Federal law shall be instituted by the Secretary more than 18 months after the date on which a conviction of the violation of Federal law, or, if no conviction has been had, more than 3 years after the date on which the violation, and no such permit shall be suspended or revoked for a violation of any such condition if the alleged violation of Federal law has been compromised by any officer of the Federal Government authorized to compromise such violation.

(j) NO DEPRIVATION OF REMEDY.—The issuance of a tobacco product permit under this section shall not operate to deprive the United States of its remedy for any violation of law.

SEC. ____0~~1~~2. TOBACCO PRODUCT LABELING REQUIREMENTS.

(a) IN GENERAL.—It shall be unlawful for any person to sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for use, any tobacco product unless such product is packaged and labeled in conformity with ~~this section.~~ all Federal Government requirements.

(b) CERTIFICATE.—

(1) IN GENERAL.—It shall be unlawful for any person to sell, offer, or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, tobacco products, except pursuant to a certificate issued by the Secretary under paragraph (2).

(2) REQUIREMENTS.—A person shall be entitled to receive a tobacco product certificate if—

(A) such person submits an application for such a certificate to the Secretary;

(B) such person has in effect a permit under section ____0~~8~~7 that applies to the tobacco products for which such person seeks a certificate under this subsection; and

(C) the Secretary determines, based on the application, that the tobacco products involved are labeled in accordance with this section.

(c) LABELING.—

(1) CHAIN OF CUSTODY STAMPS.—Not later than 1 year after the date of enactment of this subtitle, the Secretary shall promulgate regulations that require a chain of custody stamp to appear on the package of each tobacco product manufactured or distributed in the United States.

(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that each chain of custody stamp—

(A) utilize secure ~~bar code~~ technology that permits foreign and domestic governmental officials to obtain readily information as to the chain of custody of the tobacco product;

(or some other term/word to convey that the technology should enable an official to obtain the info. easily at little expense)

(B) contain information that identifies—

(i) the facility at which such tobacco product was manufactured, including the city and State in which such facility is located;

(ii) the facility which distributed the tobacco product (if any); and

(iii) the export facility or warehouse in which the tobacco product was stored (if any); ~~and~~

~~(iv) the country of final destination of the tobacco product;~~ 2

(C) be of a certain size and appear at a specific location on each package of a tobacco product; and

(D) contain any other information determines appropriate by the Secretary to establish the chain of custody of the tobacco product.

(3) see attachment

(d) ENFORCEMENT.—

(1) REVOCATION OF PERMIT.—If the Secretary determines that a person is not in compliance with the requirements of this section, or with any Federal labeling requirements, or is manufacturing or distributing tobacco products without a certificate, the Secretary shall revoke the tobacco product permit of the person under section ____0~~3~~7.

(2) REMOVAL.—In order to prevent the sale or shipment or other introduction of tobacco products in interstate or foreign commerce in violation of the requirements of this section, no person shall remove from customs custody, for sale or any other commercial purpose, tobacco products unless such person has obtained a certificate under this section covering such products.

(3) RELEASE.—In order to prevent the sale or shipment or other introduction of tobacco products

(3)(A) Every package of tobacco product intended for export shall be marked with the name of the country of final destination; and

(B) The Secretary shall promulgate regulations establishing the size of the type and the location of this mark.

in interstate or foreign commerce in violation of the requirements of this section, Officers of the Internal Revenue Service are authorized and directed to withhold the release of tobacco products from the manufacturer or distributor unless a certificate covering such products has been obtained.

(4) JURISDICTION OF COURTS.—The District Courts of the United States, and the United States court for any Territory, shall have jurisdiction of suits to enjoin, annul, or suspend in whole or in part any final action by any Federal official under this subsection.

(e) PROHIBITION ON ALTERATION.—It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any stamp or label upon a tobacco product held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law or except pursuant to regulations of the Secretary authorizing relabeling for purposes of compliance with the requirements of this section or of State law.

SEC. ____03. REQUIREMENTS FOR THE TRACKING OF TOBACCO PRODUCTS.

(a) POSTING OF BOND.—

(1) IN GENERAL.—It shall be unlawful for any person to export any tobacco product unless such person—

(A) has posted with the Secretary a tobacco product bond in accordance with this section for such product that contains a disclosure of the country to which such product will be exported; and

(B) determines that the recipient of such products in such country will not violate any law or regulation of such country with respect to such products. (C) see attachment

(2) REGULATIONS.—No later than 180 days The Secretary shall promulgate regulations that determine the amount of each bond that must be posted under paragraph (1).

(b) RETURN OF BOND.—The Secretary shall return a bond posted under subsection (a) upon a determination by the Secretary (based on documentation provided by the person who posted the bond in accordance with regulations promulgated by the Secretary) that—

(1) the tobacco products to which the bond applies have been received in the country of final destination as designated in the bond; and

(C) affirms that the recipient of such products in such country has never been convicted of any offense with respect to such products.

(2) such country of final destination is a country which appears on the approved country list under subsection (c).

(c) APPROVED COUNTRY LIST.—

(1) DETERMINATION.—The Secretary shall annually determine which countries—

(A) present a legitimate foreign market for tobacco products exported from the United States; and

(B) refrain from transshipping tobacco products exported from the United States to other countries.

(2) LIST.—The Secretary shall ~~annually~~ compile ~~an public~~ in the Federal Register a list of countries determined to be in compliance with subparagraphs (A) and (B) of paragraph (1).

at least annually,

SEC. ____0~~6~~4. PRICING and labeling OF PRODUCTS SOLD ON MILITARY INSTALLATIONS OR BY NATIVE AMERICANS.

(a) MILITARY INSTALLATIONS.—(1) The Secretary, in consultation with the Secretary of Defense, shall promulgate regulations that ensure that the price charged for a tobacco product sold on a military installation (as defined in section 2801(c)(2) of title X, United States Code) is equal to—

A (1) the highest price for which such product is sold in the country in which the military installation is located; or

(B) (2) the highest price (inclusive of Federal ~~or State~~ taxes) for which such product is sold in the United States;

whichever is greater.

(2) Packages of tobacco products sold on a military installation shall be so marked.

(b) INDIAN TRIBES.—The Secretary, in consultation with the Secretary of Interior, shall promulgate regulations that ensure that the price charged for a tobacco product sold on an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9))), or by an Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b)), is equal to the highest price (inclusive of Federal or State taxes) for which such product is otherwise sold in the United States.

Packages of tobacco products sold on an Indian reservation (as defined in section) shall be so marked

SEC. ___05. PROHIBITION AGAINST SALE OF TOBACCO PRODUCTS IN DUTY-FREE SHOPS.

(a) Is shall be unlawful for any person to sell a tobacco product in any duty-free shop located within the United States.

(b) It shall be unlawful for any person to export a tobacco product to any duty-free shop.

SEC. ___08. JURISDICTION; PENALTIES; COMPROMISE OF LIABILITY.

(a) JURISDICTION.—The District Courts of the United States, and the United States court for any Territory, of the District where the offense is committed or threatened or of which the offender is an inhabitant or has its principal place of business, are vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this subtitle.

(b) PENALTIES.—Any person violating any of the provisions of this subtitle shall be guilty of a misdemeanor and upon conviction thereof be fined not more than $1,000 for each offense.

(c) COMPROMISE OF LIABILITY.—The Secretary is authorized, with respect to any violation of this subtitle, to compromise the liability arising with respect to a violation of this subtitle—

(1) upon payment of a sum not in excess of $500 for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts; and

(2) in the case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation, that the United States may, on its own motion upon 5 days' notice

to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation.

AMENDMENT NO. ____ Calendar No. ____

Purpose: To establish the American Center on Global Health and Tobacco.

IN THE SENATE OF THE UNITED STATES—105th Cong., 2d Sess.

(no.) ________

(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 ________________

Viz:

At the appropriate place, insert the following:

SEC. ____. AMERICAN CENTER ON GLOBAL HEALTH AND TOBACCO.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Tobacco use is estimated to have caused nearly 3,000,000 deaths a year worldwide in the early 1990's, and is projected to cause in excess of 10,000,000 additional deaths a year globally by 2030, more than any single disease. More than 70 percent of those deaths are expected in developing countries.

(B) Many countries are unprepared to address increases in tobacco deaths, including the impact on health systems and health costs. While tobacco consumption in the United States and other established market economies has fallen over the last decade, consumption is rising in China, India, East Asia, and former socialist economies. Tobacco companies in the United States and elsewhere have increasingly targeted those markets.

(C) Tobacco use markedly reduces good health and threatens to erode the major health gains in life expectancy of the last century. Only HIV/AIDS infection and tobacco are large and growing causes of death and disease worldwide. The total projected deaths from tobacco over the next 10 years likely will exceed deaths from HIV/AIDS, maternal and childhood conditions, and tuberculosis combined.

(D) The United States consistently has provided leadership and funding to address the world's most pressing public health needs, including HIV/AIDS, hunger, maternal and child health, and immunization.

(E) Through exports and overseas operations, United States tobacco companies sell more cigarettes overseas than they do in the United States. Foreign sales now account for more than half of all sales for the 2 leading United States tobacco manufacturers.

(F) United States companies spend billions of dollars on aggressive tobacco marketing campaigns overseas that associate smoking with the United States, affluence, freedom, and liberation. In many markets, American companies reach youthful audiences through television and radio advertising, free samples, and other methods that are outlawed in the United States.

(G) In light of the role the United States tobacco companies have played in spreading tobacco use globally, and in light of the large financial benefits they continue to enjoy from tobacco exports, it is appropriate that this section be enacted in order to provide assistance and funding for international public education and mass media programs to inform the public about the hazards of tobacco use.

(H) Smoking in United States films is pervasive and influences persons in other countries who seek to emulate "American activities" depicted in motion pictures. According to one study, more than half of the top-grossing United States films released between 1991 and 1996 exhibited smoking. In these films, 80 percent of the male lead characters and 27 percent of the female characters smoked. The motion picture industry is painting a distorted picture that smoking is a truly American activity.

(2) PURPOSE.—The purpose of this section is to establish the American Center on Global Health and Tobacco (ACT). ACT shall assist organizations in other countries to reduce and prevent the use of tobacco. [Activities of] ACT shall [include] support—

(A) [conducting] public education programs that inform the public about the hazards of tobacco use and of environmental tobacco smoke;

(B) [engaging in] mass media campaigns, including paid counter-tobacco advertisements, to reverse the image appeal of pro-tobacco messages, especially those that glamorize and "Westernize" tobacco use to young people; and

(C) [providing] education about the economic and societal costs of tobacco use, and effective tobacco use prevention and cessation strategies that are appropriate for the country involved.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established in the District of Columbia a private, nonprofit corporation to be known as the American Center on Global Health and Tobacco (in this section referred to as "ACT"). ACT shall—

(A) not be an agency or establishment of the United States; and

(B) except as otherwise provided in this section, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.).

(2) RELATION TO UNITED STATES.—Nothing in this section shall be construed as making ACT an agency or establishment of the United States, or as making the members of the Board of ACT, or its

employees, officers or employees of the United States.

(3) USE OF GOVERNMENTAL ASSISTANCE.—ACT shall have a limited staff, and, to the maximum extent practicable, utilize the available experience and talents of existing United States organizations to carry out its mandate, including United States nongovernmental organizations with specialized international experience in health, education, media, and tobacco.

(4) GOVERNING BOARD.—ACT shall be governed by a board of up to 25 members including—

(A) on a bipartisan basis, Members of the Senate and of the House of Representatives;

(B) the heads of American public health organizations;

(C) the heads of American media, marketing, and other nongovernment institutions and corporations; and

(D) individuals active in education, public health, and other relevant activities.

(5) INTERNATIONAL ADVISORY COUNCIL.—An International Advisory Council consisting of representatives from key global, regional, and national public health organizations, and leading individual

educators and health professionals shall provide advisory assistance to ACT.

(c) FUNDING.—

(1) DEFINITION OF TRUST FUND.—In this section, the term "Trust Fund" means the National Tobacco Settlement Trust Fund established in the Treasury of the United States and consisting of amounts that are appropriated or accredited to the Trust Fund from a tobacco settlement approved by Congress.

(2) ESTABLISHMENT OF GLOBAL PUBLIC HEALTH AND EDUCATION RESOURCE ACCOUNT.—There is established within the Trust Fund the Global Public Health and Education Resource Account that shall be accredited with $150,000,000 for each fiscal year.

(3) [TERMINATION OF] TRANSFER AUTHORITY.—The Secretary of the Treasury shall on October 1 of each fiscal year beginning after the date of enactment of this section, transfer $150,000,000 from the Global Public Health and Education Resource Account of the Trust Fund to the account of ACT to carry out the activities authorized under this section.

(4) TERMINATION OF TRANSFER AUTHORITY.—The authority of the Secretary of the Treasury to

transfer funds from the Trust Fund shall expire with the expiration of the Trust Fund.

(d) REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL TRANSFERS FROM THE TRUST FUND.—

(1) OVERSIGHT.—ACT and its grantees shall be subject to the oversight and supervision of Congress, and shall annually submit a report of its activities to Congress in accordance with paragraph (5)(A)(iii).

(2) COMPLIANCE.—

(A) FUNDING CONTINGENT ON COMPLIANCE.—Annual payments from the Trust Fund may be made to ACT under this section only if ACT complies with the requirements specified in this section.

(B) USE OF FUNDS.—ACT may only fund programs for private sector groups, and may not carry out programs directly. ACT may provide funding only for programs which are consistent with the purposes of this section.

(3) SALARIES AND COMPENSATION.—

(A) NO OTHER SOURCE OF COMPENSATION.—Officers and employees of ACT may not receive any salary or other compensation from any source other than ACT for services performed for ACT.

(B) UNITED STATES OFFICERS AND EMPLOYEES.—An individual who is an officer or employee of the United States who also serves on the Board of Directors or as an officer or employee of ACT, may not receive any compensation or travel expenses in connection with services performed for ACT.

(4) STOCKS AND DIVIDENDS.—ACT shall not issue any shares of stock or declare or pay any dividends.

(5) AUDITS.—

(A) INDEPENDENT PUBLIC ACCOUNTANTS.—

(i) IN GENERAL.—The accounts of ACT shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of ACT are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by ACT and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) CONTENT OF AUDIT.—The report of each audit conducted under clause (i) shall be included in the annual report required under this subsection. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly ACT's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of ACT during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(iii) REPORT.—Not later than December 31 of each year, ACT shall submit an annual report for the preceding fiscal year to the President for transmittal to Congress. The report shall include a comprehensive and detailed report of ACT's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as ACT deems appropriate.

(B) COMPTROLLER GENERAL.—

(i) IN GENERAL.—The financial transactions of ACT for each fiscal year may be audited by the Comptroller General in accordance with such principles and procedures and under such rules and regulations as the Comptroller General may prescribe. Any such audit shall be conducted at the place or places where accounts of ACT are normally kept. The Comptroller General shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by ACT pertaining to its financial transactions and necessary to facilitate the audit. All books, accounts, records, reports, files, papers, and property of ACT shall remain in the possession and custody of ACT.

(ii) REPORT.—A report of each audit shall be made by the Comptroller General to Congress. A copy of each report shall be furnished to the President and to ACT at the time the report is submitted to Congress.

(6) RECORDKEEPING.—

(A) IN GENERAL.—ACT shall ensure that each recipient of assistance from ACT under this section keeps such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) ACCESS.—ACT shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each recipient of assistance from ACT that are pertinent to assistance provided through ACT under this section.