Explicit to be sent to posts

State Commerce HHS

COB - Wednesday

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

General Policy — conforms to all policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the importance of health measures internationally, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to improve the health of their citizens.

Tobacco sits squarely at the intersection between trade and health policies. In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco products. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998, which stipulates that, "none of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type." The U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. On the other hand, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

prior

State Commerce USTR USDA HHS

explicit

Guidelines

Congress language

in now law

Posts should be aware of U.S. trade policy on tobacco as jointly enunciated by USTR and HHS. The following guidelines ensure consistency with that policy and Section 618 of the Act cited above, as well as the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for consideration by trade, health and other appropriate agencies.

3. Posts should not promote the sale or export of tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products where their attendance could be construed as United States Government support for the sale or export of tobacco products.

makes explicit Ambassador can't go. currently their discretion

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems--such as customs or port clearance, trademark violations, or phytosanitary restrictions--that are potentially discriminatory.

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, 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, 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 does not protect human 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.

tobacco - Int'l

2. THE WORKING GROUP CITED ABOVE WILL CONTINUE ITS WORK ON TOBACCO RELATED ISSUES AS APPROPRIATE, AND IN THIS LIGHT THE GUIDELINES MAY EVOLVE IN ORDER TO REFLECT POLICY DEVELOPMENTS. POSTS SHOULD REFER TO WASHINGTON ISSUES THAT ARISE THAT ARE NOT COVERED IN THE CURRENT GUIDANCE OR THAT REQUIRE FURTHER ELABORATION. THESE CABLES SHOULD BE SLUGGED FOR EB/TPP/ATT/ATP, OES/E/EID, AND DEPARTMENT PASS TO USTR/ENV, HHS, CENTERS FOR DISEASE CONTROL AND PREVENTION, COMMERCE, USDA AND TREASURY.

3. BEGIN GUIDANCE

GENERAL POLICY

THE OPENING OF INTERNATIONAL MARKETS TO U.S. PRODUCTS, NON-DISCRIMINATORY TREATMENT FOR U.S. EXPORTERS, AND REMOVAL OF BARRIERS TO INTERNATIONAL TRADE ARE HIGH PRIORITIES OF THE U.S. GOVERNMENT AND THE CLINTON ADMINISTRATION. AT THE SAME TIME, THE U.S. RESPECTS THE RIGHTS OF FOREIGN GOVERNMENTS TO ESTABLISH AND MAINTAIN SOUND PUBLIC HEALTH PRACTICES, ENCOURAGES THEM TO DO SO, AND, WHERE APPROPRIATE, MAY SUPPORT SUCH EFFORTS WITH MULTILATERAL AND BILATERAL ASSISTANCE. GIVEN THAT TOBACCO USE WILL BE THE LEADING GLOBAL CAUSE OF PREMATURE DEATH AND PREVENTABLE ILLNESS IN THE 21ST CENTURY, THERE IS A NEED TO DISTINGUISH BETWEEN PROTECTIONIST POLICIES AND LEGITIMATE HEALTH-BASED ACTIONS, SO AS NOT TO UNDERMINE OTHER COUNTRIES' EFFORTS TO REDUCE THE CONSUMPTION OF TOBACCO AND TOBACCO PRODUCTS AND IMPROVE THE HEALTH OF THEIR CITIZENS.

IN LIGHT OF THE SERIOUS HEALTH CONSEQUENCES OF TOBACCO USE, THE U.S. GOVERNMENT WILL NOT PROMOTE THE SALE OR EXPORT OF TOBACCO OR TOBACCO PRODUCTS OR SEEK THE REDUCTION OR REMOVAL BY ANY FOREIGN COUNTRY OF NON-DISCRIMINATORY RESTRICTIONS ON THE MARKETING OF TOBACCO OR TOBACCO PRODUCTS. AT THE SAME TIME, THE U.S. GOVERNMENT WILL CONTINUE TO SEEK ELIMINATION OF DISCRIMINATORY TRADE PRACTICES AND WILL STRIVE TO ENSURE THAT U.S. FIRMS ARE ACCORDED THE SAME TREATMENT IN FOREIGN COUNTRIES AS THAT COUNTRY'S OWN FIRMS AND FIRMS FROM OTHER COUNTRIES.

THE OVERALL OBJECTIVE OF THIS POLICY IS TO ENSURE EQUAL ACCESS TO A SHRINKING GLOBAL MARKET FOR TOBACCO. THIS POLICY ALSO CONFORMS TO THE PROVISIONS OF SECTION 618 OF THE ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR FY 1998.

GUIDELINES

THE FOLLOWING GUIDELINES ARE CONSISTENT WITH THE ADMINISTRATION'S OVERALL APPROACH TO REDUCING THE NEGATIVE HEALTH IMPACT OF TOBACCO WHILE PROTECTING THE RIGHTS OF AMERICANS OVERSEAS:

(1) POSTS ARE ENCOURAGED TO ASSIST AND PROMOTE TOBACCO-CONTROL EFFORTS IN HOST COUNTRIES.

(2) POSTS SHOULD NOT CHALLENGE HOST COUNTRY LAWS AND REGULATIONS BASED ON SOUND PUBLIC HEALTH PRINCIPLES, APPLIED IN A NONDISCRIMINATORY MANNER TO BOTH IMPORTED AND DOMESTIC TOBACCO AND TOBACCO PRODUCTS, AND FOR WHICH SUFFICIENT NOTICE HAS BEEN GIVEN. IF A POST HAS REASON TO BELIEVE THAT SUCH REGULATIONS MAY, IN FACT, DISCRIMINATE AGAINST U.S. FIRMS OR INDIVIDUALS, THE ISSUE SHOULD BE REFERRED TO WASHINGTON FOR CONSIDERATION BY TRADE, HEALTH AND OTHER APPROPRIATE AGENCIES.

(3) POSTS SHOULD NOT PROMOTE THE SALE OR EXPORT OF TOBACCO AND TOBACCO PRODUCTS, AND SHOULD NOT ASSIST THE EFFORTS OF U.S. FIRMS OR INDIVIDUALS TO DO SO. AMBASSADORS OR EMBASSY STAFF SHOULD NOT ATTEND OR OTHERWISE SUPPORT RECEPTIONS, TRADE PROMOTIONS, OR ANY EVENTS SPONSORED BY INDIVIDUALS OR ENTITIES INVOLVED IN THE EXPORT, MANUFACTURE, PROMOTION, DISTRIBUTION OR SALE OF TOBACCO OR TOBACCO PRODUCTS WHERE THEIR ATTENDANCE COULD BE CONSTRUED AS UNITED STATES GOVERNMENT SUPPORT FOR THE SALE OR EXPORT OF TOBACCO AND TOBACCO PRODUCTS.

(4) POSTS SHOULD CONTINUE TO PROVIDE ROUTINE BUSINESS FACILITATION SERVICES TO ALL U.S. CITIZENS OR FIRMS SUCH AS THE PROVISION OF PUBLICLY AVAILABLE INFORMATION ON FOREIGN COUNTRY CONDITIONS AND POLICIES, INFORMATION OR ASSISTANCE THAT MAY HELP U.S. FIRMS OR INDIVIDUALS COMPLY WITH FOREIGN GOVERNMENT LAWS OR REGULATIONS, AND ASSISTANCE IN RESOLVING BUSINESS PROBLEMS--SUCH AS CUSTOMS OR PORT CLEARANCE, TRADEMARK VIOLATIONS, OR PHYTOSANITARY RESTRICTIONS--THAT ARE POTENTIALLY DISCRIMINATORY.

END GUIDANCE

4. TEXT OF SECTION 618

BEGIN TEXT

NONE OF THE FUNDS PROVIDED BY THIS ACT SHALL BE AVAILABLE TO PROMOTE THE SALE OR EXPORT OF TOBACCO OR TOBACCO PRODUCTS, OR TO SEEK THE REDUCTION OR REMOVAL BY ANY FOREIGN COUNTRY OF RESTRICTIONS ON THE MARKETING OF TOBACCO OR TOBACCO PRODUCTS, EXCEPT FOR RESTRICTIONS WHICH ARE NOT APPLIED EQUALLY TO ALL TOBACCO OR TOBACCO PRODUCTS OF THE SAME TYPE.

END TEXT.

YY

E:HMOORE OES/E/EID:NCARTER-FOSTER H:JWILSON
L/EB:KLOKEN SA/RA:KLARSON
Y

Office of Agricultural Trade Policy
Bureau of Economic and Business Affairs
United States Department of State
Washington, D.C. 20520

FAX TRANSMITTAL

Page 1 of ______

TO: Name	Office	Telephone	Fax
Sherman Boone	NEC		456-9290
Michelle Zhou	NEC		456-2223
Les Simon	Commerce		482-3981
Jennifer Haverkamp	USTR		395-4579

FROM: **Paul Aceto**
Telephone: (202) 647-1647
Fax: (202) 647-1894

DATE: 2-12-98

SUBJECT: HHS Comments

___ As Requested x For Comment/Clearance by ________

___ As Discussed ___ For Your Information

Message:

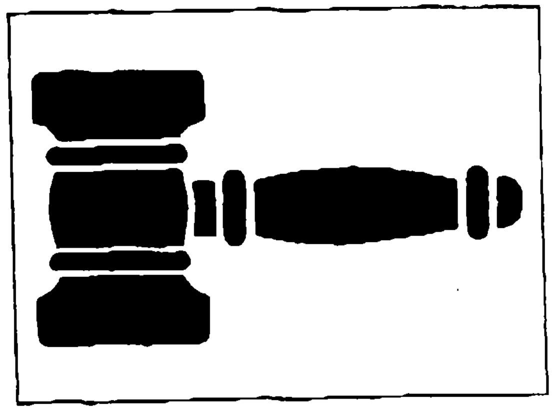
I've taken all of HHS' suggestions except for #3. Did we want specific reference to the Clinton Admin. in the guidance?

I'm attaching the latest version, with HHS' other changes.

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL

PHONE: (202) 690-6318
FAX: (202) 690-7998

DATE: February 12, 1998



TO: PAUL ACETO
fax: 647-1894

FROM: ANDREW D. HYMAN
Special Assistant to the General Counsel
Office of the General Counsel, Room 707F
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20201

COMMENTS: HHS clears the cable with the following edits.

1. In 3 places (on page 3) we refer to "tobacco products" but not "tobacco." We should be consistent throughout and say "tobacco and tobacco products". See edits on attachment.

2. In two places (p.1, graph 1, and p.2, graph 1) "Centers for Disease Control" should be "Centers for Disease Control <u>and Prevention</u>".

3. Page 2, graph 2, sentence 1: delete "and the Clinton Administration."

4. Page 1, paragraph 1, sentence 3-- change to: "The guidance *[not "guidelines"]* reflects USTR's and HHS' policy with respect to tobacco trade." Otherwise, we think it's good to go (particularly w/USTR's edits made yesterday).

5. Page 2, paragraph 1, sentence 2, after "refer to Washington issues" -- though not critical, I suggest changing "which" to "that".

Otherwise, it's good to go. Thanks.

2 pages

INITIALS		
APPR:	SEI	...
DRAFT:	PAC	...
CLR 1:	DMA	...
CLR 2:	JMC	...
CLR 3:	LSI	...
CLR 4:	SBO	...
CLR 5:	FCO	...
CLR 6:	AHY	...
CLR 7:	WWH	...
CLR 8:	KHA	...
CLR 9:	JRO	...
CLR10:	DCL	...
CLR11:	TWI	...
CLR12:	KLA	...

UNCLASSIFIED

EB/ATT/ATT/ATP:PACETO:PVA
02/12/98 647-1647
E:SEIZENSTAT

EB/TPP:DMARCHICK USTR:JMCALPINE DOC:LSIMON
NEC:SBOONE USDA:FCOOLIDGE HHS:AHYMAN TREAS:WWHARTIN
EUR/ERA:KHADDA EAP/EP:JROGERS ARA/EPSC:DCLIMAN
NEA/PPR:TWILDER S/S-O: S/S: AF/EPS:AVERDUN +

ROUTINE ALDAC

E.O. 12958: N/A

TAGS: ETRD, AMGT, ODIP, BEXP, BMGT

SUBJECT: TOBACCO: GUIDANCE FOR U.S. DIPLOMATIC POSTS ON HEALTH, TRADE AND COMMERCIAL ISSUES

1. THIS CABLE CONTAINS GUIDANCE FOR OVERSEAS POSTS ON HEALTH, TRADE AND COMMERCIAL ISSUES RELATED TO TOBACCO. THE GUIDANCE WAS DEVELOPED BY AN INTER-AGENCY WORKING GROUP LED BY THE NATIONAL ECONOMIC COUNCIL AND INCLUDING REPRESENTATIVES FROM THE STATE DEPARTMENT, THE COMMERCE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE, THE OFFICE OF THE U.S. TRADE REPRESENTATIVE, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (INCLUDING THE FOOD AND DRUG ADMINISTRATION AND THE CENTERS FOR DISEASE CONTROL AND PREVENTION), AND THE TREASURY DEPARTMENT. THE GROUP WAS FORMED TO EXAMINE THE INTERNATIONAL IMPLICATIONS RELATED TO THE PROPOSED SETTLEMENT WITH TOBACCO COMPANIES. THE GUIDANCE THAT WERE DEVELOPED IN MANY RESPECTS REFLECT LONG-STANDING POLICY AS ENUNCIATED BY USTR AND HHS. THEY ALSO CONFORM TO NEW REQUIREMENTS IN THE FY 1998 COMMERCE/STATE/JUSTICE APPROPRIATIONS ACT (SEE PARA 4 FOR FULL TEXT OF THIS PROVISION).

MEMORANDUM

TO: TOM FREEDMAN, MARY L. SMITH

FROM: DREW HANSEN

RE: NATIONAL CENTER FOR TOBACCO-FREE KIDS MATERIAL

DATE: JULY 10, 1997

SUMMARY

The material from Scott D. Ballin of the National Center for Tobacco-Free Kids includes background material and recommendations for 1.) establishing an International Center for Tobacco Prevention and Control, 2.) Assisting farms in converting from tobacco and other crops, and 3.) industry publication articles on international sources for tobacco leaf.

INTERNATIONAL ISSUES

Problem: The US tobacco industry wants a tobacco deal at least in part to enable them to continue to expand their operations worldwide. But there are as yet no effective international controls on tobacco.

Proposed Solution: US tobacco companies should set aside $50 million per year for two years to create a non-governmental entity called the "International Center for Tobacco Prevention and Control." This body would be composed of persons appointed by international public health advocates such as the Union of International Cancer Control. It would be responsible for the international prevention and control of tobacco, through measures such as creating an international tobacco control database and forming coalitions among national tobacco control groups.

US TOBACCO FARMERS CONVERSION PLAN

Problem: Despite a long-term decline in the domestic tobacco market, many farmers are "dependent" on tobacco and could be hurt by the proposed settlement.

Proposed Solution: Assist tobacco growers in a long-term effort to switch from tobacco to other crops.

a. A blue-ribbon panel, composed of members with expertise in small business, agricultural economics, venture capital, sustainable agriculture, and members of the farming, public health, and governmental communities, should be created to study plans for diversification and issue recommendations.

(1) domestic ads / [illegible]
(2)
(3)
[illegible] questions
gen'l task force
time - 5-10 yrs
options - [illegible]
cost - goal?
interesting idea
tobacco ad [illegible] in [illegible]
[illegible]
150,000K

b. Tobacco companies should fund an "economic assistance and development fund" to assist tobacco farmers in implementing pilot diversification programs.

c. The federal government should end its support and involvement for programs that relate to the maintenance and expansion of tobacco production. Funds could be redirected to programs (a) and (b) above.

ARTICLES

A collection of articles demonstrating that the tobacco industry itself is already moving tobacco production overseas.

CAMPAIGN for TOBACCO-FREE Kids

July 9, 1997

BY MESSENGER

TO: Elizabeth Drye
Chief of Staff
Domestic Policy Council

FROM: Scott D. Ballin
Senior Policy Consultant

SUBJECT: TOBACCO SETTLEMENT ----**Tobacco Farmers and International Issues**

I wanted to first introduce myself and second, provide you with some background materials and recommendations for your consideration as the White House moves forward with its review of the tobacco settlement.

I have for the last fifteen years served as the VP for Public Affairs and Legislative Counsel of the American Heart Association and just recently have left the AHA to do some consulting for the Campaign for Tobacco Free Kids, focusing particular attention on the tobacco farming issue. I also served on the Steering Committee (as well as Chairman) of the Coalition on Smoking OR Health (AHA,ACS,ALA) and had a major hand in petitioning and pushing for FDA regulation of tobacco products.

I wanted to provide some background materials for your use and consideration on two areas- the tobacco farming issue, as well as the international issue.

1. **Tobacco Farmers:** The public health community has been working to develop an ongoing honest and open dialogue with the farming groups to see if there are areas of common interest. It is our position that the tobacco farmers are in many ways "tobacco dependent" just as smokers in this country are addicted to nicotine. We have indicated to them that we are not out to disrupt their economic livelihood but that we do and will support efforts that will hopefully wean them off of the production of tobacco. We regard this as a five to ten year effort at a minimum and we have recommended that a National Commission on the Future Growth and Production of Tobacco be established to seriously look at a wide spectrum of issues

surrounding tobacco farming and to make recommendations to Congress and the Administration on how things can be altered. We did talk with Secretary Glickman about this last fall and have talk with the Vice President's office as well. Many on the public health side as well as on the tobacco growing side support this as a meaningful way of looking at the future of the tobacco growing communities. We have also made it clear to the farmers (as well as to the public) that we are not out to "kill" the tobacco program and will support its continuation (at least on the short term)in that it can provide stability for them but that options and alternatives away from tobacco must be considered. But in order to do it there must be a careful review of both the domestic as well as the international situation, and that we believe the farmers and their communities must actively participate in this process. Attached you will find a copy of a backgrounder I and Rich Hamburg with the AHA have written and which was used as part of the Koop/Kessler Advisory Committee assessment. I have also enclosed a copy of draft legislation (not yet introduced) that would establish the National Commission. This could obviously also be turned into an Executive Order. The establishment of the National Commission is one of the recommendations that will be contained in the Koop/Kessler recommendations (due out July 9).

2. **International Tobacco Control:** There's has been a great deal of concern about what the settlement might mean to public health on an international level. There's also been a great of discussion about what actually can be. What in my mind is most critical to the future of protecting global public health is creating a structure and organization that can operate at the international level. No such structure presently exists, although there is unanimous agreement that in order to effectively take on the tobacco companies on an international scale there must be an international organization. What I propose for your consideration is the establishment of an international Center funded by the tobacco companies as part of any settlement. This Center would operate independently and be governed by a board composed of representatives from the international health and consumer organizations. (i.e. the international counterparts to the American Heart Association, American Cancer Society, American Lung Association, etc.) This Center would for the first time give the international health community the tools and the power to take on the tobacco industry on a global level. I have enclosed a copy of the proposal for your consideration and use.

Interestingly enough these two issues are tied together in that what the US companies and US tobacco leaf dealers are doing overseas are not only impacting on international public health but the US tobacco farmer as well.

There is no "ownership" of these suggestions so please feel free to use them in any way you wish. And please call me if I can be of any assistance. You can contact me at the Campaign or at my personal business number **202 686-8898.**

Combating the International Tobacco Health Epidemic Into the 21st Century

A Proposal for Incorporation Into the Tobacco Settlement

July 1997

Scott D. Ballin , JD

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

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

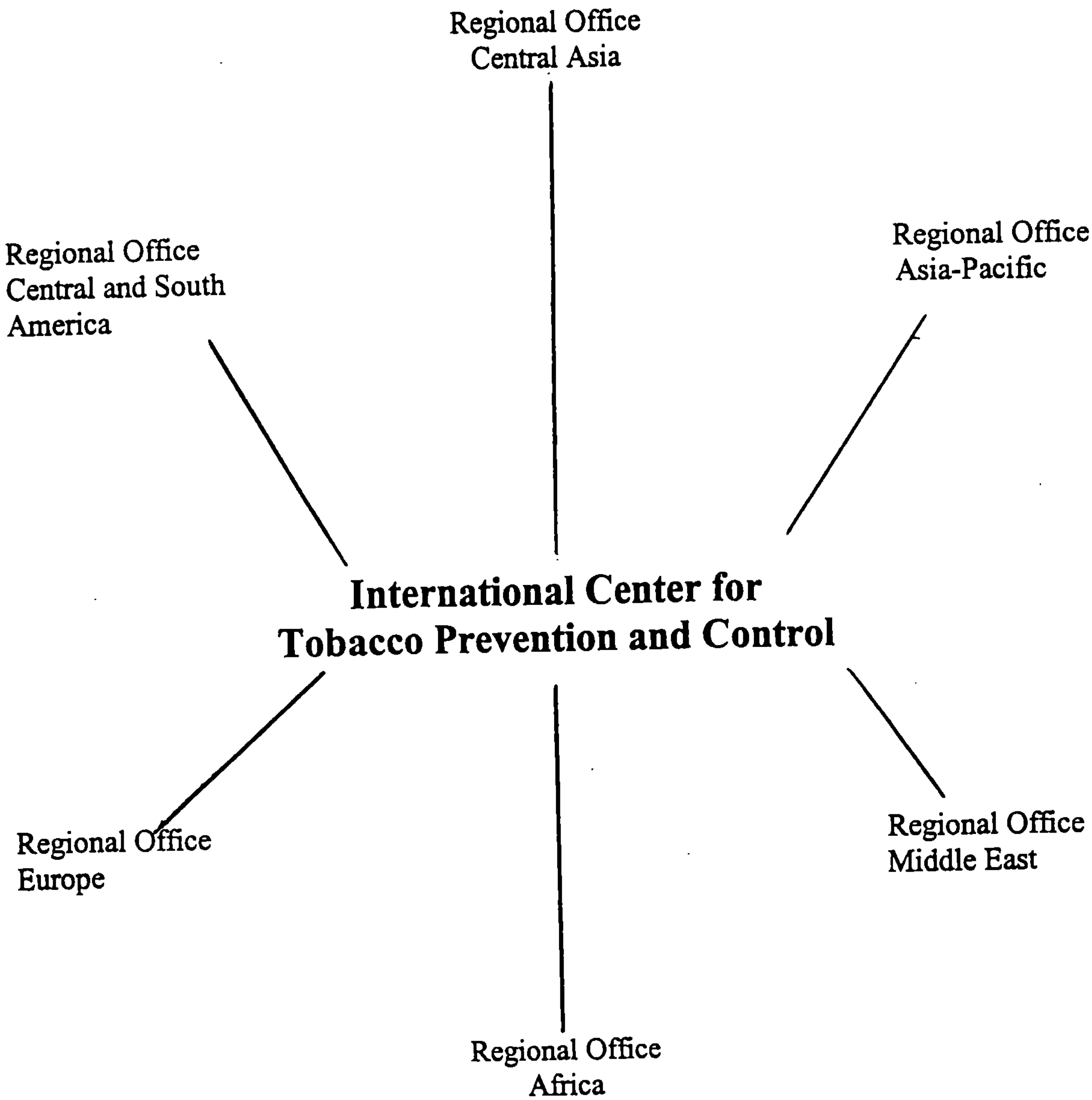
Except for some proposals that suggest that a set amount of money be made available to the World Health Organization and or for media campaigns, no substantive proposals have come forward for incorporation into the settlement that would effectively deal with the international concerns associated with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

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

This proposal would as part of the tobacco settlement require that US companies set aside $ 50 million annually for a period of twenty (20) years to be used for the establishment and operation of an non-governmental (NGO) International Center for Tobacco Prevention and Control. Such a Center would be overseen and governed by a Board made up of qualified representatives of the international health organizations in cancer, cardiology, lung disease, public health, and medicine as well as representative from international consumer organizations. The Center would be charged with establishing an international tobacco control agenda, with both short term and long goals and strategic plans.

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

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


Regional Office
Central Asia
Regional Office
Central and South
America
Regional Office
Asia-Pacific
International Center for
Tobacco Prevention and Control
Regional Office
Europe
Regional Office
Middle East
Regional Office
Africa

International Center for Tobacco Prevention and Control

(Legislative Outline)

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

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

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

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

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

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

Sec. 2 Purpose and Duties of Center

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

1) developing and maintaining an international tobacco control data base for use by public health organizations, legal experts and policy makers interested and dedicated to reducing tobacco use.

2) developing and implementing an effective international communications network that links international health organizations, tobacco control advocates and others dedicated to reducing tobacco use.

3) providing guidance, counsel and training related to enactment of public policy laws and regulations in both countries as well as in international bodies for the purpose of reducing the consumption and use of tobacco products.

4) developing a board based coalition of organizations interested in reducing tobacco use world wide as well as providing guidance, training and assistance to countries in developing similar coalitions.

5) providing grants in assistance to both regional as well as national entities working to reduce tobacco use.

b) Except as required by this act the Center shall operate as an independent entity with policy and operational authorities determined by the Board.

Sec. 3 Regional Center Offices

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

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

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

Sec. 4. Funding

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

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

CURTAILING TOBACCO PRODUCTION AND USE
New Approaches for Reducing America's Dependence on Tobacco in the 21st Century

Scott D. Ballin JD
Richard Hamburg

Except for efforts made in recent years, and following some ground breaking efforts by President Jimmy Carter and the Carter Center in 1985, the public health community has all but ignored the tobacco farmer and the difficult situation that many of the tobacco farmers have found themselves in. The public health community has to a large extent viewed the farmers as part of the tobacco "family" carrying out the political agenda of the tobacco companies. Although the farmers have often defended the industry and the production and marketing of tobacco, their motivations, their beliefs, and reasons are in many cases significantly different than those of the tobacco companies.

Over the years the economic stability of the tobacco farmer has continued to decline while the tobacco companies have continued to flourish both domestically and internationally. There is no reason to believe that this scenario will change in the future, although the tobacco companies can be expected to continue to provide economic incentives to the growers to keep them allied with the companies interests. Several examples support this conclusion of a continuing long term decline in spite of tobacco company efforts to assure the farmers of economic stability. In 1969, US manufactured cigarettes contained 90% American grown tobacco. By the 1990's, that figure has dropped to barely 60%. The number of US tobacco farms have also dropped dramatically, from 512,000 in 1954 to 124,000 in 1992. And the contribution that tobacco makes to the various tobacco producing states, though while significant, has also been dropping. In North Carolina for example, tobacco's contribution to the economy has dropped from 11.3 % in 1960 to 7.8 % in 1993.

Farmers and tobacco allotment holders are increasingly aware of these realities. A 1997 survey of tobacco growers and tobacco allotment owners conducted by the Bowman Gray School of Medicine in North Carolina and the Center for Sustainable Systems in Berea, Kentucky found that over 70 % of the respondents have taken steps to learn about on-farm alternatives to tobacco. Fully 66 % have discovered that on-farm alternatives can be profitable. But the survey also noted important barriers. Between 64 % and 79 % of those surveyed said that few processing plants connecting farmers to consumers, lack of capital for new business ventures, no places to sell new products, and few low-interest loans or grants for new business ventures were just some of the barriers to change.

And finally, the poll indicated that 66% of those surveyed believed that the federal government should actively help farmers find other ways of making a living.

Serious efforts to reduce the use and consumption of tobacco products in the United States must address the issue of the tobacco farmers, their families and the economic viability of their communities. Not unlike many smokers who know the dangers of tobacco but got seduced and "hooked" on the product and cannot quit, the American tobacco farmer and the economic infrastructures of tobacco states are and have been for a long time " tobacco dependent". They are a part of the deeply imbedded economic and political system that the tobacco companies have established and maintained to protect the companies' interests. In many of these communities tobacco is a way of life, often the only way of life, going back generations. As organizations concerned about public health and the general well being of our society we must be willing to recognize and accept our responsibilities in helping to reduce this dependence as part of our overall efforts to reduce tobacco use as a public health matter. The public health community, religious organizations and other civic organizations need to work cooperatively and collaboratively to effect positive change.

It is not enough to suggest that tobacco farmers merely transition to an alternative crop. There are complex issues that must be assessed before any short term or long term strategies are implemented, taking into account both domestic as well as international considerations. Tobacco production, size of plots, type of land, and product, varies significantly from state to state. The public health community's role should be to provide the necessary vision and leadership and to serve as a catalyst for effecting the necessary short term and long term change that must occur in order us to be successful in helping wean the tobacco farmer and their communities off their tobacco dependence. We must make the tobacco farmer, his family and his community a part of the "solution" not the problem. A significant side benefit in establishing a short term and long term plan to deal with these issues is that politically, the power of the tobacco companies can be significantly reduced, and that policy decisions could therefore be made that benefit public health and the tobacco growers rather than the tobacco industry. Tobacco state politicians and policy makers who have often carried out the agenda of the tobacco companies under the pretense of protecting their tobacco farming constituencies have in some ways done more harm than good in maintaining the "status quo". They also should begin to provide new visionary thinking and leadership for effecting change.

In discussions and dialogues with farmers, organizations representing the interests of the tobacco farmer as well as public health groups in the primary tobacco growing states, there is a cautious optimism that there can be productive solutions that seek to reduce tobacco use in this country as a major public health problem while at the same time working to ensure the economic viability and vitality of those states and those communities. But it must be stressed that finding the various options and implementing them will take time.

Intrinsically tied to the future fate of the tobacco farmer is what happens not only in the domestic growing arena but in the international growing, manufacturing and marketing arena as well. It is clear that agricultural production and marketing of tobacco is increasing world wide and that the quality of the crop in foreign countries is increasingly comparable to the quality of US product -- often the result of US companies and leaf dealer technological assistance. American tobacco companies and leaf dealers are increasingly doing business in those countries including buying and importing foreign leaf into the United States, and pumping up the economies and dependency of those countries through intensifying investments. It makes good business sense for the companies but represents a serious threat to the health of the rest of the world as well as to the US tobacco farmer. The high priority and attention that such companies as Philip Morris and RJ Reynolds are giving to the expansion of their international headquarters and operations out of Switzerland attests to their long term motives and plans. While the industry continues to provide the

US farmers "incentives" and "assurances" for staying in the business and remaining loyal to the tobacco companies it is clear that such commitments from the companies are transitory and can easily be abandoned or curtailed. We have a chance to change the "status quo" in a positive visionary way.

Whether or not there is an agreement or settlement with the tobacco companies, the public health community must now be willing to provide the leadership at the national, state and local level to assist in reshaping the agricultural systems and structures in the tobacco growing states. The tobacco farmers are not looking for handouts but looking for assistance and opportunities to make changes. This effort should be viewed as a five to ten year initiative and commitment.

The public health community, religious organizations, and other civic organizations should insist and support the following (either as part of any settlement or not):

A) The establishment of a high level blue ribbon panel either appointed as an Executive Order or mandated through legislation. Such a panel should have as its mandate a thorough review of the domestic and international tobacco growing, manufacturing and marketing operations and trends of the US tobacco companies and US leaf dealers; a review of the current tobacco program as administered by the Department of Agriculture; and a thorough review and understanding of the economies of the tobacco growing states and their communities, including issues related to sustainable agriculture and land protection. The panel would be required to conduct extensive field hearings to ensure extensive involvement of the tobacco growing communities in the process. The panel would be required to report back to the Congress, the President and the Governors of the tobacco growing states with specific recommendations for short term and long term strategies for reducing the tobacco growing states and communities dependence on tobacco, including funding recommendations for providing short term and long term economic development assistance.

B) The establishment of an "economic assistance and development fund" funded by the tobacco companies and administered by the tobacco growing groups that in the short term assists tobacco farmers and their communities to implement model and pilot projects and programs for supplementing the production of tobacco with other on-farm activities as well as other means of reducing the growing of tobacco. These pilot projects could provide critical information and recommendations to the task force established under (A) above. The fund could then be used to implement some of the longer term objectives and recommendations made by the blue ribbon panel established under (A).

C) Elimination of the federal government's economic involvement and support for programs and projects that relate to maintenance and expansion of tobacco production. Funds presently being expended to maintain and support the programs and activities could at least for the short term be allocated for funding the aforementioned blue ribbon panel as well as funding pilot projects and programs for economic development, creation of alternative economic infrastructures and agricultural supplementation and diversification.

DRAFT DRAFT DRAFT DRAFT

H.R.

In the House of Representatives

A Bill

A bill to establish a national Commission on the Future Growth and Production of Tobacco in America, to assess and make recommendations on the future alternatives to tobacco growing and production in the United States and for other purposes.

Short title: This Act may be cited as the, "The Tobacco Farmer Families and Communities Future Economic Viability and Stabilization Act of 1997"

Findings: The Congress finds that -

a) the use of tobacco products are a major cause of cancer, heart disease, emphysema, stroke, chronic obstructive lung disease and other conditions and that new efforts must take place to reduce the disease and death caused by tobacco use, including the use of such products in tobacco growing states.
b) the role of American-grown tobacco in the world markets has greatly diminished.
c) the amount that the US tobacco farmer earns per package of cigarettes was about 3 cents to the dollar in 1991 as opposed to 16 cents in 1957.
d) the tobacco companies have increasingly moved their growing and production operations overseas.
e) new economic alternatives are needed to be provided to tobacco growing regions and communities that will offer the opportunity for those farmers wanting to transition out of the tobacco growing business to do so
f) public attitude surveys of tobacco farmers, particularly farmers under the age of 45 have shown that approximately 67% of such farmers have expressed a strong interest in trying other on-farm ventures to supplement or replace tobacco.
g) public attitude surveys of tobacco farmers have also shown that while willing to look at supplementing or replacing tobacco they are concerned about lack of processing facilities for other crops as well lack of capital and loan interest loans.

h) a 1994 Lexington Herald Leader poll showed that 75% of tobacco farmers polled would be interested in alternatives to growing tobacco.
i) emerging technologies offer new opportunities to diversify the nation's agricultural base and to seek other uses for tobacco,
j) New opportunities and options should be considered both in the short term as well as long term that will provide tobacco farmers and their families with stable economic alternatives to the production of tobacco.

Section 1. The Secretary of Agriculture shall establish a national Commission on the Future of Tobacco Production and Growth in the United States (hereinafter referred to as the "Commission").

Section 2. Members of the Commission

a) (1) The Secretary shall appoint twelve persons to serve as members of the Commission. Such members of the Commission shall include:

1) two members representing the interests of the flue-cured and burley growers
2) a member with expertise in agricultural economics
3) a member with expertise in small business
4) a member with expertise in issue related to sustainable agriculture
5) a member with expertise in venture capital
6) a member who has developed or implemented a diversification program
7) a member who represents the interests of the public health community
8) two members representing state and local governments where tobacco is produced.

9) two additional members deemed by the Secretary to be qualified to provide the necessary expertise in assisting the Commission in carrying out its responsibilities.

(2) Appointment of Chairman---The Secretary shall appoint the Chairman of the Commission

(3) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Agriculture, the Secretary of Department of Health and Human Services shall appoint a designee to provide liaison with the Commission.

(4) Meetings - Seven members of the Commission shall constitute a quorum but a lesser number may conduct hearings. The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

(b) (1) Compensation - Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses , including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Section 3. Scope Purpose and Duties of the Commission

a) The Commission shall develop and recommend both short term and long term strategies that seek to reduce or eliminate the production of tobacco in tobacco growing states and communities while ensuring short term and long term economic stability and development. In carrying out its responsibilities the Commission shall at a minimum conduct:

(A) A review of the tobacco program as authorized and administered by the Department of Agriculture
(B) A review of the role that tobacco and tobacco production has played in the tobacco producing states, focused primarily on the six major producers.
(C) A review of the production and marketing trends of tobacco and tobacco products in the United States.
(D) A review of the effects of international tobacco and tobacco production on the domestic production and marketing of tobacco and tobacco products.
(E) A review of economic models, demonstration and or pilot projects that might be used for providing tobacco growing states alternatives to growing tobacco and or other uses of tobacco,
(F) A review of health and ethical issues surrounding the production and marketing of tobacco products both in the United States and in other international markets.

b) (1)In carrying out its duties the Commission shall conduct a minimum of two hearings in each of the six major tobacco producing states. Such hearings shall be held in communities that are involved in the growing and production of tobacco. The Commission shall provide the communities with an open forum to present testimony, ideas and recommendations about the future production of tobacco including ideas and recommendations for diversification, economic development needs, environmental impact concerns and any other issue related to the agricultural production of tobacco.

(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to the Commission's duties or is consistent with the Commission carry out its responsibilities.

(3) Upon completion of its study, investigation, and hearings the Commission shall report its findings (including recommendations for legislative or administrative action) to the President, the Congress, each federal agency to which a recommendation in the report applies as well as to the Governors of each of the six major tobacco producing states.

c) The Commission shall complete its duties, responsibilities and report its recommendations as required under subsection b)(3) no later than 18 months after its appointment.

Section 4. Administrative Provisions

a) Staff --- (1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid in accordance with the provisions of Chapter 51 and subchapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the united States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basis pay in effect for grade GS-18 of the General Schedule.

(3) Upon the request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties.

b) Contracts. --- The Commission in performing its duties and functions may enter into contracts with appropriate public or nonprofit private entities.

c) Information.---(1) The Commission may secure directly from any federal agency information necessary to enable it to carry out it duties.

(2) The Commission shall not disclose any information reported to it or otherwise obtained which is exempt from disclosure under subsection(a) of section 552 of title 5, United States Code.

d) Support Services.--- The Administrator of General Services shall provide the Commission on a reimbursable basis such administrative support services as the Commission may request for carrying out its duties and responsibilities.

Section 5. Termination

The Commission shall terminate after filing its report and recommendations as required under Section 3(c).

DO AMERICAN TOBACCO COMPANIES AND INTERNATIONAL LEAF DEALERS REALLY CARE ABOUT U.S. FARMERS ?

Let's see what some of the tobacco industry's own trade journals are saying-----

- "In a sense, Mexican tobacco farmers have it made. International leaf dealers working in the country - Universal, DIMON and Vaughn Tobacco Co. as well as the leaf divisions of domestic companies Cigarrera La Moderna and Cigatam, finance the growers 100%.The North American Free Trade Agreement helped make Mexican tobacco more attractive to U.S. cigarette manufacturers.... The two factors (NAFTA and a devaluation of the peso) boosted Mexico's visibility. Its traditional European and Japanese customers saved money on exchange rates and because of NAFTA Mexican tobacco didn't apply to the TRQ requirement in the US. NAFTA is very important. Two crops ago no American cigarette companies came here. Last year they all came. They're getting a 30% rebate on duties.....The duty rate on Mexican leaf entering the US will be eliminated in 2003.....Leaf dealers see potential for increasing tobacco production, especially flue-cured in the southern state of Chiapus."

"The Promise of Mexico"
TOBACCO REPORTER, May 1997

- "Brazil can turn it on and turn it off. The force here is very dynamic, marvels Derek Vaughn, chairman of Santa Cruz based Continental Tobacco Alliance (CTA). An increase of 100 million kilos from one year to the next –there aren't many crops that can do that....Certainly no other major tobacco exporting nation matches Brazil's elasticity. And this season brilliantly illustrates the unique ability of the country's tobacco growers to expand and shrink the crop according to world demand. .....But Brazil alert to opportunity grew its volume for this season by about **one third** over last year's volume."

BRAZIL " TURNS IN ON", Volume up (way up) and prices down in the World's most elastic leaf market
TOBACCO REPORTER
May 1997

- "Shanghai – As a result of two years of meetings between China National Tobacco Corporation and the Philip Morris (China) Group Company, the quality of flue-cured, burley, and aromatic tobacco in this nation has improved markedly. Tobacco plants have grown well, and their leaves have enlarged.....In 1995, CNTC signed an "Agreement on Technological Cooperation in Tobacco Production" with Philip Morris. The document was aimed further to improve the nation's tobacco-growing technology, flue-curing quality, and tobacco leaf maturity in order for China to produce tobacco leaves that met international standards."

"CNTC and Philip Morris Create a Better Crop"
TOBACCO INTERNATIONAL
April 1997

- Zomba, Malawi – Experts forecast burley exports here to reach about 90,000 tons in 1997. Such an increase would be 10% greater than the tonnage last year. Tobacco exports are critical to this country's economic well-being, because it annually puts about 95% of its crop into the export market and sees roughly 70% of its foreign exchange rate earnings generated by tobacco. The leading export markets for Malawi's leaf include Europe, Asia, and the United States. Along with an increase in burley production by the nation's small-holder growers, an expected surge in foreign demand is likely to raise burley output to nearly 125,000 metric tons, which would be 6% more than 1996.

"Burley Increase Means Meeting Export Demands (Malawi)"
TOBACCO INTERNATIONAL
April 1997

- From January to December 1996, tobacco exports (Brazil) totaled US$1.51 billion, 29% more than 1995. Selling tobacco abroad was good business in 1996. Leaf exports were again at the top, totaling US$1.034 billion, a performance which is 35% above 1995...The leading product exported by the state of Rio Grande do Sul last year was flue-cured Virginia. Moreover, four out of the ten major export companies in the state are the tobacco giants Dimon de Brazil, Universal Leaf Tobacos. Souza Cruz, and Philip Morris.

"Southern Brazil- With the Threat of Oversupply Looking, Brazil Grows Steady-with Caution and Care"
TOBACCO INTERNATIONAL
April 1997

- Argentina exported 53,049 tons of unmanufactured tobacco in 1996 at an FOB value of US$ 136,304,534. This is an increase of 13,525 tons from 1995. Flue-cured tobacco is the leading tobacco type exported by Argentina and exports were up almost 50% to 35,972 tons. Burley exports rose by 62% to 12,896 tons. The United States regained its position as the leading importer of Argentine tobacco in 1996 with 20,995 tons.

"Argentina - Expanding Economy, Exports and Plantings"
TOBACCO INTERNATIONAL
April 1997

- Tanzania is a place to watch these days. Farmers have significantly increased production of flue-cured tobacco over the last few years and anticipate further growth in the future....Already tobacco is a major cash crop in Tanzania, accounting for more than 6% of the country's exports. "Tobacco is the success story of economic reforms in this country," says Collin J. Higgins, managing director of Tanzania Leaf Tobacco Co. Ltd., a subsidiary of Universal.

"RISING STAR - Economic liberalization boosts Tanzanian tobacco production"
TOBACCO REPORTER
June 1997

- Natwar P. Gotecha, vice president Eastern Africa with R.J. Reynolds Tobacco International, is excited about his company's first year in Tanzania. "This country has the potential to become a major supplier of cigarettes to the sub-Saharan continent," he says enthusiastically. ......Indeed things are changing rapidly in Tanzania. The country , transforming from a socialist-based economy to a free market system, is opening up to foreign investment and creating a business-friendly environment. In December 1995, RJR won a tender to purchase 51% of TCC (Tanzanian Cigarette

Company). Competitors included Rothmans, BAT and, at an earlier stage Philip Morris. RJR paid US $55 million for its share in the factory, making it the biggest single foreign investment in the private sector since independence in 1961, A decade ago, such international economic development would have been unthinkable in Tanzania.

"POTENTIAL- RJR sees Tanzania as launch pad into eastern Africa"
TOBACCO REPORTER
June 1997

Washington Business

TOBACCO'S OTHER ROAD

U.S. cigarette sales may be declining but the industry's middlemen aren't suffering from withdrawal. They're taking their business elsewhere. **Page 10**

BREAKUP

After five years, a much-heralded Rockville-based

WASHTECH

Picture this: having a photo lab download your snapshots

WASHINGTON INVESTING

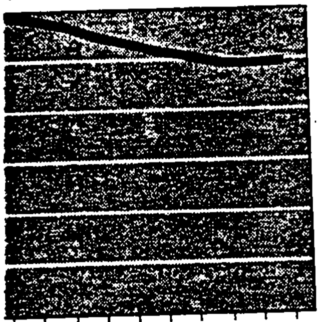
Despite a strong second quarter, local stocks were

ꞮLOBAL MARKET

bacco Production, nsumption

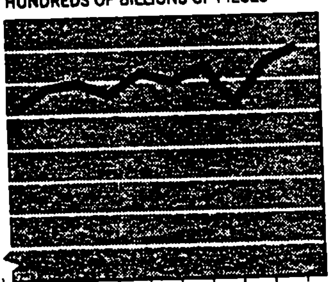
ɔite ning U.S. cigarette umption ...

. cigarette consumption
UNDREDS OF BILLIONS OF PIECES



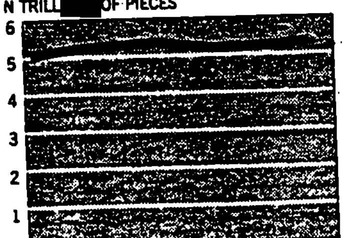
. U.S. cigarette production is on the ...

S. cigarette production
HUNDREDS OF BILLIONS OF PIECES

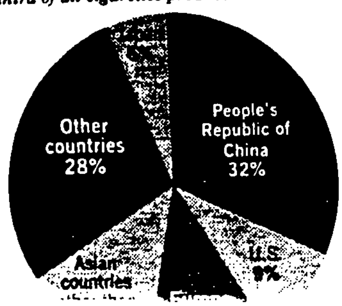


... in part to keep up with steady, if slow, growth in cigarette consumption worldwide ...

Worldwide cigarette consumption
N TRILL[redacted]OF PIECES



... led by the Chinese, who consume a third of all cigarettes produced.



Two on Top of the World

BY JAMES M. THRESHER—THE WASHINGTON POST

The first day of Maryland's tobacco auction in Hughesville last March. Richmond-based Universal says it buys most of its tobacco at local auctions.

The Largest Independent Tobacco Merchants Are Based in Va. but Their Growth Is Abroad

By Frank Swoboda and Martha M. Hamilton
Washington Post Staff Writers

RICHMOND

The faint, pungent smell of tobacco leaf is the first thing you notice when you enter the second-floor executive offices of Universal Corp., the world's largest independent tobacco leaf merchant.

At Universal, as at the Danville, Va., headquarters of its largest rival, Dimon Inc., the smell of tobacco is the smell of money.

The two companies (and their only other major competitor, Standard Universal Corp. of North Carolina) are the middlemen in the world tobacco industry. They don't make cigarettes or other consumer tobacco products. Instead, they buy, ship, process, pack, store and finance leaf tobacco for sale to cigarette manufacturers.

Together the two had $5.7 billion in revenue in 1996 from operations in locations that included the United States, Brazil, Tan-

sumption even further, there is no sense of panic in the corridors of these tobacco merchants. Universal and Dimon know the world market—it's enormous and still growing.

"The world market is where the bulk of the growth is," said Universal Vice President James H. Starkey III. Worldwide tobacco consumption has been rising by 1.2 percent to 1.5 percent a year, providing Universal with a consistent 18 percent to 19 percent annual return on equity.

About a third of the tobacco grown in the United States is exported. Last year, that came to 340 million tons of flue-cured tobacco, which is harvested over a several-week period and cured by heat, and about 160 million tons of burley tobacco, which is hung to dry and cure, according to Randy Weber, associate administrator for the Farm Service Agency of the U.S. Department of Agriculture.

"I don't see us shifting away from tobacco. We have continued to reinvest in tobacco as opportunities arise. We're continually look-

strong, although there are going to be short-term ripples because of the cigarette settlement and the imposition of higher prices," said David A. Goldman, an industry analyst with Robinson-Humphrey in Atlanta.

Universal noted in its annual report to stockholders that "demand for leaf continues to increase in response to an estimated 1 percent annual growth in world cigarette consumption and consumption of American-blend cigarettes is increasing by 3 to 4 percent annually."

There is a growing global market for the mild tobacco mixture known as "American blend" and for American-style cigarettes, of which Universal is a major supplier. More and more of the leaf that goes into those products is being harvested abroad, putting pressure on U.S. growers but increasing profitability for processors by lowering the price of tobacco. As an example of the shift, Starkey points to France, where, he said, the public is beginning to move away from "dark tobacco" cigarettes such as the well-known Gaulois to milder. American blend cigarettes as manufacturers introduce low-cost, generaround the globe. It first went into China in the 1920s, and there and elsewhere it has survived civil wars, communist takeovers and political unrest. "The one thing we've been good at is managing through instability. We stick to our knitting. We don't get involved in politics," Starkey said.

Karen W.L. Whelan, Universal's treasurer, said the company keeps "liaison people" at its headquarters who travel back and forth to various countries to help it keep track of changes overseas.

The 1 for new markets has taken Universal from Eastern Europe to the ing nations of Africa. In the early 1990s, Universal and Philip Morris purthe largest tobacco processing company in Kazakhstan from the government. In China—the world's largest tobacco producer, growing more than half the world's supply of flue-cured tobacco—Universal manages a new leaf processing plant near Bengbu for the Shanghai Tobacco Co.

Universal buys the leaf processed at the (: plant and has agreed to export a minimum of 70 percent of the tobacco. "It's the only export operation in China managed by a foreign company," Starkey said.

The company first entered China in 1925. it remained until the communist takeover. It returned to China when the Nixon administration reopened relations with the Asian nation in the 1970s.

Like almost all the other U.S.-based multi- s, America's tobacco merchants are watching the vast Chinese market closely for an obvious reason: Smokers in China consume approximately 1.7 trillion cigarettes a far more than the 450 billion a smoked by U.S. consumers, according to Scott & Stringfellow analyst John F

More than just a tobacco merchant, Universal's interests include lumber and building products distribution in the Netherlands Belgium. It also buys, processes and distributes tea, rubber, sunflower seeds dried fruits and seasonings as part of a joint venture with COSUN, a Dutch sugar cooperative. But tobacco is by far its biggest accounting for 71 percent of the company's revenues and 83 percent of its operating profits.

Rival Dimon Inc. is also enjoying an up-curve, reaching almost $2.2 billion in sales year. Dimon operates in 36 countries, like its Richmond competitor its business is not one-dimensional: It ranks as the world's largest exporter and distributor of fresh-cut flowers. Dimon was formed in by a merger of 120-year-old Dibrell Bros. Inc. of Danville with tobacco processor Monk-Austin of Farmville, N.C. That union created a company that ranked second in its industry to Universal; a deal consummated earlier this year in which Dimon acquired British-based Intabex Holdings Worldwide SA narrowed the gap between the two companies.

Intabex was a privately-owned company that the fourth-largest leaf tobacco dealer in the world. It owned tobacco buying processing and exporting operations in the United States, Brazil, Argentina, Malawi Italy Thailand and was affiliated with a Zimbabwe company that Dimon also acquired. Its acquisition will offer Dimon considerable opportunity to cut costs, Kasprzak said, by consolidating operations and financing Intabex's considerable debt.

Officials from Dimon declined to

the past several years cut the number of major leaf merchants from eight to three. But that same consolidation has hurt U.S. tobacco growers, said Jerry Jenkins, a grower in Lunenberg County, Va., who is also chairman of Tobacco Associates, the export promotion organization for the nation's flue-cured growers.

"The problem with the recent mergers and consolidations in the industry is that they reduce competition," said Jenkins, who farms about 30 acres of flue-cured tobacco and 3.5 acres of dark fire-cured tobacco. "It's generally not to the benefit of the seller of the product."

Virginia farmers grow flue-cured tobacco on approximately 40,000 acres and burley tobacco on about 10,000 acres. Maryland is also a tobacco-growing state but on a much smaller level. Only about 8,000 acres there are devoted to tobacco cultivation, according to the USDA's Weber.

The increasing worldwide demand for tobacco that is filling the coffers of Universal and Dimon may not be the long-term salvation of these farmers. Although the world's smokers are developing a taste for American blend, U.S.-grown tobacco is simply too expensive for many world markets. U.S. tobacco is still as much as 30 percent higher in price than competitive tobacco products from Brazil and Zimbabwe, according to Universal's Starkey.

Perhaps an even greater problem for American growers is the financing role the processing companies play in overseas markets. According to analyst Goldman, companies like Dimon contract with a cigarette maker like R.J. Reynolds Tobacco Co. to deliver a certain grade of tobacco a year from now and ask for a down payment. They then use that down payment to provide cash advances to growers in countries such as Brazil, helping to finance farmers there without putting their own funds at risk.

"When you're loaning a man money to grow a crop or underwriting his loan and furnishing technical advice, it only seems natural that you're going to want to buy his crop first to recoup that investment," said tobacco grower Jenkins. To compete, tobacco growers in Virginia have had to cultivate larger acreages to achieve efficiencies of scale, he said.

"We don't like to buy without having an order," said Universal's Whelan, adding that most of the company's tobacco purchases are made at local auction, which is how tobacco is sold in this country. She said that in only a handful of countries does Universal have advance contracts with growers, in countries such as Brazil, Guatemala, Mexico and Italy.

The next possible target for expansion for Universal, Dimon and Standard may be processing tobacco for U.S. cigarette manufacturers who now do their own processing, said Scott & Stringfellow's Kasprzak. In recent years Lorillard Tobacco and RJR turned over their leaf purchasing and some processing to Dimon's predecessors, and others may follow suit.

In the meantime, Virginia's tobacco merchants can look forward to doing business in a world that every year consumes more cigarettes with no sign of slowing down. ■

IN PROFILE

Tobacco's Big Two

The nation's two largest leaf manufacturers, Universal Corp. and Dimon Inc., are based in Virginia. Despite recent upheavals with cigarette producers, the leaf processors see little downside for their business. Here is a look at the two companies.

UNIVERSAL CORP.

Business: Universal, the world's largest independent tobacco leaf seller, buys, stores, processes and sells leaf grown in the United States and across the world for use in cigarettes and other tobacco products.

Headquarters: Richmond

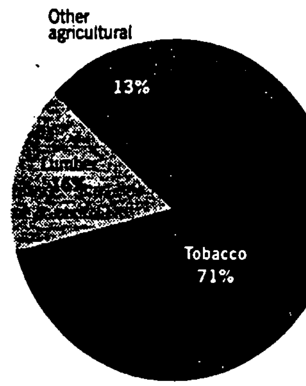
Chairman, chief executive: Henry H. Harrell

1996 revenue: $3.57 billion

1996 profit: $72.2 million

Employees: 30,000

Products, by share of 1996 revenue



DIMON INC.

Business: Dimon purchases, processes and sells leaf tobacco as well as importing and exporting fresh flowers

Headquarters: Danville

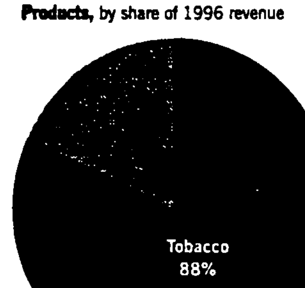
Chairman, chief executive: Claude B. Owen

1996 revenue: $2.17 billion

1996 profit: $41.3 million

Employees: 2,800

Products, by share of 1996 revenue



tobacco

Paul J. Weinstein Jr. 07/01/97 04:21:39 PM

Record Type: Record

To: MAZUR_M @ A1 @ CD @ LNGTWY, Thomas L. Freedman/OPD/EOP, Mary L. Smith/OPD/EOP

cc:

Subject: July 2 meeting on tobacco-related trade and international issues

---------------------- Forwarded by Paul J. Weinstein Jr./OPD/EOP on 07/01/97 04:21 PM ---------------------------

Sherman G. Boone
07/01/97 04:20:14 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: July 2 meeting on tobacco-related trade and international issues

Agency	Name	Phone #	Fax #
CEA	Chad Stone	395-5086	395-6958
CEA	Carrie Thompson	395-3517	
DPC	Elizabeth Drye	456-5573	456-7028
DPC	Paul Weinstein	456-5577	456-7028
OSTP	Jerry Mande	456-6018	456-6027
HHS	Andy Hyman	690-6318	690-7998
HHS/CDC	Michael Eriksen	205-9221	205-8313
USTR	Jennifer Haverkamp	395-7320	395-4579
State/OES	Nancy Carter-Foster	647-2435	736-7336
State/EB	Amy Winton	647-1490	647-1894
OMB	Joe Minarik	395-5873	395-1198
USDA	Charlie Rawls	720-6158	720-5437
USDOC	J. Hayden Boyd	482-0337	482-3981
Labor	Jennifer O'Connor	219-6197	219-9216
EPA	David Berman	260-8138	260-0279
Treasury/OASIA	Meg Lundsager	622-0168	622-5304
Ex-Im Bank	James Cruse	565-3761	565-3770
OPIC	Harvey Himberg	336-8614	408-5145

You are invited to participate in an inter-agency meeting focusing on international trade and other policy issues pursuant to the Administration's review of the proposed tobacco industry settlement. Our goal will be to prepare a brief paper outlining international policy issues for use by a Working Group to be chaired by Dan Tarullo. (The Tarullo group will meet next week.)

In addition to a brief overview of the review process, topics to be addressed include:

1. Current USG policies re: tobacco:
   -- trade & investment
   -- health
   -- economic development

2. The proposed settlement:
   -- international activities of the U.S. tobacco industry; export trends
   -- international policy implications of the proposed settlement
   -- possible USG policy reponses

A brief organizational meeting will be held **Wednesday, July 2 at 3:00 pm in Room 231 of the OEOB.** RSVP with the name of the person(s) that will be attending this meeting; those requiring clearance into the White House complex should **fax date of birth and Social Security number to 456-9280 or 456-5334.** For further information, contact Sherman Boone at 456-5363

Message Sent To:

Charles F. Stone/CEA/EOP
Caroline Thompson/CEA/EOP
Elizabeth Drye/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Jerold R. Mande/OSTP/EOP
jhaverkamp @ ustr.gov @ INET @ LNGTWY

December 9 International Tobacco Meeting Attendees

Name	Office	Phone	Fax
John Bloom	Campaign for Tobacco-Free Kids	296-5469	296-5427
Cathy Carpino	Senator Lautenberg	224-4517	224-9707
Michele Chang	Senator Harkin	224-8929	
Pam Docherty	American Cancer Society	546-4011 ext.127	546-1682
Tom Faletti	Senator Durbin	224-2152	228-0400
Matt Miller	Rep. Doggett	225-4865	225-3073
Dan O'Grady	Senator Durbin	224-4152	228-0400

Tom –
This is a list of the folks I met with last week.
Shuma

BR, ER, SW
FYI, Tom

FINANCIAL TIMES FRIDAY NOVEMBER 14 1997 Φ

US alters policy on tobacco trade

By Nancy Dunne
in Washington

The Clinton administration yesterday sought better to align its trade and health policies on tobacco by pledging that a health representative would be at the table for all trade negotiations.

Donna Shalala, secretary of health and human services, told the House commerce committee that the administration's international priorities would be consistent with its domestic priorities – reduction of smoking, particularly among the young.

"It is the policy of the Clinton administration not to interfere with a foreign country's non-discriminatory health-based efforts to control the use of tobacco," she said. HHS would from now on work with the administration's trade representative, Charlene Barshefsky – who has sought to reduce barriers to American tobacco exports – "to ensure that US tobacco trade policy incorporates the health policy perspective".

US embassies and trade missions abroad would not promote the use of tobacco products, and US negotiators would do no more than seek "equal access to a shrinking global tobacco market", Miss Shalala said yesterday.

She was presenting the administration's position on the comprehensive plan reached between state attorneys-general and the giant tobacco companies last June. The president has endorsed a legislative compromise but says the negotiated agreement falls short in several areas. Miss Shalala said legislation should set ambitious targets to cut teenage smoking by 30 per cent in five years, 50 per cent in seven years and 60 per cent in 10 years. Severe financial penalties would be imposed on individual companies if these goals were not attained.

Congressmen have been studying the proposed settlement as well. Three important bills have been introduced in the closing days of this year's Congress, all of which would toughen the proposed settlement.

Senator Orrin Hatch on Wednesday introduced a proposal which is similar to the June agreement, but would raise the industry's payments by about $30bn to almost $400bn over 25 years. It would increase the price of a packet of cigarettes by between $1.10 and $1.40 in the first three years. It would also grant the Food and Drug Administration explicit authority to regulate tobacco products.

The congressional debate will span several months next year but with November elections in mind, a compromise is likely. US tobacco farmers can be assured of protection in everyone's plan. "We have a responsibility to these people. They have not done anything wrong," said Miss Shalala. She said several options were under consideration, including the purchase by the government of tobacco farmers' growing licences and "a comprehensive plan of world and economic development in tobacco growing areas".

Rise in US productivity ıighest for five years

US workplace productivity increased at an annual rate of 4.5 per cent in the third quarter, its fastest pace for more than five years, **AP reports from Washington.**

At the same time, the Labour Department said yesterday that unit labour costs – typically two-thirds of a product's price – fell 0.3 per cent. It was the first decline since the April-June quarter in 1994, indicating little

In a separate report, the department said that first-time claims for jobless benefits fell by 6,000 last week to 310,000, the 10th straight week below 320,000 and a sign of continuing payroll growth. Many analysts had expected a 5,000 drop.

The strong back-to-back productivity reports added support to the "new age" theory – that huge invest-

inflation has remained low despite economic expansion now in its seventh year and the lowest unemployment rate in nearly 25 years.

Productivity is considered the key to Americans' standard of living, since greater efficiency means businesses can increase wages without raising prices as workers produce more with the same amount of work.

Microsoft '… internet dor…

Nicholas Timmins attends a …

Microsoft and its critics clashed bitterly yesterday at a Washington conference organised by the consumer activist Ralph Nader. The giant software company was accused of using "the same old dirty tricks" to attempt to gain control of the content placed on the internet as well as access to it.

The charge was dismissed as "laughable" by Microsoft, which refused to supply speakers to the conference. It also accused Mr Nader and the conference sponsor, Essential Information, of organising a "kangaroo court".

Gary Reback, a Silicon Valley attorney who represents a range of software houses, accused Microsoft of attempting to extend its virtual monopoly of PC operating systems into internet browsers and then beyond that to the content that can be reached by them.

That, he said, "was the most threatening part of Microsoft's strategy and the least understood". He said internet service providers whose access icons were bundled into Windows were required not to imply that any alternative browser to Microsoft's Internet Explorer was available when signing up new customers.

He alleged that they must also achieve a set proportion of sales of the Microsoft product to remain on Microsoft's desktop. At the same time he alleged that Microsoft was seeking internet content that would be available only through its browser in order to ensure its powerful position became another monopoly. Part of the aim was to ensure that Sun's Java programming language did not develop, via the internet, into an

Consumer activist R… conference he organis…

"we don't have any … sive arrangements' … internet providers … charge that Microsoft … lock content providers … in was "laughable"; … Netscape Navigator, … browser, held 60 per … the market.

On the fringes of th… ference, a hastily co… group of software pro… and users backed Mic…

The activities of U.S. Ambassadors and their staffs in commercial advocacy efforts involving the tobacco industry should be consistent with the treatment of tobacco companies domestically. Previously, overseas embassy personnel have sometimes intervened on behalf of U.S. tobacco growers and cigarette manufacturers and participated in commercial advocacy efforts in support of the tobacco industry. The Departments of State, Commerce and Agriculture are working to develop new guidelines (most recent draft attached at Tab 2) that will be issued to posts to restrict the involvement in marketing and/or export promotion of tobacco products. These guidelines are intended to limit the involvement of U.S. Government personnel, not affect the tobacco companies' rights or obligations to conform to the tobacco marketing and other health regulations of the foreign government.

Several legislative proposals would go further than the current inter-agency consensus, codifying the international recommendations of the Koop-Kessler report. The trade language included in the Senate (Lautenberg) bill is consistent with a 1990 GATT decision which holds that a member nations can use various policies to protect health as long as they are applied evenly to domestic and foreign products. This bill would also require labeling of cigarettes for export that, at a minimum, are consistent with U.S. domestic labeling requirements. The House (Doggett) version also has tobacco product export labeling requirements. However, that bill's "restrictions on activities abroad regarding the marketing of tobacco products" are more loosely worded than those in the Senate bill, and thus more problematic. OMB has requested that agencies address the issues raised by these various pieces of legislation by September 3, though it is not certain that the initial responses will clarify the issues and options.

It is argued that the power and prowess of the U.S.-based multinational tobacco firms is such that their entry into a foreign market fundamentally alters the dynamics of that market, resulting in greater tobacco consumption by more individuals; if so, then any efforts to reduce tariffs or other trade barriers would not be consistent with the goal of controlling the growth of tobacco use. However, circumstances may on occasion warrant that the USG seek to lower tariffs and/or non-tariff trade barriers in international trade negotiations and/or to defend against discrimination against U.S. industry in a tobacco-related trade dispute where foreign practice cannot properly be justified on health grounds. Also, a clear signal that the U.S. will under no circumstances seek to counter discriminatory measures would contradict the principles underlying our trade policy and provide advantages to others who may not share our health policy concerns. The incentives to cheat without fear of retaliation are substantial, and opportunities for unfair commercial or governmental gain, criminal activity (e.g., smuggling), official corruption and public rent seeking (i.e., increased government revenues from excise taxes or state monopoly income) raise other policy concerns.

With regards to official financing of exports and investments, the U.S. Export-Import Bank and the Overseas Private Investment Corporation (OPIC) do not currently finance the export of tobacco or tobacco products or overseas investments in cigarette manufacturing plants and equipment. No changes are anticipated in current practice.

New International Public Health Initiatives

It is anticipated that ongoing international public health and educational efforts aimed at controlling the use of tobacco and tobacco products will be increased irrespective of a settlement. HHS has developed a preliminary action plan for reducing tobacco use world-wide, particularly in developing countries (Tab 3). Treasury has also raised the option of creating a new international health and education fund with tobacco settlement proceeds. The range of proposed new initiatives relating to smoking and tobacco control will draw on existing work being done, both bilaterally and through multilateral fora: new initiatives would also take advantage of efforts already underway through the World Health Organization (WHO), various non-governmental organizations, and the multilateral development banks, including the World Bank.

One inter-governmental effort certain to receive increased support is the International Framework Convention on Tobacco Control to encourage nations to adopt comprehensive tobacco control policies. The U.S. certainly will take a more forceful leadership role in promoting this multilateral endeavor in light of the proposed tobacco industry settlement.

Attachments:

USTR.TXT GUIDELIN.DO(HHS_DR~1.WPI

Sherman G. Boone
09/05/97 02:15:56 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP

cc: Thomas L. Freedman/OPD/EOP, Daniel K. Tarullo/OPD/EOP
Subject: int'l tobacco

Per your request, the following is a summary of international tobacco issues. Be advised that I have **not** had the opportunity to brief Dan on these issues this week, and have therefore not recceived his guidance on coming to closure on outstanding issues (though I do have my own ideas) -- or for changing directions.

The attachments are still very much works in progress. I intend to re-write and combine the USTR piece and the State-Commerce guidelines to create one more comprehensive document that more accurately captures the tone I believe we want to convey but that agencies are loathe to put on paper. (The draft guidelines are **not** the most current draft -- I have hard copy only). In addition, Treasury has not provided substantive thoughts on how a proposed international health and education fund would operate; I understand that Bob Boorstein is trying to reach Bruce Reed to discuss this and other related issues (such as cigarette smuggling).

Give me a call if you need more/different. In the meantime, I will attempt to consolidate Tabs 1 & 2 and revise Tab 3.

The international issues working group has reviewed various policies relating to the international tobacco trade. Efforts were concentrated in three areas -- trade policy; export and business facilitation; and public health. We made some progress towards forging a new consensus on how the U.S. Government deals with tobacco issues overseas, but more work must still be done in articulating a policy consensus.

Trade Policy

There is inter-agency agreement that U.S. policy should be to treat as presumptively valid any foreign country's non-discriminatory health policy measures intended to reduce tobacco consumption. Pursuant to this policy, the U.S. will not object on trade policy grounds to tobacco control interventions, including advertising and promotion restrictions, by foreign governments, either existing or proposed, which are based on sound public health principles and that do not contravene "national treatment" or "most favored nation: (MFN) principles -- that is, if they are applied in a non-discriminatory manner to both imported and domestic tobacco products. USTR has prepared a statement (Tab 1) on the relationship between the trade and health policy objectives in addressing trade issues relating to tobacco and tobacco products. Ambassador Barshefsky and Secretary Shalala agreed in principle (on July 17) to this policy approach.

Export Promotion and Commercial Facilitation

Int'l tobacco

Tobacco Settlement: Summary and Comparison of S. 1414, S. 1530, and S. 1492/H.R. 3028

December 19, 1997

C. Stephen Redhead
Joy Austin-Lane
Science, Technology, and Medicine Division

Tobacco Settlement: Summary and Comparison of S. 1414, S. 1530, and S. 1492/H.R. 3028

Summary

On June 20, 1997, a group of state attorneys general, plaintiffs' lawyers, and attorneys representing the tobacco companies announced a settlement that would grant the tobacco industry immunity from class action lawsuits. In return, the industry would agree to settle the states' Medicaid lawsuits, submit to strict federal regulation of its products, and pay for national tobacco control programs. The proposed settlement raises many complex issues and will require congressional passage of legislation and the President's approval before taking effect. In the past 6 months, five Senate and two House Committees have held tobacco hearings as lawmakers consider development of legislation to implement or amend the settlement's provisions.

This report compares the key provisions in three comprehensive tobacco settlement bills that have been introduced in the Senate: S. 1414 (McCain); S. 1530 (Hatch); and S. 1492 (Kennedy). It also provides a summary of the proposed settlement.

Contents

List of Tables

Tobacco Settlement: Summary and Comparison of S. 1414, S. 1530, and S. 1492/H.R. 3028

Overview

On June 20, 1997, a group of state attorneys general, plaintiffs' lawyers, and attorneys representing the tobacco companies announced a settlement that would grant the tobacco industry immunity from class action lawsuits in return for industry payments to settle the states' Medicaid lawsuits, submission to strict federal regulation of its products, and funding for national tobacco control programs. The proposed settlement raises many complex issues and will require legislation before taking effect. In the past 6 months, five Senate and two House Committees have held tobacco hearings as lawmakers consider development of legislation to implement or amend the settlement's provisions.

Three comprehensive tobacco settlement bills have been introduced in the Senate: S. 1414 (McCain); S. 1530 (Hatch); and S. 1492 (Kennedy). Table 1 compares the key provisions in each of these bills. The grey shaded areas in the table indicate that the bill does not contain provisions comparable to the other bills. The provisions of the June 20th settlement are summarized in table 2. The citations in parentheses in Title I of the settlement refer to section 897 of the FDA's tobacco regulation.[1]

The McCain bill, which is listed first and to which the other two bills are compared, mirrors the proposed settlement and, according to its sponsor, is intended to serve as the basis of discussion and amendment. However, it does not exactly match the settlement. For example, it mandates annual industry payment for 25 years, whereas the settlement requires payments indefinitely. There is also no anti-trust exemption for the industry, no adult sales-volume adjustment to the annual payments, and the issue of reimbursing the federal government for its share of the Medicaid costs is not addressed.

The Hatch bill (S. 1530) also includes many of the provisions that appear in the settlement, though there are a number of important differences with the McCain bill. For example, S. 1530 mandates slightly higher industry payments over 25 years. These payments would total $398.3 billion, compared to a 25-year total of $368.5 billion in the settlement and S. 1414. S. 1530 authorizes and allocates funding for asbestos-related litigation, and Native American health programs. It also stipulates notice-and-comment rulemaking by the Secretary of Health and Human Services,

---

[1] Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents. *Federal Register*, v. 61, no. 168, Aug. 28, 1996. p. 44396-45318.

In addition to the three comprehensive tobacco settlement bills described above and summarized in table 1, several shorter bills have been introduced that address specific provisions of the settlement. For example:

- H.R. 2740 (McInnis) limits attorneys' fees paid in connection with the settlement of a State action against the tobacco industry to $150 per hour plus out-of-pocket expenses approved by the court;
- S. 1411 (Mack) amends the Internal Revenue Code to prohibit a tax deduction for industry payments pursuant to any tobacco settlement, and establishes a National Institutes of Health research trust fund for the net increase in revenues received as a result of this provision;
- H.R. 2519 (DeGette) increases the legal age of smoking from 18 to 21;
- H.R. 2135 (Doggett) requires that exports of tobacco products and the advertising of tobacco products abroad be subject to the restrictions on labeling and advertising applicable to tobacco products in the United States;
- H.R. 2034 (Bishop) amends Section 1926 of the Public Health Service Act (Synar Amendment) to require states to enact a detailed law regarding the sale and distribution of tobacco products to minors or risk losing federal substance abuse block grant funds; and
- S. 826 (Lautenberg) amends the Public Health Service Act to restrict smoking in public facilities to enclosed, separately ventilated, designated smoking areas.

TABLE 1: COMPARISON OF TOBACCO SETTLEMENT BILLS (S. 1414, S. 1530, AND S. 1492/H.R. 3028)

Topic	S.1414 (McCain)	S. 1530 (Hatch)	S.1492 (Kennedy) H.R.3028 (DeLauro)
Licensing of Retailers	Mandates state licensing of tobacco retailers and stipulates penalties, including license suspension and revocation, for non-compliance. [Sec. 131-134]	Mandates state licensing under model state law (see section 301-102).	
Amendment of Federal Food, Drug, and Cosmetic Act: Regulation of Tobacco Product Development and Manufacturing	Amends Federal Food, Drug, and Cosmetic Act as follows: Defines tobacco products as drugs and Class II devices. Establishes strict regulatory requirements for reducing or eliminating nicotine and other tobacco product constituents, which include formal rule-making with judicial review, and demonstrating that the modified product reduces health risks and does not create a black market. Requires testing, reporting, and disclosure of tobacco smoke constituents. Establishes DHHS scientific advisory committee. Requires FDA approval of all health claims for reduced-risk tobacco products. Subjects manufacturers to good manufacturing practice standards. Requires disclosure of amounts of all non-tobacco ingredients for each brand. [Sec. 142-143]	Amends Federal Food, Drug, and Cosmetic Act as follows: Defines tobacco products as drugs. Directs DHHS Secretary to issue regulations, through notice-and-comment rulemaking and in consultation with experts, for reducing or eliminating nicotine and other tobacco product constituents. Requires Secretary to consider various factors in any such action, including reducing health risks and the creation of a black market. Requires disclosure of amounts of all non-tobacco ingredients for each brand. Subjects manufacturers to good manufacturing practice standards. Mandates new warning labels and youth access restrictions (described earlier in table). Provides incentives for development of reduced-risk tobacco products. Establishes DHHS scientific advisory committee. [Sec. 401]	Amends the Federal Food, Drug, and Cosmetic Act as follows: Defines nicotine in tobacco products as a drug, and tobacco products as Class II devices. Requires FDA to issue regulations, through notice-and-comment rulemaking, for manufacturing, marketing, advertising, and distributing tobacco products. Authorizes FDA to require product modification, including nicotine content and yield, based on pubic health findings. Requires testing, reporting, and disclosure of tobacco smoke constituents. Requires disclosure of amounts of all non-tobacco ingredients for each brand. Subjects manufacturers to good manufacturing practice standards. Mandates new warning labels (described earlier in table). Provides incentives for development of reduced-risk tobacco products. Establishes DHHS scientific advisory committee. [Sec. 204]
Corporate Culture and Compliance, Lobbyists, and Whistleblowers	Mandates industry plan to comply with all new laws on the manufacture and distribution of tobacco. Protects industry whistleblowers. Requires lobbyists to comply with the Act and agree not to support or oppose any federal or state legislation without consent of manufacturers. Disbands the Tobacco Institute and the Council for Tobacco Research. [Sec. 151-156]	Protects industry whistleblowers. [Sec. 902] Requires lobbyists to comply with the Act and agree not to support or oppose any federal or state legislation without consent of manufacturers. [Sec. 221] Disbands the Tobacco Institute and the Council for Tobacco Research. [Sec. 222]	Protects industry whistleblowers. Establishes a Tobacco Oversight and Compliance Board, with subpoena power, to monitor industry compliance with all provisions of this Act. [Sec. 101]

TABLE 1: COMPARISON OF TOBACCO SETTLEMENT BILLS (S. 1414, S. 1530, AND S. 1492/H.R. 3028)			
Topic	**S.1414 (McCain)**	**S. 1530 (Hatch)**	**S.1492 (Kennedy) H.R.3028 (DeLauro)**
Environmental Tobacco Smoke			
	Title III	Title VI	Title III
Smoking Restrictions in Public Facilities	Restricts smoking in public facilities (i.e., those entered by 10 or more individuals at least 1 day a week) to enclosed, separately ventilated, designated smoking areas. Specifies that employees may not be required to enter smoking areas. Exempts restaurants (other than fast food), bars, private clubs, hotel guest rooms, casinos, bingo parlors, tobacco outlets, and prisons. Allows state and local governments to enact stricter laws. [Sec. 301-306]	Restricts smoking in public facilities (i.e., those entered by 10 or more individuals at least 1 day a week) to enclosed, separately ventilated, designated smoking areas. Specifies that employees may not be required to enter smoking areas. Exempts bars, private clubs, hotel guest rooms, casinos, bingo parlors, and tobacco outlets. Prohibits smoking in prisons, and restaurants with a seating capacity over 50. Restricts smoking and use of smokeless tobacco products in schools and other facilities serving children to enclosed, separately ventilated, designated smoking areas. Allows state and local governments to enact stricter laws. [Sec. 601-605]	Amends the Occupational Safety and Health Act to restrict smoking in public facilities (i.e., those entered by 10 or more individuals at least 1 day a week) to enclosed, separately ventilated, designated smoking areas. Specifies that employees may not be required to enter smoking areas. Exempts bars, hotel guest rooms, tobacco outlets, and prisons. Prohibits smoking and use of smokeless tobacco products in schools and other facilities serving children. Prohibits smoking on public transportation. Allows state and local governments to enact stricter laws. [Sec. 301]
National Tobacco Settlement Trust Fund			
	Title IV	Title I	
National Tobacco Settlement Trust Fund and Annual Industry Payments	Establishes National Tobacco Settlement Trust Fund. Mandates tax-deductible industry payments into Trust Fund for 25 years: an up-front sum of $10 billion, and annual payments beginning at $8.5 billion in the first year, increasing to $15 billion in the fifth year, and remaining at $15 billion a year thereafter. **Total payments = $368.5 billion.** Annual payments subject to inflation adjustment. Authorizes manufacturers to raise prices to cover cost of payments. [Sec. 402]	Establishes National Tobacco Settlement Trust Fund. Mandates industry payments into Trust Fund for 25 years: an up-front sum of $10 billion, and annual payments beginning at $9.8 billion in the first year, increasing to $16.5 billion in the sixth year, and remaining at approx. $16.5 billion a year thereafter. **Total payments = $398.3 billion.** Annual payments subject to inflation adjustment, and subject to a volume-of-sales adjustment. [Sec. 101-102] Allows manufacturers to raise prices to cover cost of payments. [Sec. 904]	

TABLE 1: COMPARISON OF TOBACCO SETTLEMENT BILLS (S. 1414, S. 1530, AND S. 1492/H.R. 3028)			
Topic	S.1414 (McCain)	S. 1530 (Hatch)	S.1492 (Kennedy) H.R.3028 (DeLauro)
Consent Decrees, National Protocol, Non-Participating Manufacturers, Attorneys' Fees, and State Enforcement of Youth Access Laws			
	Title VI	Title II & III	
Consent Decrees and National Protocol	Requires manufacturers and states to enter into consent decrees that include many of the provisions of this Act, and that also include a waiver of constitutional claims. Within 6 months of enactment, requires manufacturers to enter into a legally binding and enforceable contract (the National Tobacco Control Protocol) developed by DHHS Secretary, which embodies the terms of this Act. [Sec. 611-612]	Requires manufacturers and states to enter into consent decrees that include many of the provisions of this Act, and that also include a waiver of constitutional claims. [Sec. 241-242] Within 90 days of enactment, requires each manufacturer to enter into a legally binding and enforceable contract (the National Tobacco Control Protocol) with the U.S. Attorney General and each state's Governor, which embodies the restrictions on advertising, promotion, and lobbying (described earlier in table). [Sec. 201]	
Non-Participating Manufacturers	Denies non-participating manufacturers liability protection (see Title VII), and imposes user fees on them, as well as annual payments into a reserve fund to settle liability claims. [Sec. 613]	Same provisions. [Sec. 243, 259]	
Attorneys' Fees		Establishes a 6-person arbitration panel to determine and award attorneys' fees and expenses, subject to an annual cap equal to 5% of Trust Fund receipts for the applicable year. Awards to be paid by participating manufacturers, not by Trust Fund. [Sec. 227]	

TABLE 1: COMPARISON OF TOBACCO SETTLEMENT BILLS (S. 1414, S. 1530, AND S. 1492/H.R. 3028)			
Topic	**S.1414 (McCain)**	**S. 1530 (Hatch)**	**S.1492 (Kennedy) H.R.3028 (DeLauro)**
Industry Document Disclosure			
	TitleVIII	Title VII	Title I
National Tobacco Document Depository	Establishes a public depository of industry health research documents. Requires manufacturers to deposit all documents provided to plaintiffs in recent specified lawsuits. Allows manufacturers to determine and withhold documents protected by attorney-client privilege. Requires manufacturers to deposit a detailed, itemized log of privileged documents. Establishes a three-judge federal arbitration panel to settle disputes over making privileged documents public. [Sec. 802]	Similar provisions. [Sec. 701-703]	Similar provisions. [Sec. 101]
Agriculture and Rural Community Adjustment			
	Title IX (S. 1310, Ford)	Title VIII	Title IV
Funding	Tobacco Community Revitalization Trust Fund of $28.5 billion. [Sec. 911-912]	Tobacco Transition Account of $16 billion. [Sec. 101, 811, 841-842]	Trust Fund (from higher excise taxes) expected to spend $13 billion on this Title. [Sec. 101, subsection 2815]
Farmer compensation	Payments to tobacco farm quota owners (up to $8/lb) and tenants for production losses from baseline levels (totaling about $15.8 billion). Quota and no-net-cost price support loan programs maintained. [Sec. 921]	Quota owner buyout ($8/lb) and tenant compensation ($1.20/lb) (totaling about $14.7 billion with 100% participation). Mandatory end to quota program and 3-year phase out of price support loan program. [Sec. 812-814]	Quota buyout offer to owners ($4/lb) and tenant compensation offer ($4/lb) ($9.2 billion exposure with 100% participation). Quota and price support loan programs continue. [Sec. 411-414]
Other USDA tobacco activities	All costs for extension services, crop insurance, loan program administration, leaf grading and inspection, and other activities associated with tobacco production will be paid from Trust Fund (totaling about $2.5 billion). [Sec. 922]		

TABLE 2: SUMMARY OF PROPOSED TOBACCO SETTLEMENT (June 20, 1997)	
Title	**Provisions**
I. Tobacco Industry Reformation	
A. Marketing and Advertising	Incorporates the following provisions of the FDA rule: (i) Prohibits use of non-tobacco brand names for tobacco products unless such names were in existence as of 1/1/95 (897.16(a)); (ii) Restricts tobacco product advertising to FDA-specified media (897.30(a)); (iii) Restricts permissible tobacco product advertising in adult-only facilities and adult publications to black text on a white background (897.32 (a-b)); (iv) Requires advertisements to include FDA-mandated statement, "Nicotine-Delivery Device for Persons 18 and Older" (897.32(c)); (v) Bans sale and distribution of non-tobacco items, services, and gifts, and brand-name sponsorship of sporting and other cultural events (897.34(a-c)). Modifies and extends the FDA rule as follows: (i) Bans **all** outdoor tobacco product advertising (modifies 897.30(a-b)); (ii) Bans the use of human and cartoon images in tobacco advertising and packaging; (iii) Prohibits tobacco product advertising on the Internet unless designed to be inaccessible from the United States; (iv) Prohibits payments to glamorize tobacco use in media appealing to minors; (v) Prohibits payments for tobacco product placement in movies, TV programs, and video games; (vi) Establishes additional restrictions on point-of-sale advertising.
B. Warnings, Labeling and Packaging	Amends the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 *et seq.*) and the Comprehensive Smokeless Tobacco Health Education Act (15 U.S.C. 4401 *et seq.*) to require new warning labels on tobacco product packages and cartons, and on all tobacco advertisements. For cigarettes, the warnings would be in bold type and occupy 25% of the front of the package.[a] Requires packages to include FDA-mandated statement, "Nicotine-Delivery Device for Persons 18 and Older" (897.25). Transfers from the Federal Trade Commission (FTC) to FDA the authority to measure and report tar, nicotine, and carbon monoxide levels in tobacco smoke, and the authority to require disclosure of such information on labels and advertising.
C. Restrictions on Access to Tobacco Products	Incorporates the following provisions of the FDA rule: (i) Sets a minimum age of 18 to purchase tobacco products and requires retailers to check photo ID of anyone under age 27 (897.14(a-b)); (ii) Requires face-to-face transactions for all tobacco sales, bans sale of individual cigarettes, and requires retailers to remove all displays and advertising that do not comply with this regulation (897.14(c-e)); (iii) Establishes a minimum package size of 20 cigarettes and bans the sampling of tobacco products (897.16(b)(d)); (iv) Bans self-service displays except in adult-only facilities (897.16(c)). Modifies and extends the FDA rule by banning **all** vending machine sales and prohibiting mail-order sales except those subject to proof of age (modifies 897.16(c)). After two years, an FDA review would determine if minors are obtaining tobacco products through the mail.

TABLE 2: SUMMARY OF PROPOSED TOBACCO SETTLEMENT (June 20, 1997)		
	Title	**Provisions**
	F. Non-Tobacco Ingredients	Supersedes the current federal ingredient law by requiring manufacturers to disclose annually to FDA on a "strictly confidential" basis the amounts of all non-tobacco ingredients added to each brand.[g] Requires manufacturers to disclose ingredients information to the public in a manner comparable to current federal requirements for food products. Manufacturers must submit safety testing results for each non-tobacco ingredient within five years, and demonstrate that there is a reasonable certainty that the ingredient is not harmful under the intended conditions of use. FDA would have 90 days to review each safety assessment.
	G. Corporate Culture and Compliance	Includes requirements to ensure that the industry complies with both the letter and spirit of the settlement, including the establishment of internal procedures to promote compliance with laws barring tobacco sales to minors. Provides "whistleblowers" in the tobacco industry with protection. Requires tobacco lobbyists to agree in writing to comply with all the provisions of the settlement, and not support or oppose any state or federal legislation without the manufacturer's authorization. Disbands the Tobacco Institute and the Council for Tobacco Research.[h]
II.	**Look-Back Provisions, State Enforcement Incentives**	Sets targets for reduction in underage cigarette use. The industry would face fines of up to $2 billion per year if underage tobacco use does not decline by 30% in five years, 50% in seven years, and 60% in 10 years. Allows the industry to petition FDA to recover 75% of the fine if it can establish that it pursued all "reasonably available measures" to reduce youth smoking and did nothing to undermine the settlement goals. Requires states to undertake significant enforcement steps to reduce the incidence of underage tobacco use, which go beyond the provisions of the Synar Amendment (42 U.S.C. 300x-26; 45 C.F.R. 96.130). States must maintain a specific level of enforcement activity or risk losing health care funds (see Title VII).[i]
III.	**Penalties, Consent Decrees, Non-Participating Tobacco Companies**	Requires manufacturers and states to enter into legally enforceable consent decrees that include many of the provisions of the settlement. Violations of the proposed settlement's requirements would carry civil and criminal penalties based upon the penalty provisions of the Food, Drug and Cosmetic Act and the provisions of the United States criminal code. In addition, the industry would face civil penalties of up to $10 million for each violation of the requirements to disclose information about non-tobacco ingredients and the health effects of tobacco products. Non-participating tobacco companies would be subject to all the regulations outlined in Title I of the settlement, but would receive none of the civil liability protection outlined in Title VIII. Requires non-participating companies to make annual payments into an escrow fund earmarked for potential liability claims against the companies.
IV.	**Environmental Tobacco Smoke**	Restricts smoking in public facilities (i.e., any building entered by 10 or more individuals at least one day a week) to separately ventilated locations. Ensures that no employee may be required involuntarily to enter a smoking area. Exempts restaurants (other than fast food restaurants) and bars, private clubs, hotel guest rooms, casinos, bingo parlors, tobacco merchants and prisons.[j] Allows state and local governments to enact stricter laws.

[a] The nine warnings on cigarettes packs include: "WARNING: Cigarettes are addictive" and "WARNING: Cigarettes cause cancer." The four warnings on smokeless tobacco products include: "WARNING: Smokeless tobacco is addictive" and "WARNING: This product can cause mouth cancer." The warnings would appear in Canadian format (i.e., alternating black text on a white background and white text on a black background). They would be introduced concurrently on all tobacco product packages and cartons, and rotated quarterly on all advertisements. The settlement preserves the preemptive language in both the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act, which prevents state and local governments from requiring additional health warnings on tobacco products.

[b] Class II medical devices (e.g., syringes, hearing aids, and powered wheelchairs) are those for which FDA requires special controls to assure safety and effectiveness. These controls may include special labeling requirements, mandatory performance standards, and postmarket surveillance.

[c] Most regulations are issued informally under the notice-and-comment procedure established by the Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*). The agency publishes a notice of proposed rulemaking in the Federal Register, permits interested persons to submit comments, and incorporates in the final rule a concise statement of the rule's basis and purpose. These regulations are reviewed under the "arbitrary, capricious, abuse of discretion" standard. Under this standard, a reviewing court would uphold an agency's action if it is rational, based on a consideration of the relevant factors, and within the scope of the authority designated to the agency by Congress. The settlement, however, would require FDA to undertake a formal rulemaking subject to the APA. This would involve trial-type hearings at which parties present evidence and conduct cross examinations. Furthermore, the "substantial evidence" standard required by the settlement may be more stringent than the "arbitrary, capricious, abuse of discretion" standard employed in informal rulemaking.

[d] This presumably refers to the Small Business Regulatory Fairness Enforcement Act of 1996 (P.L. 104-121), under which Congress has 60 session days to block a regulation by passing a joint resolution of disapproval. This procedure may be applied to any rule that results in an annual effect on the economy of at least $100 million.

[e] A Part 12 hearing refers to a formal evidentiary public hearing under FDA regulations (21 C.F.R. 12), involving presentation of evidence, cross examination, and other trial-type procedures. Requiring that an agency base its action on a "preponderance of evidence" is, according to some analysts, extremely unusual.

[f] The term "less hazardous tobacco products" refers to innovative products such as smokeless cigarettes, as opposed to chemically modified existing products.

[g] Under current law, the industry is required to provide annually to the Secretary of Health and Human Services a list of all the additives used in the manufacture of tobacco products. The Secretary is granted no authority to regulate additives that are suspected of being hazardous.

[h] The Tobacco Institute is the industry's Washington DC-based lobbying organization, and the Council for Tobacco Research provides industry funds for biomedical research.

[i] The Synar Amendment to the Public Health Service Act requires states to enforce their laws prohibiting the sale of tobacco products to individuals under age 18. States must conduct annual random, unannounced inspections of retail outlets to ensure compliance with the law. States risk losing federal substance abuse block grant funds for failure to comply. Under the settlement, a state would lose up to 20% of its Medicaid reimbursement funds (see Title VI) if after 10 years its enforcement program failed to reach a 90% compliance rate.

[j] On March 25, 1994, the Occupational Safety and Health Organization (OSHA) proposed an indoor air quality regulation that would restrict smoking to separately ventilated, designated smoking rooms. The smoking restriction would apply to all industrial and non-industrial buildings under OSHA's jurisdiction, including restaurants and bars.

[k] The settlement negotiators intend that funding provided to the states would be sufficient to extend health insurance to uninsured children.

[l] It is estimated that the industry could cover the cost of the annual payments by raising the price on a pack of cigarettes by about 62 cents.

[m] This 25-year total includes approximately $60 billion in lieu of punitive damages for tobacco industry's past conduct.

[n] By the fifth year of the settlement, the total amount the industry would be required to pay would be capped at $5 billion per year.

Tobacco - ~~int'l~~ International ?

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE,
OFFICE OF ASIA AND THE PACIFIC
600 17TH STREET, N.W.
WASHINGTON, D.C. 20508

DATE: Feb 5, 1998

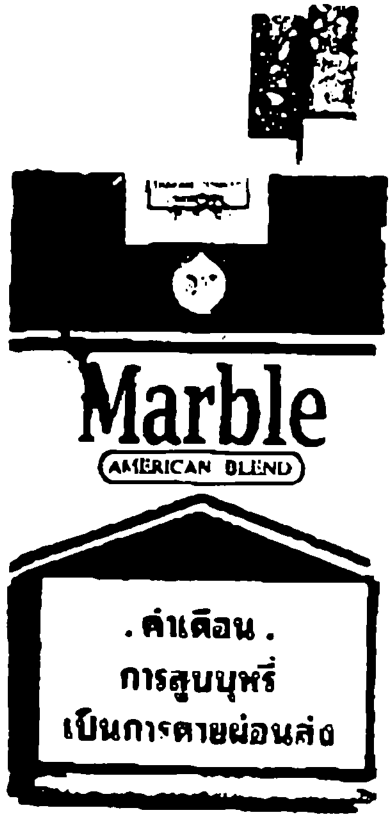
PAGES TO FOLLOW: one

TO:	OFFICE:	PHONE:	FAX:
Sherman Boone			456-9280

FROM: **Sean P. Murphy**

Tel: (202) 395-6813
Fax: (202) 395-3512

Per your request.


Marble
AMERICAN BLEND
.คำเตือน.
การสูบบุหรี่
เป็นการตายผ่อนส่ง


Marble
AMERICAN BLEND


Marble
AMERICAN BLEND
.คำเตือน.
การสูบบุหรี่
เป็นการตายผ่อนส่ง

Tobacco / Lit

35TH STORY of Level 1 printed in FULL format.

The Washington Post

November 18, 1996, Monday, Final Edition

SECTION: A SECTION; Pg. A15

LENGTH: 1345 words

HEADLINE: White House Finds Anti-Tobacco Pledge Not So Easy to Keep

BYLINE: Glenn Frankel, Washington Post Staff Writer

BODY:

Two years after the decision in the Thailand case, the Clinton administration came into office promising a new approach to cigarette trade disputes: Washington no longer would go to bat automatically for the American tobacco industry, or stand in the way of foreign governments imposing genuine health restrictions on cigarettes.

The point man for the new policy was Clinton's trade representative, Mickey Kantor. A California lawyer who had worked on tobacco litigation and whose firm had represented Philip Morris Inc., Kantor came to office determined to demonstrate his independence from the industry. "We will not challenge the health-based regulations of other countries as [they] were challenged in the past concerning tobacco products," he declared early on.

But the old policy has proven more resilient and the administration more ambivalent than public health activists had hoped. And in the case of a controversial tobacco control law introduced in Thailand after the GATT ruling, U.S. officials took the side of the industry -- a stand diametrically opposed to that of the government's chief anti-smoking official.

In 1992 the Thai government enacted an ingredients-disclosure law that requires tobacco companies to divulge the contents of their products. Its purpose was to alert Thai smokers to possibly harmful additives that companies use to boost flavor and, according to critics, increase the effect of addictive nicotine.

Thai public health activists such as Prakit Vateesatokit and Hatai Chitanondh have demanded since then that the companies disclose ingredients by brand -- and Thailand's cabinet finally approved their proposal two months ago. But the industry has waged an intense lobbying campaign against the measure, arguing that such a detailed disclosure to the Thai government would fall almost immediately into the hands of the Thai state tobacco monopoly, which could then create its own versions of the American brands. Instead, the industry has insisted on submitting only companywide lists of ingredients, as is required in the United States.

The U.S. Embassy in Bangkok sided with the companies. "The chances of the list being kept confidential are almost nil," one diplomat said earlier this year.

In September 1993, at the industry's behest, David E. Lambertson, the U.S. ambassador to Thailand, informed the Thai public health minister in a letter that "the recipe of ingredients for a cigarette brand represents extremely valuable intellectual property" and pleaded with him to accept a compromise stipulating disclosure by company. And last year the embassy's economic counselor forwarded to the Thai Council of State a 15-page report from Philip Morris challenging the regulation.

But while the embassy was urging Bangkok to adopt the looser U.S. standard, the director of the U.S. Office on Smoking and Health was advising Thai officials to stick to their more stringent one. "We would recommend that you not use the current U.S. law as an example in drafting regulations," Michael Eriksen advised his Thai counterpart in an August 1992 letter. Eriksen said U.S. law was "insufficient for any meaningful analysis of the health effects" of the ingredients and suggested that Thailand instead adopt a far more stringent disclosure rule used in Canada.

Kantor appeared to side with the companies, telling the National Journal in October 1995 that the administration was prepared to protect their intellectual property rights. But U.S. trade officials now contend the embassy went too far in opposing the ingredient disclosure proposal and say they are only seeking more information from Bangkok about the proposal.

"The embassy made a mistake in taking upon itself to interpret a fairly complex agreement," said a senior trade official, who requested his name not be used. "At this point we've told the embassy that while we want them to monitor the situation, we don't want them advocating on this issue."

The confusion over ingredients disclosure illustrates the difficulty that even an avowedly anti-smoking administration has in dealing with cigarette trade issues. "Our position . . . is that we will not intervene in any countries where there are legitimate and nondiscriminatory health standards in place," said Philip Ziegler, spokesman for the trade representative's office. "At the same time, we do still have a legal obligation to intervene in any country where U.S. products are being discriminated against."

Public health advocates had hoped that any contradictions in the U.S. position would be reconciled by a special interagency group set up in 1993 to review tobacco trade policy. Its white paper was supposed to be completed by summer 1994 but never appeared. "We realized that essentially what was coming out of that discussion was nothing different than what had already been enunciated as the policy of this administration," said the senior trade official.

Supporters of tobacco control are not satisfied with that explanation. "We'd still like to see a clear and unequivocal statement of support for making health a priority in tobacco trade policy," said John Bloom, a longtime activist for the Center for Tobacco-Free Kids.

Anti-smoking advocates also would like to see the Clinton administration release Japan, South Korea and Taiwan from cigarette trade agreements they made under pressure of trade sanctions during the presidencies of Ronald Reagan and George Bush. U.S. trade officials eased conditions on South Korea last year, but only after hard-fought, year-long negotiations. "These agreements violate our sovereignty and have made it harder for us to get good tobacco control measures in our countries," said David Yen, a Taiwanese public health activist.

Commercial officers in U.S. embassies abroad say they have been advised to be less aggressive in helping tobacco companies expand overseas and ordered not to promote American cigarettes. But there are no written rules governing how far they should go in handling requests from the industry. "Different attaches have different approaches," said Kenneth Howland, director of the Agriculture Department's Tobacco, Cotton and Seeds Division and a former embassy staffer. "There are no clear guidelines."

In opening markets in Eastern Europe since the fall of communism, the industry has not sought the intervention of U.S. trade officials the way it did in Asia in the 1980s. Nonetheless, anti-smoking activists contend embassies still often side with the companies. Alfred H. Moses, the U.S. ambassador to Romania, drew complaints when he attended the opening of a new R.J. Reynolds plant in Bucharest two years ago and declared, "I'm sure that Camel and the other splendid products of the R.J. Reynolds Co. will prosper in Romania."

Witold Zatonski, a Polish cancer specialist who is the unofficial leader of the tobacco control movement in Eastern Europe, said anti-smoking conferences dispatched letters to Presidents Bush and Clinton pleading for support but received no reply. The U.S. ambassador to Poland has declined invitations to attend news conferences held by Zatonski and his colleagues.

"I feel strongly that the United States has only helped Philip Morris but has never really helped us," Zatonski said in an interview. "At the least, we would like to see President Clinton have the same policy for Polish children that he has for American children."

The companies themselves decline to criticize the administration, even though they are at odds with the White House over domestic tobacco issues.

"American trade policy has not changed in this arena," said Owen C. Smith, general counsel and vice president of Philip Morris and a longtime specialist in tobacco trade issues. "The United States has always been very clear -- in all of the administrations -- that it will not tolerate other countries discriminating against U.S. exports in any industry. That is our policy today. . . . It was the policy of the previous administration [and] the administration before that."

LANGUAGE: ENGLISH

COUNTRY: THAILAND;

LOAD-DATE: November 18, 1996

```
****----------------------------------------------------------------------****

*       6 PAGES              162 LINES              JOB  23735   104PK2       *
*  10:06 A.M. STARTED    10:07 A.M. ENDED                02/13/98             *
****----------------------------------------------------------------------****
****----------------------------------------------------------------------****
*                          EEEEE     N   N     DDDD                          *
*                          E         N   N     D   D                         *
*                          E         NN  N     D   D                         *
*                          EEE       N N N     D   D                         *
*                          E         N  NN     D   D                         *
*                          E         N   N     D   D                         *
*                          EEEEE     N   N     DDDD                          *

****----------------------------------------------------------------------****

****----------------------------------------------------------------------****
```

SEND TO: FREEDMAN, THOMAS
OPD - DOMESTIC POLICY COUNCIL
ROOM 308
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, DISTRICT OF COLUMBIA 20502-0308

34TH STORY of Level 1 printed in FULL format.

Chicago Sun-Times

November 22, 1996, FRIDAY, Late Sports Final Edition

SECTION: NWS; Pg. 61

LENGTH: 256 words

HEADLINE: Durbin blasts Clinton's foreign policy on tobacco

BYLINE: BY BASIL TALBOTT

DATELINE: WASHINGTON

BODY:

In his first move after his election, Sen.-elect Richard J. Durbin (D-Ill.) Thursday accused the Clinton administration of talking out of both sides of its mouth on tobacco.

A crusader against tobacco while serving in the House, Durbin's broadside sent the signal that he means to keep up his fight in the Senate.

Charging the administration with "inconsistency," Durbin said its foreign policy promoting tobacco exports is out of line with its domestic policy discouraging tobacco use.

"It's time to issue the policy spelling out to all federal agencies and federal employees working overseas that we do not encourage U.S. tobacco exports and won't spend one penny to do it," Durbin said. He wrote to Secretary of State Warren Christopher and Acting U.S. Trade Representative Charlene Barshefsky.

"If I don't get a response from these two, I'll take it up with the president," Durbin said.

He was ticked off by two news reports. One said the U.S. embassy in Bangkok urged Thai officials to adopt a weaker standard of disclosure for ingredients in cigarettes than U.S. standards. The other said the U.S. ambassador predicted a new R.J. Reynolds plant "will prosper in Romania." "The Clinton administration has a clear policy to discourage tobacco usage in general, and stop illegal sales of tobacco to children," Durbin said. "There was supposed to be a clear policy on tobacco exports a couple years ago, but it didn't happen."

In the House, Durbin led the successful fight to wipe out smoking on domestic airlines.

LANGUAGE: English

LOAD-DATE: November 22, 1996

Tobacco - Int'l

Fact Sheet
International Tobacco Issues

The Problem

- There are approximately one billion smokers in the world representing about one-third of the global population aged 15 years and over. 800 million of these smokers are in the developing countries.

- By 2025, tobacco is projected to be the leading global cause of premature death and preventable illness.

- Currently, about 3 million persons die each year from tobacco-related diseases worldwide.

- Tobacco-related deaths by the year 2025 are expected to reach 10 million persons per year, with seventy per cent (7 million) of these deaths occurring in the developing countries.

- If current smoking patterns continue, about 500 million people alive today half of which are children will be killed by tobacco. This represents about 9% of the world's population. Unless smoking behavior changes, by the year 2025, premature deaths caused by tobacco in the developing world will exceed the expected deaths from AIDS, tuberculosis, and complications of childbirth combined.

- Tobacco consumption is decreasing in most developed countries, but increasing in developing countries, due to aging population, rising income, low level of information on health hazards of tobacco, and from tobacco industry's practices (advertising and promotion, smuggling, and use of additives that increases tobacco addiction). Multinational tobacco companies are actively targeting developing countries markets.

- The increase in cigarette consumption levels in emerging markets such as central and eastern Europe, China, Asia, and Africa is expected to compensate for declines in volume sales in mature cigarette markets such as the United States and Western Europe.

Exports

- China, Malawi, Brazil, Zimbabwe, United States, Turkey, and Italy, account for over half of all global exports of unmanufactured tobacco.

- United States is a major cigarette production center and the world's leading exporter of manufactured cigarettes.

- China is the world's dominant producer of unmanufactured tobacco, leads the world in tobacco manufacturing, and also the world's largest cigarette market, accounting for 32.3% of world sales.

- Two countries, Malawi and Zimbabwe are particularly dependent on tobacco as major source of all export earnings, with tobacco accounting for 64% of all export earnings in Malawi and 23% in Zimbabwe.

- Many countries that are devoting more than one per cent of their total import expenses purchasing tobacco are either developing countries or countries of central and eastern Europe. In these countries, expenditures on tobacco imports are relatively large, and are a significant cost to economic development.

Economic Issues

- 1,000 added tons of tobacco consumption produces a global net loss of US $27.2 million.

- It has been estimated that a 10% per cent increase in per capita income can be expected to increase tobacco consumption by 7 per cent in middle income countries, and by more than 13% in low-income countries.

- The Bellagio statement on tobacco and sustainable development stated that tobacco consumption is a major threat to sustainable and equitable development. Furthermore, in the developing world, tobacco poses a major challenge, not just to health, but also to social and economic development and to environmental sustainability.

- Developing countries are already struggling with health care problems, the additional burden of tobacco-related illness will markedly hinder economic development.

- Tobacco use cessation and prevention programs are among the least expensive methods worldwide for preventing tobacco-related disease and death.

- A global strategy is needed to treat tobacco products commensurate with the enormous harm they cause.

Sources: World Health Organization Tobacco Alert 1997, World Bank Report, Institute of Medicine (IOM) Report 1997, UNICEF Press Release 1997, Bellagio Conference on sustainable and equitable development, World Tobacco File 1996.

INITIALS		
APPR:	SEI	...
DRAFT:	PAC	...
CLR 1:	DMA	...
CLR 2:	JMC	...
CLR 3:	LSI	...
CLR 4:	SBO	...
CLR 5:	FCO	...
CLR 6:	AHY	...
CLR 7:	WWH	...
CLR 8:	KHA	...
CLR 9:	JRO	...
CLR10:	DCL	...
CLR11:	TWI	...
CLR12:	KLA	...

UNCLASSIFIED

EB/ATT/ATT/ATP:PACETO:PVA
02/12/98 647-1647
E:SEIZENSTAT

EB/TPP:DMARCHICK USTR:JMCALPINE DOC:LSIMON
NEC:SBOONE USDA:FCOOLIDGE HHS:AHYMAN TREAS:WWHARTIN
EUR/ERA:KHADDA EAP/EP:JROGERS ARA/EPSC:DCLIMAN
NEA/PPR:TWILDER S/S-O: S/S: AF/EPS:AVERDUN +

ROUTINE ALDAC

E.O. 12958: N/A

TAGS: ETRD, AMGT, ODIP, BEXP, BMGT

SUBJECT: TOBACCO: GUIDANCE FOR U.S. DIPLOMATIC POSTS ON HEALTH, TRADE AND COMMERCIAL ISSUES

1. THIS CABLE CONTAINS GUIDANCE FOR OVERSEAS POSTS ON HEALTH, TRADE AND COMMERCIAL ISSUES RELATED TO TOBACCO. THE GUIDANCE WAS DEVELOPED BY AN INTER-AGENCY WORKING GROUP LED BY THE NATIONAL ECONOMIC COUNCIL AND INCLUDING REPRESENTATIVES FROM THE STATE DEPARTMENT, THE COMMERCE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE, THE OFFICE OF THE U.S. TRADE REPRESENTATIVE, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (INCLUDING THE FOOD AND DRUG ADMINISTRATION AND THE CENTERS FOR DISEASE CONTROL AND PREVENTION), AND THE TREASURY DEPARTMENT. THE GROUP WAS FORMED TO EXAMINE THE INTERNATIONAL IMPLICATIONS RELATED TO THE PROPOSED SETTLEMENT WITH TOBACCO COMPANIES. THE GUIDANCE THAT WERE DEVELOPED IN MANY RESPECTS REFLECT LONG-STANDING POLICY AS ENUNCIATED BY USTR AND HHS. THEY ALSO CONFORM TO NEW REQUIREMENTS IN THE FY 1998 COMMERCE/STATE/JUSTICE APPROPRIATIONS ACT (SEE PARA 4 FOR FULL TEXT OF THIS PROVISION).

2. THE WORKING GROUP CITED ABOVE WILL CONTINUE ITS WORK ON TOBACCO RELATED ISSUES AS APPROPRIATE, AND IN THIS LIGHT THE GUIDELINES MAY EVOLVE IN ORDER TO REFLECT POLICY DEVELOPMENTS. POSTS SHOULD REFER TO WASHINGTON ISSUES THAT ARISE THAT ARE NOT COVERED IN THE CURRENT GUIDANCE OR THAT REQUIRE FURTHER ELABORATION. THESE CABLES SHOULD BE SLUGGED FOR EB/TPP/ATT/ATP, OES/E/EID, AND DEPARTMENT PASS TO USTR/ENV, HHS, CENTERS FOR DISEASE CONTROL AND PREVENTION, COMMERCE, USDA AND TREASURY.

3. BEGIN GUIDANCE

GENERAL POLICY

THE OPENING OF INTERNATIONAL MARKETS TO U.S. PRODUCTS, NON-DISCRIMINATORY TREATMENT FOR U.S. EXPORTERS, AND REMOVAL OF BARRIERS TO INTERNATIONAL TRADE ARE HIGH PRIORITIES OF THE U.S. GOVERNMENT AND THE CLINTON ADMINISTRATION. AT THE SAME TIME, THE U.S. RESPECTS THE RIGHTS OF FOREIGN GOVERNMENTS TO ESTABLISH AND MAINTAIN SOUND PUBLIC HEALTH PRACTICES, ENCOURAGES THEM TO DO SO, AND, WHERE APPROPRIATE, MAY SUPPORT SUCH EFFORTS WITH MULTILATERAL AND BILATERAL ASSISTANCE. GIVEN THAT TOBACCO USE WILL BE THE LEADING GLOBAL CAUSE OF PREMATURE DEATH AND PREVENTABLE ILLNESS IN THE 21ST CENTURY, THERE IS A NEED TO DISTINGUISH BETWEEN PROTECTIONIST POLICIES AND LEGITIMATE HEALTH-BASED ACTIONS, SO AS NOT TO UNDERMINE OTHER COUNTRIES' EFFORTS TO REDUCE THE CONSUMPTION OF TOBACCO AND TOBACCO PRODUCTS AND IMPROVE THE HEALTH OF THEIR CITIZENS.

IN LIGHT OF THE SERIOUS HEALTH CONSEQUENCES OF TOBACCO USE, THE U.S. GOVERNMENT WILL NOT PROMOTE THE SALE OR EXPORT OF TOBACCO OR TOBACCO PRODUCTS OR SEEK THE REDUCTION OR REMOVAL BY ANY FOREIGN COUNTRY OF NON-DISCRIMINATORY RESTRICTIONS ON THE MARKETING OF TOBACCO OR TOBACCO PRODUCTS. AT THE SAME TIME, THE U.S. GOVERNMENT WILL CONTINUE TO SEEK ELIMINATION OF DISCRIMINATORY TRADE PRACTICES AND WILL STRIVE TO ENSURE THAT U.S. FIRMS ARE ACCORDED THE SAME TREATMENT IN FOREIGN COUNTRIES AS THAT COUNTRY'S OWN FIRMS AND FIRMS FROM OTHER COUNTRIES.

THE OVERALL OBJECTIVE OF THIS POLICY IS TO ENSURE EQUAL ACCESS TO A SHRINKING GLOBAL MARKET FOR TOBACCO. THIS POLICY ALSO CONFORMS TO THE PROVISIONS OF SECTION 618 OF THE ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR FY 1998.

GUIDELINES

THE FOLLOWING GUIDELINES ARE CONSISTENT WITH THE ADMINISTRATION'S OVERALL APPROACH TO REDUCING THE NEGATIVE HEALTH IMPACT OF TOBACCO WHILE PROTECTING THE RIGHTS OF AMERICANS OVERSEAS:

(1) POSTS ARE ENCOURAGED TO ASSIST AND PROMOTE TOBACCO-CONTROL EFFORTS IN HOST COUNTRIES.

(2) POSTS SHOULD NOT CHALLENGE HOST COUNTRY LAWS AND REGULATIONS BASED ON SOUND PUBLIC HEALTH PRINCIPLES, APPLIED IN A NONDISCRIMINATORY MANNER TO BOTH IMPORTED AND DOMESTIC TOBACCO AND TOBACCO PRODUCTS, AND FOR WHICH SUFFICIENT NOTICE HAS BEEN GIVEN. IF A POST HAS REASON TO BELIEVE THAT SUCH REGULATIONS MAY, IN FACT, DISCRIMINATE AGAINST U.S. FIRMS OR INDIVIDUALS, THE ISSUE SHOULD BE REFERRED TO WASHINGTON FOR CONSIDERATION BY TRADE, HEALTH AND OTHER APPROPRIATE AGENCIES.

(3) POSTS SHOULD NOT PROMOTE THE SALE OR EXPORT OF TOBACCO AND TOBACCO PRODUCTS, AND SHOULD NOT ASSIST THE EFFORTS OF U.S. FIRMS OR INDIVIDUALS TO DO SO. AMBASSADORS OR EMBASSY STAFF SHOULD NOT ATTEND OR OTHERWISE SUPPORT RECEPTIONS, TRADE PROMOTIONS, OR ANY EVENTS SPONSORED BY INDIVIDUALS OR ENTITIES INVOLVED IN THE EXPORT, MANUFACTURE, PROMOTION, DISTRIBUTION OR SALE OF TOBACCO OR TOBACCO PRODUCTS WHERE THEIR ATTENDANCE COULD BE CONSTRUED AS UNITED STATES GOVERNMENT SUPPORT FOR THE SALE OR EXPORT OF TOBACCO AND TOBACCO PRODUCTS.

(4) POSTS SHOULD CONTINUE TO PROVIDE ROUTINE BUSINESS FACILITATION SERVICES TO ALL U.S. CITIZENS OR FIRMS SUCH AS THE PROVISION OF PUBLICLY AVAILABLE INFORMATION ON FOREIGN COUNTRY CONDITIONS AND POLICIES, INFORMATION OR ASSISTANCE THAT MAY HELP U.S. FIRMS OR INDIVIDUALS COMPLY WITH FOREIGN GOVERNMENT LAWS OR REGULATIONS, AND ASSISTANCE IN RESOLVING BUSINESS PROBLEMS--SUCH AS CUSTOMS OR PORT CLEARANCE, TRADEMARK VIOLATIONS, OR PHYTOSANITARY RESTRICTIONS--THAT ARE POTENTIALLY DISCRIMINATORY.

END GUIDANCE

4. TEXT OF SECTION 618

BEGIN TEXT

NONE OF THE FUNDS PROVIDED BY THIS ACT SHALL BE AVAILABLE TO PROMOTE THE SALE OR EXPORT OF TOBACCO OR TOBACCO PRODUCTS, OR TO SEEK THE REDUCTION OR REMOVAL BY ANY FOREIGN COUNTRY OF RESTRICTIONS ON THE MARKETING OF TOBACCO OR TOBACCO PRODUCTS, EXCEPT FOR RESTRICTIONS WHICH ARE NOT APPLIED EQUALLY TO ALL TOBACCO OR TOBACCO PRODUCTS OF THE SAME TYPE.

END TEXT.

YY

E:HMOORE OES/E/EID:NCARTER-FOSTER H:JWILSON
L/EB:KLOKEN SA/RA:KLARSON
Y

February 11, 1998

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 protection of public health.

2. **<u>Adequately Fund Global Nongovernmental 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 Licensing 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.

Tobacco Int'l

THE WHITE HOUSE

WASHINGTON

FEBRUARY 13, 1998

MEMORANDUM FOR GENE SPERLING
DAN TARULLO

FROM: SHERMAN BOONE SB

RE: International Tobacco Up-date

The following is an up-date on international tobacco issues. (A fact sheet on international tobacco, prepared by CDC's Office on Smoking and Health, is attached at Tab 1 for your reference).

Guidelines

The State Department is preparing to notify overseas diplomatic and consular posts of Administration policies on tobacco and provide guidance. A copy of the guidelines is attached at Tab 2. An earlier draft, discussed with HHS Secretary Shalala last October, was superseded by Representative Doggett's amendment to State/Commerce/Justice Appropriations bill. **These guidelines are to be leaked by the DPC this afternoon and transmitted to posts on Tuesday.**

Legislation

A Congressional (primarily Democratic) staff group has developed several pieces of international legislation on tobacco over the past few months. These are summarized in their press backgrounder attached at Tab 3. A press conference had been scheduled for this past Wednesday, but was postponed in light of the Conrad bill roll-out.

The Conrad bill includes several of the elements put forward by the Hill group. It contains a provision that extends and expands upon the Doggett Amendment to the FY98 State/Commerce/Justice Appropriations bill prohibiting the use of funds to facilitate the sale, export or promotion of tobacco or tobacco products. However "normal business facilitation" is not explicitly excepted. The Conrad bill goes beyond Doggett to require certification by Commerce and HHS to Congress, if seeking to address a trade barrier, that the restriction is "arbitrary and unjustifiable" treatment by the host country and is not a "reasonable means to protect public health." Doggett (and the guidelines) allows some government intervention, without certification, if relevant agencies conclude the trade barrier is discriminatory and not health related.

The Conrad bill also provides monies (3% out of the 15.5% allocated to public health, estimated at $300 million over 5 years) for international programs. The Hill group was to propose a two cents per pack "licensing" fee on each package of cigarettes sold by U.S. tobacco companies overseas with the money channeled to an International Tobacco Trust Fund for bilateral and multilateral international tobacco control efforts, including the ACT (see below) and grants administered by HHS.

One-third of the monies provided in the Conrad bill would go to a newly established non-governmental organization, the **American Center on Global Health and Tobacco**, or **ACT**. This NGO, which has the support of Senators Lugar, Hatch, and Harkin, would fund public information campaigns. ACT would also provide funds for public education, as well as technical and general assistance on tobacco control, but would <u>not</u> be involved in any science-based public health activities.

Two-thirds of the international monies provided in the Conrad bill would be designated for official programs. Bilateral and multilateral assistance for "reducing and preventing the use of tobacco in foreign countries" is to be approved by the Secretary of Health and Human Services (in consultation with the Secretary of State). The designated multilateral vehicle is the World Health Organization (WHO); missing is any provision for multilateral development bank programs.

A couple of other internationally-oriented legislative proposals are not included in the Conrad bill. Senator Lautenberg and Representative Waxman support a bill to prevent smuggling. It contains measures that would, in effect, treat tobacco like distilled spirits to ensure the integrity of the custody chain, control of sales, etc. Treasury's Bureau of Alcohol, Tobacco and Firearms would be given authority and budget to deter tobacco smuggling through, among other things, a system of export permits and increased record keeping. Though there is much interest in preventing smuggling, the steps needed to effectively do so are not likely to find much support.

Lautenberg and Waxman also support an "international code of conduct" that would set labeling and advertising requirements for tobacco products abroad by domestic concerns. U.S. tobacco companies would be required to print health warning labels on tobacco products that are at least as stringent as those in the United States. Companies would face the same standards applied to their overseas conduct as they face at home -- they would be prohibited from selling, advertising, or marketing tobacco products to children abroad, for example.

Framework Convention

HHS is interested in pursuing a "Framework Convention on International Tobacco Control" as proposed in 1996 by the World Health Assembly. Such an accord would create an international framework through which nations could address the supranational dimensions of tobacco control in separate protocols. It would also aim to strengthen control efforts through information sharing.

There is inter-agency working group consensus that the tobacco control goals proposed for the convention are sound, but that the specific policies to be pursued need further development in order to clearly define what the parties will actually try to accomplish. Further work will be done by the group to flesh out a proposal. In the meantime, HHS is searching for resources within its budget to fund additional consultative work under the auspices of the WHO.

cc: Bruce Reed
Elena Kagan
Tom Freedman
Mary Smith

62878

Fact Sheet
International Tobacco Issues

The Problem

- There are approximately one billion smokers in the world representing about one-third of the global population aged 15 years and over. 800 million of these smokers are in the developing countries.

- By 2025, tobacco is projected to be the leading global cause of premature death and preventable illness.

- Currently, about 3 million persons die each year from tobacco-related diseases worldwide.

- Tobacco-related deaths by the year 2025 are expected to reach 10 million persons per year, with seventy per cent (7 million) of these deaths occurring in the developing countries.

- If current smoking patterns continue, about 500 million people alive today half of which are children will be killed by tobacco. This represents about 9% of the world's population. Unless smoking behavior changes, by the year 2025, premature deaths caused by tobacco in the developing world will exceed the expected deaths from AIDS, tuberculosis, and complications of childbirth combined.

- Tobacco consumption is decreasing in most developed countries, but increasing in developing countries, due to aging population, rising income, low level of information on health hazards of tobacco, and from tobacco industry's practices (advertising and promotion, smuggling, and use of additives that increases tobacco addiction). Multinational tobacco companies are actively targeting developing countries markets.

- The increase in cigarette consumption levels in emerging markets such as central and eastern Europe, China, Asia, and Africa is expected to compensate for declines in volume sales in mature cigarette markets such as the United States and Western Europe.

Exports

- China, Malawi, Brazil, Zimbabwe, United States, Turkey, and Italy, account for over half of all global exports of unmanufactured tobacco.

- United States is a major cigarette production center and the world's leading exporter of manufactured cigarettes.

- China is the world's dominant producer of unmanufactured tobacco, leads the world in tobacco manufacturing, and also the world's largest cigarette market, accounting for 32.3% of world sales.

- Two countries, Malawi and Zimbabwe are particularly dependent on tobacco as major source of all export earnings, with tobacco accounting for 64% of all export earnings in Malawi and 23% in Zimbabwe.

- Many countries that are devoting more than one per cent of their total import expenses purchasing tobacco are either developing countries or countries of central and eastern Europe. In these countries, expenditures on tobacco imports are relatively large, and are a significant cost to economic development.

Economic Issues

- 1,000 added tons of tobacco consumption produces a global net loss of US $27.2 million.

- It has been estimated that a 10% per cent increase in per capita income can be expected to increase tobacco consumption by 7 per cent in middle income countries, and by more than 13% in low-income countries.

- The Bellagio statement on tobacco and sustainable development stated that tobacco consumption is a major threat to sustainable and equitable development. Furthermore, in the developing world, tobacco poses a major challenge, not just to health, but also to social and economic development and to environmental sustainability.

- Developing countries are already struggling with health care problems, the additional burden of tobacco-related illness will markedly hinder economic development.

- Tobacco use cessation and prevention programs are among the least expensive methods worldwide for preventing tobacco-related disease and death.

- A global strategy is needed to treat tobacco products commensurate with the enormous harm they cause.

Sources: World Health Organization Tobacco Alert 1997, World Bank Report, Institute of Medicine (IOM) Report 1997, UNICEF Press Release 1997, Bellagio Conference on sustainable and equitable development, World Tobacco File 1996.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, the U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. Given that tobacco use will be the leading global cause of premature death and preventable illness early in the 21st century, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to reduce the consumption of tobacco and tobacco products and improve the health of their citizens.

In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco or tobacco products or seek the reduction or removal by any foreign country of nondiscriminatory restrictions on the marketing of tobacco or tobacco products. At the same time, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries.

The overall objective of this policy is to ensure equal access to a shrinking global market for tobacco. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998.

Guidelines

The following guidelines are consistent with the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country laws and regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco and tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for consideration by trade, health and other appropriate agencies.

3. Posts should not promote the sale or export of tobacco or tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products where their attendance could be construed as United States Government support for the sale or export of tobacco or tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems -- such as customs or port clearance, trademark violations, or phytosanitary restrictions -- that are potentially discriminatory.

February 11, 1998

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 protection of 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.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, the U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. Given that tobacco use will be the leading global cause of premature death and preventable illness early in the 21st century, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to reduce the consumption of tobacco and tobacco products and improve the health of their citizens.

In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco or tobacco products or seek the reduction or removal by any foreign country of nondiscriminatory restrictions on the marketing of tobacco or tobacco products. At the same time, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries.

The overall objective of this policy is to ensure equal access to a shrinking global market for tobacco. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998.

Guidelines

The following guidelines are consistent with the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country laws and regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco and tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for consideration by trade, health and other appropriate agencies.

3. Posts should not promote the sale or export of tobacco or tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products where their attendance could be construed as United States Government support for the sale or export of tobacco or tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems -- such as customs or port clearance, trademark violations, or phytosanitary restrictions -- that are potentially discriminatory.

35TH STORY of Level 1 printed in FULL format.

The Washington Post

November 18, 1996, Monday, Final Edition

SECTION: A SECTION; Pg. A15

LENGTH: 1345 words

HEADLINE: White House Finds Anti-Tobacco Pledge Not So Easy to Keep

BYLINE: Glenn Frankel, Washington Post Staff Writer

BODY:

Two years after the decision in the Thailand case, the Clinton administration came into office promising a new approach to cigarette trade disputes: Washington no longer would go to bat automatically for the American tobacco industry, or stand in the way of foreign governments imposing genuine health restrictions on cigarettes.

The point man for the new policy was Clinton's trade representative, Mickey Kantor. A California lawyer who had worked on tobacco litigation and whose firm had represented Philip Morris Inc., Kantor came to office determined to demonstrate his independence from the industry. "We will not challenge the health-based regulations of other countries as [they] were challenged in the past concerning tobacco products," he declared early on.

But the old policy has proven more resilient and the administration more ambivalent than public health activists had hoped. And in the case of a controversial tobacco control law introduced in Thailand after the GATT ruling, U.S. officials took the side of the industry -- a stand diametrically opposed to that of the government's chief anti-smoking official.

In 1992 the Thai government enacted an ingredients-disclosure law that requires tobacco companies to divulge the contents of their products. Its purpose was to alert Thai smokers to possibly harmful additives that companies use to boost flavor and, according to critics, increase the effect of addictive nicotine.

Thai public health activists such as Prakit Vateesatokit and Hatai Chitanondh have demanded since then that the companies disclose ingredients by brand -- and Thailand's cabinet finally approved their proposal two months ago. But the industry has waged an intense lobbying campaign against the measure, arguing that such a detailed disclosure to the Thai government would fall almost immediately into the hands of the Thai state tobacco monopoly, which could then create its own versions of the American brands. Instead, the industry has insisted on submitting only companywide lists of ingredients, as is required in the United States.

The U.S. Embassy in Bangkok sided with the companies. "The chances of the list being kept confidential are almost nil," one diplomat said earlier this year.

In September 1993, at the industry's behest, David E. Lambertson, the U.S. ambassador to Thailand, informed the Thai public health minister in a letter that "the recipe of ingredients for a cigarette brand represents extremely valuable intellectual property" and pleaded with him to accept a compromise stipulating disclosure by company. And last year the embassy's economic counselor forwarded to the Thai Council of State a 15-page report from Philip Morris challenging the regulation.

But while the embassy was urging Bangkok to adopt the looser U.S. standard, the director of the U.S. Office on Smoking and Health was advising Thai officials to stick to their more stringent one. "We would recommend that you not use the current U.S. law as an example in drafting regulations," Michael Eriksen advised his Thai counterpart in an August 1992 letter. Eriksen said U.S. law was "insufficient for any meaningful analysis of the health effects" of the ingredients and suggested that Thailand instead adopt a far more stringent disclosure rule used in Canada.

Kantor appeared to side with the companies, telling the National Journal in October 1995 that the administration was prepared to protect their intellectual property rights. But U.S. trade officials now contend the embassy went too far in opposing the ingredient disclosure proposal and say they are only seeking more information from Bangkok about the proposal.

"The embassy made a mistake in taking upon itself to interpret a fairly complex agreement," said a senior trade official, who requested his name not be used. "At this point we've told the embassy that while we want them to monitor the situation, we don't want them advocating on this issue."

The confusion over ingredients disclosure illustrates the difficulty that even an avowedly anti-smoking administration has in dealing with cigarette trade issues. "Our position . . . is that we will not intervene in any countries where there are legitimate and nondiscriminatory health standards in place," said Philip Ziegler, spokesman for the trade representative's office. "At the same time, we do still have a legal obligation to intervene in any country where U.S. products are being discriminated against."

Public health advocates had hoped that any contradictions in the U.S. position would be reconciled by a special interagency group set up in 1993 to review tobacco trade policy. Its white paper was supposed to be completed by summer 1994 but never appeared. "We realized that essentially what was coming out of that discussion was nothing different than what had already been enunciated as the policy of this administration," said the senior trade official.

Supporters of tobacco control are not satisfied with that explanation. "We'd still like to see a clear and unequivocal statement of support for making health a priority in tobacco trade policy," said John Bloom, a longtime activist for the Center for Tobacco-Free Kids.

Anti-smoking advocates also would like to see the Clinton administration release Japan, South Korea and Taiwan from cigarette trade agreements they made under pressure of trade sanctions during the presidencies of Ronald Reagan and George Bush. U.S. trade officials eased conditions on South Korea last year, but only after hard-fought, year-long negotiations. "These agreements violate our sovereignty and have made it harder for us to get good tobacco control measures in our countries," said David Yen, a Taiwanese public health activist.

Commercial officers in U.S. embassies abroad say they have been advised to be less aggressive in helping tobacco companies expand overseas and ordered not to promote American cigarettes. But there are no written rules governing how far they should go in handling requests from the industry. "Different attaches have different approaches," said Kenneth Howland, director of the Agriculture Department's Tobacco, Cotton and Seeds Division and a former embassy staffer. "There are no clear guidelines."

In opening markets in Eastern Europe since the fall of communism, the industry has not sought the intervention of U.S. trade officials the way it did in Asia in the 1980s. Nonetheless, anti-smoking activists contend embassies still often side with the companies. Alfred H. Moses, the U.S. ambassador to Romania, drew complaints when he attended the opening of a new R.J. Reynolds plant in Bucharest two years ago and declared, "I'm sure that Camel and the other splendid products of the R.J. Reynolds Co. will prosper in Romania."

Witold Zatonski, a Polish cancer specialist who is the unofficial leader of the tobacco control movement in Eastern Europe, said anti-smoking conferences dispatched letters to Presidents Bush and Clinton pleading for support but received no reply. The U.S. ambassador to Poland has declined invitations to attend news conferences held by Zatonski and his colleagues.

"I feel strongly that the United States has only helped Philip Morris but has never really helped us," Zatonski said in an interview. "At the least, we would like to see President Clinton have the same policy for Polish children that he has for American children."

The companies themselves decline to criticize the administration, even though they are at odds with the White House over domestic tobacco issues.

"American trade policy has not changed in this arena," said Owen C. Smith, general counsel and vice president of Philip Morris and a longtime specialist in tobacco trade issues. "The United States has always been very clear -- in all of the administrations -- that it will not tolerate other countries discriminating against U.S. exports in any industry. That is our policy today. . . . It was the policy of the previous administration [and] the administration before that."

LANGUAGE: ENGLISH

COUNTRY: THAILAND;

LOAD-DATE: November 18, 1996

```
****-------------------------------------------------------------------****
*        6 PAGES                 162 LINES            JOB  23735   104PK2      *
*  10:06 A.M. STARTED    10:07 A.M. ENDED                02/13/98           *
****-------------------------------------------------------------------****
****-------------------------------------------------------------------****
*                          EEEEE      N   N      DDDD                        *
*                          E          N   N      D   D                       *
*                          E          NN  N      D   D                       *
*                          EEE        N N N      D   D                       *
*                          E          N  NN      D   D                       *
*                          E          N   N      D   D                       *
*                          EEEEE      N   N      DDDD                        *
****-------------------------------------------------------------------****

****-------------------------------------------------------------------****
```

SEND TO: FREEDMAN, THOMAS
OPD - DOMESTIC POLICY COUNCIL
ROOM 308
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, DISTRICT OF COLUMBIA 20502-0308

34TH STORY of Level 1 printed in FULL format.

Chicago Sun-Times

November 22, 1996, FRIDAY, Late Sports Final Edition

SECTION: NWS; Pg. 61

LENGTH: 256 words

HEADLINE: Durbin blasts Clinton's foreign policy on tobacco

BYLINE: BY BASIL TALBOTT

DATELINE: WASHINGTON

BODY:

In his first move after his election, Sen.-elect Richard J. Durbin (D-Ill.) Thursday accused the Clinton administration of talking out of both sides of its mouth on tobacco.

A crusader against tobacco while serving in the House, Durbin's broadside sent the signal that he means to keep up his fight in the Senate.

Charging the administration with "inconsistency," Durbin said its foreign policy promoting tobacco exports is out of line with its domestic policy discouraging tobacco use.

"It's time to issue the policy spelling out to all federal agencies and federal employees working overseas that we do not encourage U.S. tobacco exports and won't spend one penny to do it," Durbin said. He wrote to Secretary of State Warren Christopher and Acting U.S. Trade Representative Charlene Barshefsky.

"If I don't get a response from these two, I'll take it up with the president," Durbin said.

He was ticked off by two news reports. One said the U.S. embassy in Bangkok urged Thai officials to adopt a weaker standard of disclosure for ingredients in cigarettes than U.S. standards. The other said the U.S. ambassador predicted a new R.J. Reynolds plant "will prosper in Romania." "The Clinton administration has a clear policy to discourage tobacco usage in general, and stop illegal sales of tobacco to children," Durbin said. "There was supposed to be a clear policy on tobacco exports a couple years ago, but it didn't happen."

In the House, Durbin led the successful fight to wipe out smoking on domestic airlines.

LANGUAGE: English

LOAD-DATE: November 22, 1996

Tobacco – Int'l

DRAFT Q/A'S
TOBACCO GUIDELINES FOR FOREIGN POSTS
2/12/98

Q. What do the guidelines accomplish?

A. The guidelines provide explicit guidance to all U.S. Government representatives to do nothing that will promote, or could be construed as promoting, the overseas sale or export of tobacco or tobacco products. They also significantly restrict U.S. diplomatic and commercial officials' latitude to challenge local country laws or regulations that are based on sound public health principles and applied equally to both foreign and domestic products.

Q. Who are the guidelines sent to?

A. The guidelines are being sent to all U.S. diplomatic posts, including embassies and commercial offices. They will also be circulated among Washington agencies involved in international health, trade and commerce.

Q. What is new in the guidelines?

A. While reflecting long-standing Clinton Administration practice, the guidelines explicitly enunciate a single policy among agencies that deal with international health, trade and commercial issues. These guidelines provide uniform instruction to overseas representatives of the Departments of State, Commerce and Agriculture with regard to trade and investment promotion. Heretofore, tobacco and tobacco products were considered no different than any other legally traded goods; this guidance makes clear that, because of the health implications, tobacco is indeed different, and actively encourages U.S. posts to assist and promote tobacco-control efforts. The guidelines are consistent with recent legislation, known as the Doggett Amendment, which sought to limit promotion by the government of tobacco overseas.

Q. What other steps that should be taken?

A. When the President announced his plan for comprehensive tobacco legislation, he called for a strengthening of international efforts to control tobacco. These policy guidelines should be incorporated into comprehensive tobacco legislation. In addition, comprehensive legislation should provide for resources so that the United States Government -- working bilaterally, multilaterally, and through NGOs -- can actively support international tobacco-control initiatives.

Q. Are there examples of what this would prohibit?

A. Under the guidelines, a number of activities by U.S. officials are prohibited. U.S. Ambassadors cannot tout the opening of new cigarette factories overseas and U.S. government representatives cannot attend public or privately-sponsored events that serve to promote the sale or distribution of tobacco or tobacco products. In addition, U.S. officials are prohibited from seeking to delay enactment or counter the effects of local laws or regulations that inhibit the sale of tobacco or tobacco products -- so long as they are applied equally to all such products, foreign and domestic.

NORTH DAKOTA
GRAIN GROWERS
ASSOCIATION
4023 STATE STREET • BISMARCK, ND 58501 • 701-222-2216 • ND WATS 1-800-932-8822 • FAX 701-223-0018

To: Senators Lugar, Roberts, Burns, Gramm, Cochran, Craig, Grassley, Gorton

We applaud federal lawmakers for recognizing that low wheat prices on the heels of multiple years of crop disease is driving farmers in the Northern Plains out of business, and need help now.

The $4.3 billion farm relief plan is a good start, but frankly, it falls short. $1.65 billion in additional AMTA payments works out to about 18 cents for wheat and about 5 cents for barley. NDSU Ag Economist Andy Swenson has calculated that the economic impact from the increase in AMTA payments will amount to only about $2,342 per farm in North Dakota. The payment equates to merely $3.08 per cropland acre.

That is not enough to sustain the wheat farmer in North Dakota who will lose over $50 an acre this year from the free-fall in prices, on top of losses from scab and vomitoxin stretching back to 1993. The NDGGA urges a 60 cent per bushel payment to farmers, which we estimate would amount to approximately $10.64 per cropland acre.

We still believe Freedom to Farm can work, once better crop insurance, better markets, and freer trade is in place. But in the meantime, farmers in this region have financially run out of time. We cannot stress enough the need for bipartisan cooperation for a relief package that will funnel 60 cents per bushel to the ND farmer this Congress.

Sincerely,

Mark Gage

Mark Gage
NDGGA President
Page, ND

CC: President Bill Clinton, Senator Conrad and Dorgan, Secretary of Agriculture Dan Glickman, NAWG, NBGA.

CENTER FOR COMMUNICATIONS, HEALTH AND THE ENVIRONMENT

3333 K Street, NW, Suite 110, Washington, DC. 20007 • Tel: (202) 965-5990 • Fax: 965-5996
22 Pokrovka, Bldg. 1, Rm. 8, Moscow 101000, Russian Federation • Tel/Fax: (7-095)917-5889

BK – Sherman passed this along. Tom

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
Junshi Chen, MD
Beijing, China

Sushma Palmer
Dr. Sushma Palmer
Washington, DC

Mark Palmer
Mark Palmer
Washington, DC

CENTER FOR COMMUNICATIONS, HEALTH AND THE ENVIRONMENT

3333 K Street, NW, Suite 110, Washington, DC. 20007 • Tel: (202) 965-5990 • Fax: 965-5996
Email:SPalmer.CECHE.DC@worldnet.att.net • WWW Site: http://www.igc.apc.org/ceche

18 September, 1997

PROPOSAL TO ESTABLISH AN AMERICAN CENTER (ACT) FOR A TOBACCO-FREE WORLD

The United States has a unique opportunity to benefit from our extraordinary domestic revolution against tobacco in leading a world-wide revolution against smoking. The United States also has a unique responsibility – American tobacco companies and American marketing genius are major causes of the sharply increased smoking among women and children throughout the world.

Fortunately there is growing recognition of the need for American international leadership in tobacco control and specific proposals have begun to emerge. We believe it is useful to distinguish between actions the U.S. Government should undertake and those more effectively and appropriately spearheaded by private American efforts. The Koop-Kessler Committee Report contains an excellent set of recommendations focused primarily on U.S. Government policies and resources to devote to this international task. It correctly emphasizes the special role of the U.S. Government in shaping U.S. and multilateral trade policies and agreements, working with multinational institutions such as WHO and so forth. HHS, USTR and other agencies have a full and important new agenda for action.

We believe that non-governmental individuals and groups – here and abroad – can play an equally powerful, indeed indispensable role and that they must be free of government (and tobacco industry) influence if they are to play that role. It is clear that our own present revolution would not have happened without "activist" individuals and groups. This is even more true in the majority of the world's countries whose governments rely heavily on income from tobacco and are far less democratic and responsive to their people's needs than in the United States. But the paradox we face is that without substantial money either from a settlement with the U.S. tobacco industry or from an increase in cigarette taxes or price, there is no way for the world's freedom fighters against smoking to begin to defeat the tobacco industry's money, political power and mass media marketing campaigns in their own countries. At the same time it is clear that tobacco control action exclusively through the U. S. Government channels will mean primarily work with other governments and international institutions such as WHO, and that agencies such as HHS and WHO will understandably be concerned with avoiding confrontation and with other priorities having nothing to do with the struggle against tobacco. There is also an inevitable danger that what is a priority this year will give way to something else in the relatively near term – while the war against tobacco will take a generation to win.

The Congressional and other founders of the National Endowment for Democracy well understood very similar domestic and international dynamics/realities when they conceived the framework and wrote the legislation establishing the Endowment in 1983. In its opening provisions the legislation notes that the Endowment is "not an agency or establishment of the United States Government", that its purpose is "to encourage free and democratic institutions throughout the world through private sector initiatives" and "to promote United States nongovernmental participation" in this process. It instructs and requires the Director of the United States Information Agency to make an annual grant to the Endowment of an amount specified by the Congress and limits USIA's role by specifying that the Endowment's grant funds "will only be used for activities which the Board of Directors of the Endowment determine are consistent with the legislation."

We therefore propose legislation to establish an "American Center (ACT) For A Tobacco-Free World." ACT would be established in Washington as a private, non-profit corporation. ACT would be funded by the $50 million (or more) being considered in the settlement with the tobacco industry for international activities or by a portion of the proceeds from a cigarette tax increase. HHS, USTR, Commerce, State and others have leading and critical roles to play; they must also increase their anti-smoking activities and need U.S. Government funds to support them from its normal budgetary process. ACT would in certain important respects mirror image the independent, domestic non-profit organization with a distinguished independent Board provided for in the settlement "to spend $500 million annually for multi-media campaigns designed to discourage and deglamorize the use of tobacco products" here in the United States.

The purpose of ACT is to take action against smoking – not to conduct research, establish new international organizations, set up regional or country offices or other time-dishonored bureaucratic ways of spending large sums of money to little purpose. ACT's specific purposes are:

1) To link together the world's tobacco control community to stimulate action, coordinate strategies and provide the best input and information.

2) To unleash and sustain comprehensive campaigns against smoking through the development of mass media and other techniques and products.

3) To empower country-by-country "activist" individuals and organizations to bring about the same sea-change in the political, regulatory and public health environment needed to control tobacco which we are pursuing now in this country.

ACT will have a limited staff to save on overhead (perhaps ten people) and to the maximum extent utilize the available experience and talents of existing American organizations to carry out its mandate. These will include the leading American professional and voluntary health organizations, and those NGOs specialized in certain aspects of the anti-tobacco fight (regulation, taxation, advocacy, media). This too will be similar to the National Endowment for Democracy which works with four permanently affiliated organizations.

Further detail on ACT and its affiliates and proposed programs is in the Appendix.

The Board of ACT would have up to 25 members including:

1. A Republican and a Democrat from both the Senate and the House;

2. The Presidents of the American Medical Association, American Cancer Society, American Lung Association, American Public Health Association/WFPHA, American Academy of Pediatrics, American Heart Association;

3. The President of the new domestic-focus non-profit organization being set up for mass media anti-smoking education (ex-officio);

4. CEOs of advertising – marketing agencies;

5. CEOs of media organizations (Disney, Time Warner, NewsCorp, PBS.....);

6. Presidents of ....(U.S. NGOs relevant to tobacco, including women's organizations);

7. Prominent individuals like Koop, Kessler, Jane Fonda, George Shultz, Zbig Brzezinski, Henry Kissinger, Lane Kirkland.

There also should be an International Advisory Council. This Council would have representatives of key international organizations (WHO, UNICEF, UICC) and leading activists from key regions like Witold Zatonski for East/Central Europe, Richard Peto for Western Europe, Judith Mackay for Asia. This council would give advice on priorities and ensure cooperation and coordination with other programs.

The initial Congressional – Settlement annual commitment should be at least $50 million but preferably at least double that amount. The commitment of $500 million for the domestic mass media campaign alone recognizes the cost and scale of the challenge. ACT will be addressing an audience twenty times larger than the U.S. population and competing with tobacco industry advertising budgets also at least twenty times larger than the $50 million now designated for <u>all</u> international programs – not just mass media. The legislation also should recognize the long-term nature of the challenge and therefore also commit to twenty-five year funding of ACT.

APPENDIX

Programs of ACT and Affiliates

The following is a first cut of programs ACT and its affiliates will conduct.

<u>ACT Programs</u>

A. Stimulus for Action and Coordination of Tobacco Control Policies and Strategies

ACT will convene senior experts in international tobacco control policy and strategy. Top priority will be given to identifying the most effective, and influential tobacco control experts in the world, without regard to organizational affiliation. These experts will serve in an ad hoc advisory capacity to (1) help coordinate global policy priorities and strategies; and (2) provide the best and most strategic input into U.S. tobacco control efforts.

Priorities for these experts will include:

- **Global Coordination.** The experts selected will, by their nature, have powerful insight into developing trends and effective policies and strategies. Facilitating coordination and collaboration among these influential players will benefit tobacco control in the U.S. and internationally.
- **Stimulate Action.** The experts will be well-positioned to coordinate efforts to stimulate a higher level of action from influential institutions, including multilateral agencies (WHO, World Bank, UNICEF), ministries of health and NGOs (e.g. national cancer societies in more than 80 nations, many of which do little or no tobacco control advocacy). They will develop specific action plans to stimulate key targets. Strategies will involve using personal approaches to educate key decision-makers, technical assistance to targeted organizations in overcoming perceived obstacles, media strategies to help raise awareness of the urgent need for action, and public shaming strategies where organizations with a clear mandate to act demonstrate a determination to avoid doing so.
- **International Input into U.S. Efforts.** Many countries are ahead of the U.S. in tobacco control policy efforts, and can share important lessons.
- **Identify Strategic Initiatives.** The experts will identify strategic tobacco control initiatives in their regions and areas of expertise for purposes of distributing small grants administered by ACT.

Activities: Recruit experts; arrange regular information exchange among advisors via the Internet, mail and fax; arrange meetings of advisors as needed.

B. Information Base for Tobacco Control Efforts

There is now no organization in the U.S. that effectively tracks international trends in the tobacco industry and in tobacco control, analyzes and disseminates the information, and provides technical assistance on international issues to tobacco control advocates in the U.S. and abroad. These activities are important for the U.S. tobacco control movement to benefit from what is happening internationally, and are equally important for international advocates to benefit from new information and strategies in the U.S. Advocates in developing nations, in particular, have limited access to the latest data, policy research, and strategic thinking in tobacco control.

A relatively modest program run by ACT focused on working with the World Health Organization, the SCARCNet and UICC GLOBALink computer networks, and numerous U.S.-based and international information sources, could make a tremendous difference. The focus of these efforts will include:

- Collecting, analyzing and organizing information on important international trends in tobacco control;
- Providing regular updates on important developments in the U.S. or tobacco control advocates abroad;
- Providing regular analysis of international developments for U.S.-based tobacco control advocates;
- Encouraging greater coverage of international tobacco and health issues by the U.S. media and responding to related media requests;
- Responding quickly and effectively to requests for technical support from advocates abroad;
- Developing appropriate materials, including fact sheets, charts, graphs and reports, on tobacco control issues tailored to international audiences;
- Developing a rapid response support capability to provide intensive support to strategically important campaigns. Support may include funding leading experts to draft reports, provide testimony and lead workshops, or providing small grants for locally-based advocates to secure expert assistance.

C. Leading Efforts to Reform U.S. Tobacco Trade Policy

The U.S. is the world's largest cigarette exporter and home to two of the four largest private tobacco companies in the world. Historically, the U.S. government has acted as a vigorous ally of the tobacco industry in efforts to expand markets for U.S. tobacco and tobacco marketing in developing nations. The Clinton Administration has shown greater sensitivity to tobacco and health concerns than previous administrations. However, significant problems persist, including:

- There is no clear policy or procedure for handling tobacco-related trade issues, and there are no health-based restrictions governing what U.S. government officials may do on behalf of the tobacco industry.

- There are no requirements that exported cigarettes bear health warning labels or that they disclose toxic constituents.

- There are no significant U.S. government-sponsored programs in place to assist developing nations in combating the growing epidemic of tobacco use.

ACT will play a leadership role in addressing these issues.

Activities: Liaison with the health community, White House, Department of Health and Human Services, Office of U.S. Trade Representative, Department of Commerce, Department of Agriculture, Department of State and U.S. Congress; policy analysis and research.

Affiliates Programs

A. Mass Media. It is widely recognized that the most powerful way to affect individual behavior is through public awareness campaigns and the mass media. We propose to massively leverage the substantial but still limited funds which will be made available per annum through ACT for mass media (at least $25 million p.a., but preferably $50 million p.a.) by engaging both global media companies and national media organizations throughout the world in an alliance to keep children from starting to smoke and to help others kick the habit. We propose having on the Board of ACT the largest global television and marketing companies and creating a group led by CECHE which would work with these companies to create and place anti-smoking programs,

These could include an initial hour-long, splashy television program with globally known entertainment figures and hard-hitting investigative reporting on the industry and the effects of smoke. The mix of star quality, great popular music and hard-hitting information ought to 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 media companies and national media companies to train their people in anti-smoking programming and to produce both short-form, PSA-type pieces and longer anti-smoking programs. We would seek to engage the major print organizations as well in this global campaign.

One American NGO has experience working with NBC, CBS, Time-Warner and others in training groups of foreign producers, writers, directors, and on-air personalities and journalists in the health field. It also has experience producing and airing on national television networks throughout post-communist Europe long- and short-form television programs on smoking and other public health issues. Funding should be made available to cover every country in the world by the training and co-production programs with every national television station and every national magazine or newspaper included. We would train, motivate, and empower national media as well as catalyzing local media action.

One of the best features of this mass-media program is that we would get free air time and space in print media – whereas the tobacco industry has to pay for most of their space.

B. Demonstration Projects. US organizations have experience in designing and conducting comprehensive public health intervention/demonstration projects in post-communist Europe. These projects combine the use of mass media, intensive community-level actions in schools, work with health and media professionals and so forth. We now envision launching in each of the five specified regions at least one such demonstration project focused on applying state-of-the art tobacco control intervention through all channels, including the "other products" cited below.

Other Products and Affiliates Programs

- On the legislative and regulatory front, the ACT affiliates with expertise will offer model legislation and regulations which could be used in any country in the world. They will strive to close the loopholes now being used, for example, with regard to cigarette ads on television where it is supposedly banned, in Russia, Ukraine, China and elsewhere. Our draft legislation would also reflect the Proposition 99 approach in California where a portion of the increase in taxes on cigarettes is used for anti-smoking education.

- On the school and kids front, programs here have prevented thousands of American youths from falling prey to the deadly habit. They will transfer these skills through a variety of locally adaptable products, including draft model curricula for schools starting with the pre-school level, youth and campaigns and so forth.

- We will target health professionals, whose American counterparts have set the pace in the United States as role models and teachers. Today fewer than 1% of all young American doctors smoke, whereas the first thing the visitor entering Budapest's Oncology Center notices is the number of doctors and nurses smoking in the halls and even while examining patients. US NGOs have worked with health professionals in many countries and will design special materials for them.

- We will set up partnerships with employers and business groups to create tobacco-free work environments. This has been the single most successful anti-smoking program in the United States as employers have been educated that tobacco-free environments (for example, airplanes and offices) are actually cheaper and more efficient.

- Advocacy training packages will be produced and tailored to be used in all of the above. We will train tobacco control activists from each of the five key regions of the world by exposing them to advocacy skills and techniques used in the United States, sponsoring visits to the U.S. Congress, key activist NGOs and so forth.

What should the federal gov't do?

1. Defense
2. Interstate Commerce
3. GNTEE RTS (Fed'l)
4.
5.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the importance of health measures internationally, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to improve the health of their citizens.

Tobacco sits squarely at the intersection between trade and health policies. In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco products. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998, which stipulates that, "none of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type." The U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. On the other hand, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

Guidelines

Posts should be aware of U.S. trade policy on tobacco as jointly enunciated by USTR and HHS. The following guidelines ensure consistency with that policy and Section 618 of the Act cited above, as well as the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for consideration by trade, health and other appropriate agencies.

3. Posts should not promote the sale or export of tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products where their attendance could be construed as United States Government support for the sale or export of tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems--such as customs or port clearance, trademark violations, or phytosanitary restrictions--that are potentially discriminatory.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the importance of health measures internationally, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to improve the health of their citizens.

Tobacco sits squarely at the intersection between trade and health policies. In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco products. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998, which stipulates that, "none of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type." The U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. On the other hand, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

Guidelines

Posts should be aware of U.S. trade policy on tobacco as jointly enunciated by USTR and HHS. The following guidelines ensure consistency with that policy and Section 618 of the Act cited above, as well as the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for **consideration by trade, health and other appropriate agencies.**

3. Posts should not promote the sale or export of tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not~~, in their official capacity~~, attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products ~~where tobacco products will be featured or~~ where their attendance could be construed as **United States Government** support for the sale or export of tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems--such as customs or port clearance, trademark violations, or phytosanitary restrictions--that are potentially discriminatory.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the importance of health measures internationally, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to improve the health of their citizens.

Tobacco sits squarely at the intersection between trade and health policies. In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco products. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998, which stipulates that, "none of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type." The U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. On the other hand, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

Guidelines

Posts should be aware of U.S. trade policy on tobacco as jointly enunciated by USTR and HHS. The following guidelines ensure consistency with that policy and Section 618 of the Act cited above, as well as the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for **consideration by trade, health and other appropriate agencies.**

3. Posts should not promote the sale or export of tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not~~, in their official capacity~~, attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products ~~where tobacco products will be featured or~~ where their attendance could be construed as **United States Government** support for the sale or export of tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems--such as customs or port clearance, trademark violations, or phytosanitary restrictions--that are potentially discriminatory.

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

General Policy

The opening of international markets to U.S. products, non-discriminatory treatment for U.S. exporters, and removal of barriers to international trade are high priorities of the U.S. Government and the Clinton Administration. At the same time, given the importance of health measures internationally, there is a need to distinguish between protectionist policies and legitimate health-based actions, so as not to undermine other countries' efforts to improve the health of their citizens.

Tobacco sits squarely at the intersection between trade and health policies. In light of the serious health consequences of tobacco use, the U.S. Government will not promote the sale or export of tobacco products. This policy also conforms to the provisions of Section 618 of the Act Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for FY 1998, which stipulates that, "none of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type." The U.S. respects the rights of foreign governments to establish and maintain sound public health practices, encourages them to do so, and, where appropriate, may support such efforts with multilateral and bilateral assistance. On the other hand, the U.S. Government will continue to seek elimination of discriminatory trade practices and will strive to ensure that U.S. firms are accorded the same treatment in foreign countries as that country's own firms and firms from other countries. The overall objective is to shrink the global market for tobacco without disadvantaging U.S. firms.

Guidelines

Posts should be aware of U.S. trade policy on tobacco as jointly enunciated by USTR and HHS. The following guidelines ensure consistency with that policy and Section 618 of the Act cited above, as well as the Administration's overall approach to reducing the negative health impact of tobacco while protecting the rights of Americans overseas:

1. Posts are encouraged to assist and promote tobacco-control efforts in host countries.

2. Posts should not challenge host country regulations based on sound public health principles, applied in a nondiscriminatory manner to both imported and domestic tobacco products, and for which sufficient notice has been given. If a post has reason to believe that such health regulations may, in fact, discriminate against U.S. firms or individuals, the issue should be referred to Washington for **consideration by trade, health and other appropriate agencies.**

3. Posts should not promote the sale or export of tobacco products, and should not assist the efforts of U.S. firms or individuals to do so. Ambassadors or embassy staff should not~~, in their official capacity~~, attend or otherwise support receptions, trade promotions, or any events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products ~~where tobacco products will be featured or~~ where their attendance could be construed as **United States Government** support for the sale or export of tobacco products.

4. Posts should continue to provide routine business facilitation services to all U.S. citizens or firms such as the provision of publicly available information on foreign country conditions and policies, information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations, and assistance in resolving business problems--such as customs or port clearance, trademark violations, or phytosanitary restrictions--that are potentially discriminatory.

Smuggling
New fixed cut 1/15/98

Memorandum

DRAFT

To:	Int'l tobacco working group
From:	[redacted]
Date:	January 14, 1998
Subject:	Smuggling update

Section 1 - Definitions: Use existing definitions found in the Internal Revenue Code. Where Code is silent, look to Kennedy's draft.

Section 2 - Tobacco Product Labeling Requirements: Require both manufacturers and wholesalers to make their commercial records available for audit by Treasury officials so that, if necessary, the government may trace the chain of custody of a tobacco product shipment from the manufacturer to the retailer. Require a "date-shift" code on packages of tobacco product, similar to that required for explosives. When secure technology is available, to be determined by the Secretary, the record keeping requirement on manufacturers and wholesalers shall be replaced by a chain of custody stamp to be placed on each tobacco product package.

Exported packages of tobacco product shall be labeled with the country of final destination. The Secretary shall determine under what circumstances a waiver of this requirement may be granted.

Section 3 - Requirements for the Tracking of Tobacco Products: It shall be unlawful for any person to export any tobacco product unless a bond has been posted with the Secretary. The amount of this bond shall be 30 percent of the value of the shipment. This person must also certify to the Secretary that he has no knowledge that the recipient of this product in such country intends to violate any law or regulation of that country with respect to such products, and that the recipient has never been convicted of any offense with respect to tobacco.

eliminate certific

Section 4 - Pricing and Labeling of Products Sold on Military Installations or by Native Americans: In consultation with the Secretary of Defense, the Secretary shall promulgate regulations ensuring that the price charged for a tobacco product sold on a military installation is equal to the highest price for which such product is sold in the surrounding localities (inclusive of any tax) where the installation is located or the highest price for which such product is sold in the US (inclusive of federal taxes), whichever is greater. Packages of tobacco product sold on military installations shall be so marked, as shall packages sold on Indian reservations.

Section 5 - Prohibition against Sale of Tobacco Products in Duty-Free Shops: The quantity of tobacco product an individual may purchase with a valid ticket for travel that day shall be determined by the Secretary. No person in the US may export tobacco products to duty-free shops outside of the US.

Sections 6 & 7 - Prohibitions and Tobacco Product Permits: Will continue to work with Treasury to establish a permit system for tobacco product sales. Will include "broker" in the definition of "wholesaler," and provide Treasury with inspection, and seizure and forfeiture authority.