

*Tobacco -
E. Promotion*

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
...

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EB/ATT/ATT/ATP:PACETO:PVA
02/11/98 647-1647
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 THE TREASURY DEPARTMENT. THE GROUP WAS FORMED TO EXAMINE THE INTERNATIONAL IMPLICATIONS RELATED TO THE PROPOSED SETTLEMENT WITH TOBACCO COMPANIES. THE GUIDELINES THAT WERE DEVELOPED IN MANY RESPECTS REFLECT LONG-STANDING POLICY AS ENUNCIATED BY USTR AND HHS. THEY ALSO CONFORM TO NEW

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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 WHICH 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, 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 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 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

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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

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