Today's Weather: Sunny but a tad on the cool side in the shade.

High 9ºC  Low –4ºC

Since the opening of the first working group for the Framework Convention on Tobacco Control on 25 October 1999, 36,033,302 people have died from tobacco-related diseases.

(At 9am 11 February 2008)

Building Support for Global Tobacco Control

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Today

13.00-14.00
FCA Briefing on smuggling and illicit trade in tobacco products

14.00
Unveiling of the Death Clock

A global solution to a global problem

Jonathan Liberman, Policy Director of the FCA, looks forward to a successful new round of international negotiations

Governments in Geneva this week for the first meeting of the International Negotiating Body (INB) on the illicit tobacco trade have a unique opportunity. They can lay the foundations of a Protocol that will both save lives and deliver billions of extra dollars in revenue each year to governments the world over.

Illicit trade in tobacco products is a problem that affects all countries, but one that no country can deal with on its own. Contraband and counterfeit products are moved across borders, meaning that what one country does or fails to do affects other countries. And the involvement of organised crime groups in illicit trade is a threat to the maintenance of law and order internationally.

In deciding to negotiate a Protocol, Parties to the FCTC have recognised that international co-operation is essential for combating illicit trade.

Parties decided in favour of negotiating the Protocol in July last year, at the second session of the Conference of the Parties (COP), with very strong support from countries in all six WHO regions. The time has now come to make sure that the Protocol delivers on its promise.

The INB will be discussing the Protocol template prepared by the expert group that was established by the first session of the COP. The group was composed of 24 experts, drawn in equal numbers from each of the six WHO regions, having expertise in public health, law enforcement and justice, finance and taxation, and customs, excise and trade. The template is a comprehensive document that reflects the group’s wide range of expertise, setting out the kinds of measures that need to be included in a protocol if it is to be truly effective in combating illicit trade in tobacco products.

FCA strongly supports the template and urges all Parties to do so here at INB-1. Its key elements include:

- measures dealing with the control of the tobacco supply chain, including tracking and tracing of tobacco products, licensing of participants in the tobacco business, implementation of Know Your Customer Procedures, obligations on (Continued on page 2)
Global problem, global solution (continued from page 1)

Negotiation of the Protocol will proceed in stages. The COP envisages the Protocol being adopted at its fourth session in 2010, with at least three INBs taking place before then. There will be plenty of time for negotiation of detailed provisions.

INB-1 is the time for Parties to take a stand on the key elements of a Protocol, commit to a strong Protocol, and give the Chair of the INB a clear mandate to draft a text for INB-2, where provision-by-provision negotiations can commence.

In approaching INB-1, Parties should thus have three major considerations in mind:

- that the Protocol provides an opportunity for them to secure the international co-operation that each of them needs to be able to effectively deal with the problem of illicit trade in tobacco products;
- that the cross-border nature of the problem means that each Party has a responsibility to other Parties to approach the negotiations in a collaborative spirit, looking for solutions that will benefit all Parties;
- that INB-1 is the time to lay the foundations for a strong Protocol, with the precise detail of the Protocol’s provisions to then be negotiated in the coming INBs.

FCA hopes that when INB-1 is brought to a close, the Parties will have given a clear mandate for a draft text to be produced for INB-2 which incorporates all of the elements identified in the expert group’s template. If this happens, we can all leave INB-1 confident of being on the path to an effective Protocol that will deliver on its promise of both saving lives and delivering billions of dollars in lost revenue to governments across the world.

Cerca 73 mil millones de cigarrillos ilegales en los países del MERCOSUR

Una de las zonas principales del comercio ilegal en el MERCOSUR (Argentina, Brasil, Paraguay, Uruguay) es la denominada “región de la Triple Frontera”, comprendida principalmente por las ciudades de Foz de Iguaçu (Brasil), Ciudad del Este (Paraguay) y Puerto Iguazú (Argentina).

El contrabando y la falsificación y contrabando de diferentes mercaderías (cigarrillos, electrónica, vestimenta, drogas y armas) son actividades importantes en esta zona, donde se ubican también la mayoría de las fábricas paraguayas de cigarrillos. Las fronteras acuáticas extensas y el sinnúmero de pasos donde el cruce en lancha es sencillo facilitan el tráfico ilegal.

Además, en la frontera con Argentina salen diariamente cientos de vehículos con cigarrillos y marlín, que pueden transportar hasta 60 cajas en cada viaje (600 mil cigarrillos).

Existe evidencia documentada del fuerte ambiente de corrupción en Paraguay que permite este tipo de actividades. Sin embargo, este nivel de comercio ilegal requiere que exista también corrupción en sus países fronterizos. De lo contrario, no se podría transportar la mercadería ilegal por rutas domésticas tan extensas hasta llegar a los mercados consumidores e incluso a los puertos, bajo la modalidad de tránsito, para exportarse a terceros países. Hay evidencia documentada de esto último también.

El comercio ilegal de cigarrillos paraguayos involucra mayormente algunas marcas baratas, de bajas ventas en Paraguay ya que se destinan a mercados externos. La principal estrategia de los tabacaleros paraguayos es atender mercados de bajo precio en los países de destino de la región y terceros países.

Alrededor de tres empresas paraguayas concentran la mayor parte de este comercio, pero lo hacen a través de múltiples sociedades, aprovechando todos los mecanismos disponibles. La falsificación de cigarrillos de marcas internacionales existe, ya que se fabrica “a medida” del comprador, pero no es el negocio principal.

El mercado legal regional de cigarrillos entre los países del MERCOSUR es muy pequeño.
- Brasil es el primer exportador de hojas de tabaco en el mundo, con cerca de 600 mil toneladas de exportaciones por año.

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MERCOSUR. En el año 2006 fue de alrededor de 7 mil toneladas, pero en los años anteriores fue aún mucho menor. Esto se explica en gran parte por las políticas fiscales que desarrolló Brasil para frenar el contrabando desde países limítrofes entre 2000 y 2004. Aun cuando Brasil luego abandonó estas políticas limitado por la normativa del MERCOSUR, los tabacaleros paraguayos ya estaban aprovisionándose de hojas de tabaco y desperdicios de origen argentino.

• Considerando la oferta de tabaco materia prima en Paraguay (proveniente de importaciones y también de la propia producción agrícola), el consumo doméstico, las exportaciones legales y las importaciones de cigarrillos, se estima que la cantidad de cigarrillos de Paraguay volcada en el mercado ilegal en 2006 fue de alrededor de 73 mil millones de unidades, lo que equivale a casi el doble del consumo de cigarrillos en Argentina en un año, la mitad del de Brasil y veinte veces el de Uruguay y el propio Paraguay.

• Resulta muy complicado en esta etapa de análisis conocer el destino de esta producción no canalizada legalmente por Paraguay, pero se puede aproximar. Juntos Uruguay y Argentina explicarían solamente un 6% del volumen que Paraguay tiene para vender ilegalmente fuera de fronteras. Esto pone a Brasil en el centro de la atención.

• Según una encuesta del Instituto VIGITEL, el consumo en Brasil es de alrededor de 145 mil millones de cigarrillos por año, de manera que el volumen de contrabando desde Paraguay más la producción ilegal de cigarrillos dentro de Brasil no debería ser inferior a 34 mil millones de cigarrillos por año, ya que las ventas legales domésticas en Brasil están estimadas en 111 mil millones.

En conclusión, puede estimarse en forma muy preliminar que el mercado ilegal de cigarrillos en la región de los cuatro países fundadores del MERCOSUR varía entre 25 mil millones de cigarrillos y quizás hasta 40 mil millones, con Brasil entre el 80% y el 90% del destino de esa producción. El resto, unos 30 a 45 mil millones, son exportaciones ilegales de Paraguay que se destinan en parte entre Bolivia, Perú, Chile, Ecuador, Colombia, aunque también Montevideo y Buenos Aires, Aruba y Panamá y otros puertos para pasar como tránsito y luego ingresar a Estados Unidos y Europa, África y hasta el Lejano Oriente.

Esta cifra siendo significativa es menor a lo estimado por la industria tabacalera multinacional afin cada en la región y por otros especialistas en la región.

— Alejandro Ramos, coordinador del equipo de inteligencia en el Mercosur
A personal experience of illicit trade
Carlos Ronderos, trade consultant and former Colombian Minister of Trade

This week’s negotiations provide real grounds for achieving progress against the international illicit tobacco trade that seemed unthinkable back in 2001, says the man who uncovered big tobacco’s involvement in money laundering and smuggling in Colombia.

Cigarette sales at every stoplight in Bogotá had always caught my attention. Anyone, irrespective of age or condition, was able to purchase at ridiculously low prices as many packs of cigarettes as they were able to. At least, in the two minutes between the red traffic light and the sound of horns urging the desperate buyer to recognise the lights had changed. I, for one, was one of the drivers blowing my horn.

This routine repeated itself along Carrera 7, the long and tedious street that took me daily from my home to my office at the Ministry of International Trade where I held the ministerial post in 1998. My daughters, then aged 11 and 13, told me that on the way back from school when they missed the bus and were driven home by the chauffeurs of fellow students, the boys and girls would buy cigarettes after urging the driver to slow down to catch the red light. Bogotá became perhaps the only city in the world where cigarette consumption had a direct relation to traffic light duration.

It was widely known that these were smuggled cigarettes. Presumably that was why they were so cheap. I decided to research this matter, as smuggling of goods in general was damaging public finances and local industry. Putting an end to this was one of my duties as a civil servant. I had only recently given up smoking and it worried me that my children would have to spend half their lives trying to give up nicotine.

There had never been claims of a direct relation between traffic light cigarette sales and the formally established multinational tobacco companies Philip Morris (P.M.) and BAT. They always argued that lack of authority and recurrent corruption by customs officials was responsible for these phenomena and that they were victims of this unfair competition.

Trying to verify their story, I asked for Philip Morris’s balance sheet. Imagine my surprise when I found out that the company spent five million dollars in advertising and had only imported one million dollars worth of merchandise. Why would anyone do such a stupid thing? I summoned Mr. Sovalbarro, the P.M. representative in Colombia to my office and asked for an explanation. Almost with tears in his eyes he told me that the love his company felt for Colombia was so big that they were willing to lose large amounts of money as long as they could generate employment and invest in this impoverished nation! He argued that if perhaps tariffs were brought down there would be a stop to cigarette smuggling.

Research by the ministry pointed to a less philanthropic explanation, and evidence of BAT-manufactured cigarettes being smuggled from Venezuela to Colombia assured me this was not an issue of tariffs since a free trade agreement between the two countries was in place (CAN) and no tariffs were imposed on cigarette trade. Apparently tobacco companies were aware of and actively participated in smuggling cigarettes into Colombia, using Aruba and other Caribbean islands as the base for a massive money laundering and smuggling operation which ended at the traffic lights in Bogotá, Medellín and other cities. With this preliminary information I went to the press stating that P.M and BAT were involved in unlawful operations which encouraged drug trafficking and were doing great harm to the nation.

The reaction was immediate. I was threatened with lawsuits and received an anonymous call warning me that all my telephone conversations were tapped and that would be disclosed. Further press releases added to the number of threats I received. The story was picked up by international news agencies and broadcast around the whole world. After all, it was big tobacco that was being accused.

I had on my staff in the Colombian Trade Office in Washington a brilliant young lawyer, Carlos Acevedo, doing research work and knocking on US government doors calling for their attention and support. We were claiming that this issue should be part of the war against drugs. Acevedo established excellent working relations with the FINCEN (Financial Crimes Enforcement Network), the US agency in charge of tackling money laundering.

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We were gaining ground; we were able to get our message to members of Congress and to Myles Frechette, the US Ambassador to Colombia, who lobbied for our cause.

The unexpected then happened. As a response to the international noise my press declarations had created, I received an unidentified envelope from Aruba containing a declaration in Dutch, given under oath to a civil notary, detailing how money laundering and smuggling operations were being carried out by the big tobacco companies. The person who signed the declaration had been involved in these operations, belonged to one of the families in charge of the Aruba racket and had been ousted from the business by his own family. By the time we had such evidence, my period in office had expired and a new government was elected. The new Administration showed no interest in pursuing this line of action. What is more, the person who replaced me had been in my office acting as legal adviser to one of the tobacco companies.

Cigarette taxes in Colombia are collected by the local states (Gobernaciones) and the Federation of Governors had been following events with vivid interest. They had much to gain. Cigarette and liquor taxes made up most of their income, and they were in charge of providing health care in their regions. With cheap tobacco, they had more health problems and less money. Not a good equation.

The Federation of Governors sought my advice and I was hired as an external consultant. My first step was to visit the US customs office and the people in FINCEN in Washington. Both agencies were highly sceptical about what could be achieved through government agreements on illicit trade. Unofficially, some officers advised that a legal action against tobacco companies would probably have more immediate effects on curtailing illicit trade. Following their advice, I contacted a legal firm that was willing to initiate a lawsuit in the US against the tobacco companies for crimes related to corruption and racketeering activities.

With the support of all the Colombian governors and of Dr. José Manuel Arias Carrizosa, Executive Director of the Federation of Governors, a power of attorney was given to a law firm that presented a lawsuit against tobacco companies in a Brooklyn court. A couple of years later the European Union and some European countries joined the Colombian Regional entities in this legal battle and became part of the same legal process. Since then, the European parties have reached an agreement with two of the tobacco companies and cigarette smuggling in Colombia has decreased considerably. Taxes collected by the Departments grew five-fold. An agreement with Colombia that should include a Protocol on illicit trade is still pending.

Le commerce illicite au Sénégal : Une réalité plus que inquiétante

Dans de nombreux pays, les cigarettes de contrebande se vendent au vu et au su de tous. C’est le cas du Sénégal, comme nous avons pu le constater lors d’une récente tournée à Ziguinchor, Kolda et Tambacounda, près de la frontière avec la Guinée-Conakry.

Différentes marques de cigarettes sont vendues dans les marchés et les boutiques de ces trois villes, à des prix défiant toute concurrence, sans que les autorités de la douane sénégalaises n’interviennent pour saisir cette marchandise issue de la fraude.

D’ailleurs un commerçant interrogé à ce sujet disait : « Notre plus grand problème c’est de faire rentrer cette marchandise dans le pays et dès que c’est réussi, nous ne risquons plus rien. Nous le vendons au même titre que les autres cigarettes. » Pourtant, les paquets portent clairement la mention : « Vente en Guinée ».

Un autre boutiquier rencontré nous racontait : « Nous préférons vendre la cigarette venant de la Guinée parce qu’elle coûte deux fois moins chère que les autres et elle s’écoule facilement... ».

Comment endiguer ce trafic? Il faut évidemment renforcer les contrôles frontaliers, mais aussi envisager une modification de la législation nationale. La Loi 85-23 du 25 janvier 1985, qui réglemente le tabac, ne parle nulle part du commerce illicite ni des peines que peuvent encourir ceux qui le pratiquent. Elle n’apporte de précision que dans son article 7 qui dit : « Le conditionnement du tabac ou des produits dérivés du tabac ne peut comporter d’autres mentions ou images que la dénomination du produit, sa composition, le nom et l’adresse du fabricant et, le cas échéant, du distributeur. »

Massamba Diouf, IMPACT Sénégal
California – an example of how a licensing system can stop smuggling

California authorities estimated in 2001 that 25 per cent of the State’s retailers were selling counterfeit cigarettes, resulting in lost revenue of US$238 million. A new licensing system and high tech tax stamps costing only US$9 million a year yielded an additional US$75 million in the first two years after licensing was brought in.

The new system includes licensing obligations, high-tech tax stamps and investigative powers for more effective control of the distribution chain.

The Cigarette and Tobacco Products Licensing Act, introduced in January 2004, requires all entities engaged in the sale of tobacco products within the State to be licensed. From January 2005, all tobacco products had to have tax stamps with coded information to prevent counterfeiting. Stamping machines used invisible ink to apply a unique covert code containing product-related data to each cigarette pack which is uploaded to a central Data Management System. Stamps determine whether cigarettes are authentic or counterfeit, and also include the following information:

- Name and address of the distributor affixing the stamp
- Date the stamp was affixed
- Value of the stamp

Retailers and distributors can easily detect counterfeit cigarettes with a hand-held scanner to check the stamp. Law enforcement field inspectors use more sophisticated scanners to access all data in the stamp, for compliance verification. Investigators scan codes on the tax stamps in retailers to verify whether appropriately-denominated stamps are affixed to the corresponding packs of cigarettes. They cross-check distributor name, address, and stamping date against the distributor’s invoice to the corresponding retailer. Inspectors check 10,000 retailers out of a total of 40,000 each year. The legislation imposes fines up to $25,000 for possessing, selling, or buying counterfeit cigarettes and fraudulent cigarette tax stamps.

California is not a cigarette manufacturing State and imports 1.2 billion cigarette packs annually. Tax stamps therefore have to be attached in distribution centres where cigarette cartons are automatically opened, stamps are affixed to individual packs, and activated, and the cartons closed again. The operation handles 600 packs a minute.

A spokesperson for Philip Morris recently claimed that criminals were easily able to counterfeit the new Californian stamps. However, as I found in November 2007, Californian tax officials denied this was the case. They admitted that visible tax stamps have been copied. But covert codes within the stamp have not been broken and so cannot be copied. Counterfeit packs can immediately be identified using the scanners.

Estimated losses from cigarette tax evasion of US$292 million in 2003 fell to US$182 million in 2006. Retailers’ tax compliance has been tracked since implementation of the law and seizures of counterfeit products at retail locations and the percentage of retailers carrying counterfeit products have decreased significantly.

One measure is rarely effective when implemented in isolation. Tax stamps and coded information need to be implemented in combination with licensing. California had a problem with tax-free counterfeit cigarettes. The solution was to ensure that these cigarettes could be easily detected by introducing high-tech tax stamps, better control of the distribution chain by enforcement officers and withdrawal of licences for retailers selling illicit products.

Luk Joossens, Senior Policy Advisor FCA, Deborah Arnott, Director ASH-London.

A mere 60 kilometers from...
Understanding the tobacco problem

As work starts today on a new international tobacco control regime, it is worth reviewing the issues at the heart of the tobacco epidemic and proven measures for effective control.

Cigarette smoking developed during the 20th century to the level where it causes the devastating harm which was confirmed unequivocally only as late as the 1950s.

Inhaling tobacco smoke allows thousands of chemicals to enter the body. Substances including carcinogens and toxic substances such as hydrogen cyanide, ammonia, benzene, acetaldehyde, carbon monoxide and heavy metals like cadmium. Daily ‘microdoses’ of these poisons progressively leads to chronic intoxication which is responsible for the burden of disease and death associated with tobacco consumption and exposure.

According to the World Health Organization, tobacco is the only legal product that kills half of its chronic users when consumed according to the manufacturer’s instructions.

Most consumers start and become hooked during adolescence. This quickly turns into dependency because nicotine is a drug even more addictive than cocaine or heroin. It causes neurological changes in the brain and a craving for regular ‘hits’. Psychological associations also bind smokers to tobacco consumption.

Last but not least, the epidemic has a ‘sponsor’ in the shape of the tobacco industry which profits from the epidemic.

According to its internal documents, the tobacco industry was aware over 50 years ago of the severe harm its products caused consumers. Deciding to conceal and distort the facts prevented business being affected. Consumers’ concerns were allayed with filter tips and light and ultra-lights brands, to avoid sales declining.

The industry’s scientific research increased the addictiveness of nicotine by adding chemicals such as ammonia to tobacco. International campaigns, mainly in developing countries, derailed tobacco control legislation.

Annual income of the main tobacco multinationals far exceeds the GDP of many developing countries, giving the industry huge political power.

Internal documents also highlight how the tobacco industry uses, and is involved in, the illicit tobacco trade as a marketing strategy and a way of increasing profits by avoid paying tobacco taxes.

Had tobacco products only been invented today, they would fail to meet the standards applied to products destined for human consumption.

Banning legal tobacco business will not solve the problem simply because of tobacco addiction. The international community has therefore decided to regulate the trade in tobacco products and discourage their consumption.

Effective control measures include:

• Increasing taxes and prices of tobacco products
• A comprehensive ban on advertising, promotion and sponsorship
• Establishing smoke-free environments
• Health warnings in the form of large pictures on cigarette packs
• Banning misleading terms such as ‘light’, ‘ultra’, ‘mild’
• Promoting and facilitating access to tobacco dependence treatment
• Tackling the problem of the illicit trade in tobacco.

New tobacco Industry assault

A mere 60 kilometers from Geneva, where international negotiators are opening a new chapter in combating the scourge of illicit tobacco, Philip Morris International is reportedly preparing a range of new assaults on public health from its office in Lausanne.

According to the Wall Street Journal of 29 January, PMI is to roll out a new, shorter cigarette called “Marlboro Intense” as part of what the paper describes as PMI’s “aggressive blitz of new smoking products”. “Intense”, which apparently offers fewer but more intense inhalations, is intended to appeal to smokers who, due to indoor smoking bans, want to dash outside for a quick nicotine hit.

With an eye to customers in some emerging markets, PMI is reportedly also in the test phase with sweet-smelling cigarettes that contain tobacco, cloves and flavouring and have twice the tar and nicotine levels of a conventional US cigarette. Smoking rates have grown by double-digit figures in some new and developing markets since 2000, where PMI is a major player.

But it is not only at the product level where PMI is initiating changes. Major strategic reorganisations are afoot with the entire enterprise being restructured to split PMI from Philip Morris USA. This will finally relieve the company’s international operations of its legal and PR headaches in the US which have held up the firm’s expansion. The split off would turn PMI into the world’s third most profitable consumer goods concern after Procter & Gamble and Nestlé.

More reason than ever for INB negotiators on the illicit trade Protocol to make rapid progress in eliminating at least one aspect of the tobacco trade.
The Framework Convention Alliance and its efforts in building support for tobacco control

The Framework Convention Alliance is made up of more than 300 organisations from over 100 countries which are working to support the signing, ratification and effective implementation of the Framework Convention on Tobacco Control (FCTC) and related protocols.

The Alliance includes individual non-governmental organisations (NGOs) and organisations working locally and nationally, as well as existing coalitions and alliances operating at national, regional, and international levels.

Why was the FCA formed?

The FCA was formed out of the need for improved communication among groups already engaged with the FCTC process and the need for a more systematic outreach to NGOs not yet engaged in the process. Particularly developing countries stand to gain from and contribute to the creation of an effective FCTC.

The Framework Convention on Tobacco Control represents an historic opportunity for global action to curtail the tobacco epidemic and save billions of dollars.

The FCA has been a major player in positively influencing the outcome of international governmental negotiations on the FCTC.

The strength in the FCA comes from its core principle of inclusivity. This principle has driven the participation of many developing country NGOs, ensuring breadth and depth of global experience and advice throughout the negotiations.

Tobacco use is the number one cause of preventable death, disease, and disability in the world today. Over 5 million people die each year from tobacco-related diseases – equivalent to one death every 5.4 seconds. The annual death toll is expected to rise to 10 million by the year 2020, if current trends continue. Seventy per cent of these deaths will occur in developing countries.

Without swift action, tobacco will soon become the leading cause of death worldwide, causing more deaths than HIV, tuberculosis, maternal mortality, automobile accidents, homicide and suicide combined.

But the benefits to be reaped by effective measures are enormous, measured in terms of preventable deaths and disease, enhanced quality of life for millions of people worldwide and billions of dollars saved in lost revenue and health care costs.

When necessary the FCA also provides financial and technical support for members campaigning on ratification, implementation and the monitoring of the FCTC.

A major part of the FCA’s work is a monitoring and reporting role in holding governments accountable for their commitments under the Convention. The FCA has positively influenced the development and adoption of guidelines for best practice, evidence-based implementation of the FCTC’s Articles.

And, at this meeting – the INB-1 of the Illicit Trade Protocol – the FCA looks forward to working with delegates to develop a strong protocol which will save lives and save money.

Dirty Ashtray Award

To Japan and Austria for their negative comments on the template. They couldn’t even wait until the process started before trying to undermine it.

Orchid Award

To Parties that have already taken significant steps to implement elements of the Protocol.

FRAMING Convention Alliance

The Framework Convention Alliance (FCA) is a global alliance of NGOs working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the Alliance Bulletin are those of the writers and do not necessarily represent those of the sponsors.

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