

**WHO Public Hearings on the Framework Convention on Tobacco
Control (FCTC)
12-13 October 2000, Geneva, Switzerland
Submission from Action on Smoking and Health (London)**

About Action on Smoking and Health (ASH)

ASH aims to preserve the health of the community; to advance the education of the public concerning smoking; and to carry out or support research and communication for the benefit of the health of the community by working to secure public, media, parliamentary, local, national and international support for a comprehensive programme to tackle the epidemic of tobacco-related disease. ASH receives funding from the following sources: British Heart Foundation, Imperial Cancer Research Fund, Cancer Research Campaign, UK Department of Health, individual supporters, the World Health Organisation and the American Cancer Society.

Our interest in the Framework Convention

Globally, tobacco use is the leading cause of preventable death, disease and disability in the world today. At present, 4 million people a year die from a tobacco-related disease. If current trends continue, by the year 2030 this figure will have increased to 10 million deaths each year, with the majority of these deaths occurring in developing countries. ASH is working with colleagues in governments, inter-governmental agencies and non-governmental organisations around the world to try to prevent this scenario from materialising. In particular ASH believes that the negotiation of the Framework Convention on Tobacco Control (FCTC) represents a historic opportunity for global action to curtail the tobacco epidemic. ASH has worked with colleagues around the world over the past year to initiate and develop the Framework Convention Alliance – an international alliance of non-governmental organisations who are working jointly and separately to support the development of the Framework Convention on Tobacco Control and related protocols.

An ASH representative would like to testify in person at the Public Hearings in Geneva.

Scope of statement

ASH's statement will address the following three topics: first, our views on the appropriate shape and content of the FCTC; second, the views expressed by the UK House of Commons Health Committee on the tobacco industry's activities in developing countries and the FCTC; and finally, a perspective on some of the objections increasingly being raised against the FCTC by the tobacco industry and allied organisations.

Shape and content of the Convention and protocols

ASH believes that the ultimate effectiveness or impact of the Convention and protocols can be summed up by the following equation: *Impact = Commitments x Participation*

That is, the best outcome for health will be a Convention that finds an optimum balance between the strength of commitments and the number of parties prepared to ratify. A super-strong convention that remains unratified is no use to anyone. For these reasons we believe that the FCTC should be configured as follows:

The Convention should include:

1. The essential housekeeping and institutional machinery of the FCTC.

2. An objective to prevent any increase in tobacco consumption in the next 2-3 decades. This is a challenging objective meaning 500 million less smokers in the 2020s.
3. A series of general commitments, which could resemble already-agreed WHA resolutions and not be especially prescriptive, but would encourage action taking account of national circumstances, and require documentation, reporting etc. These 'plan and report' general commitments might include:
 - Youth protection
 - ETS exposure - culturally specific and no trans-boundary dimension
 - Research - resources dependent
 - Reducing tobacco dependence - different countries warrant different approaches
 - Education, training, co-operation
 - Taxation and subsidies.
4. A series of specific commitments within the body of the Convention, which would deliver important substantive measures. These would tend to be trans-boundary or of necessity negotiated internationally. The intention is not to include all possible specific commitments in the Convention, just a few 'headlines' that would underpin subsequent development of protocols. Such commitments should include:
 - A ban on duty free sales and imports of tobacco.
 - Warning labels to be placed on all packs sold worldwide *in the national language* of the country in which it is to be sold. This is both a risk-communication and anti-smuggling measure.
 - A unique machine-readable marking on all cigarette packets indicating the origin and date of manufacture.
 - A ban on TV advertising of tobacco (pending negotiation of a comprehensive protocol to ban all forms of tobacco marketing).
 - A ban on tobacco sponsorship - or a ban on sponsorship of televised events. The aim of this should be to tackle tobacco sponsorship of Formula One motor racing (pending negotiation of a comprehensive protocol to ban all forms of tobacco marketing).
 - A ban on misleading 'low-tar' branding and the printing of misleading tar yields on packs.
 - A comprehensive disclosure regime - ingredients and smoke composition.
 - A funding mechanism for north-south assistance.

The protocols should be used to address issues which are technically complex and may need to be negotiated on a different timetable to the Convention and/or which involve different institutions - notably smuggling and product regulation. Protocols may also be used to develop 'best of breed' interventions that some parties may not wish to sign in the first instance within a Convention. This would most obviously apply to a comprehensive ban on tobacco advertising.

In addition it is useful to classify the scope of agreements that can be made under the FCTC into the following categories:

1. Problems that *cannot* be tackled at a national or local level because they have an inherent transboundary dimension, such as smuggling or televised motor racing.
2. Problems that would be *more effectively or cost-effectively* tackled through an international agreement rather than piecemeal national or regional initiatives – for example product regulation measures, ingredients and additives disclosure, smoke constituent measurements, and duty free.

3. Responses that need international co-operation for reasons of skills transfer, capacity building, funds transfer etc. This would include co-ordinated research and development, collection of statistical data, agricultural diversification, and information exchange.
4. Tackling international barriers to local or national action (eg. World Trade Organisation, trademark protection law etc.) or tobacco control measures that require international co-ordination to comply with trade or other agreements. For example, agreements on warnings or other packaging regulation.
5. Issues that Parties would tend to regard as their own prerogative – even if there are trans-boundary consequences. These most obviously include taxation and pricing policy. More generally, many Parties will wish to avoid the FCTC having pre-emptive effects ie inhibiting more progressive national legislation.
6. Issues in tobacco control that have no obvious transboundary dimension: eg passive smoking and some advertising, health education, prevention and treatment programmes. Even with these measures, there is scope for dissemination of best practice, technical advice, or development funding.

Those issues in the categories near the top of the list should take priority in the negotiations, but all aspects of tobacco control should be addressed.

UK House of Commons Health Committee Report: *The Tobacco Industry and the Health Risks of Smoking* ^[1]

The Health Committee, composed of eleven members of the UK parliament, is appointed by the House of Commons to examine issues of importance in health policy. From Autumn 1999 to Spring 2000, the Committee conducted an examination into the tobacco industry and the health risks of smoking. It took evidence from witnesses including representatives of the tobacco industry, health charities, and the World Health Organisation, as well as inviting written submissions. The Committee published a report of its findings in June of this year.

ASH would like to draw to the attention of the Public Hearings panel a section of this report called '*Expanding markets in developing countries*'. In this section of its report, the Health Committee criticises the tobacco industry for its "negative attitude" towards WHO's tobacco control objectives and offers wholehearted support for the Framework Convention. The following points made by the Committee are of particular relevance to the WHO Public Hearings:

- The Committee expresses concern at the reaction of some members of the tobacco industry to the FCTC and other WHO initiatives, contrasting public statements by the industry with evidence given to the Committee itself: *"Given the huge scale of the problem, it is alarming to note the reaction of some tobacco companies to the WHO's actions. Mr Broughton of BAT told his company's AGM on 29 April 1999 that "driven by the western agenda, [WHO's] priorities are different from those of health ministers in the developing world, for whom issues like malnutrition, lack of sanitation, infant mortality and AIDS loom much larger ... Regrettably, the WHO has got the smoking issue completely out of proportion with its Tobacco Free Initiative ... Indeed the WHO seems to have been hijacked by zealots in its desire to set itself up as some sort of 'super-nanny'." This approach seems to belie the claim made in BAT's written evidence to the Committee that it seeks "to co-operate with the Government and public health authorities to the fullest extent reasonably possible. The reason for this is simple. We take the view that the most effective way of developing rational smoking and health policies is for the industry, the Government and public health bodies to work with each other and to engage in a free and frank exchange of views"."* (paragraph 226)

- The Committee refers to statements made by African health ministers and the Chinese Minister for Public Health to comprehensively refute claims by Martin Broughton, Chairman of BAT, that smoking is a concern driven by a western agenda and that developing country governments have different priorities. In the case of China, the report notes that: *“Mr Broughton’s comments were further undermined by Zhang Wenkang, Minister for Public Health, People’s Republic of China, who stated in correspondence to the Committee that “The Ministry of Health of China has recognized that the effect of tobacco on health is an important public health issue. In order to protect the health of the public, Chinese governments at all levels have been actively facilitating the tobacco control programme in the last twenty years ... We think that tobacco control ... [requires the] joint efforts of all countries in the world. Therefore, we support the Framework Convention on Tobacco Control of the World Health Organisation”.*” (paragraphs 227 and 228)
- The Committee explicitly welcomes the FCTC, expresses its concern at the behaviour of the tobacco industry, and makes recommendations concerning the future conduct of the tobacco industry and action to be taken by the British Government: *“We welcome the Framework Convention proposed by the World Health Organisation and the Government’s support for it. However, any success will be dependent on a responsible approach being taken by the tobacco companies. Depressingly, there is little sign of that in the cheap jibes made at the WHO’s expense by BAT. To call an organisation committed to improving global health ‘zealots’ and a ‘super-nanny’ because of its concern about the 10 million deaths which will be caused by tobacco each year by the late 2020s seems to us bizarre. We hope that the other companies - and, belatedly, BAT - will work constructively with the WHO. On a national level, we recommend that the Government requires the British tobacco companies to provide an annual summary of the action they have taken to co-operate with the WHO, to which the WHO should be invited to respond. If the action taken by the companies is not satisfactory, further action, including legislative and fiscal approaches, should be considered”.* ” (paragraph 230)

Distracting and disingenuous arguments by the tobacco industry

A number of arguments against the FCTC are increasingly being put forward by the tobacco industry and its allied organisations. We wish to use the final section of our statement to address a few of these arguments.

The tobacco industry and allied groups are being ‘excluded’ from the FCTC process:

The interests of the tobacco industry are fundamentally at odds with the interests of the WHO and the World Health Assembly (WHA). The tobacco industry is chiefly concerned with selling more cigarettes; the WHO and the WHA are concerned with reducing the growing global burden of death and disease due to smoking. As such the WHO and WHA are in no sense ‘obliged’ to involve the tobacco industry in the negotiations of the FCTC.

- The decision to proceed with the FCTC process as currently arranged was made democratically by the member governments of the WHA.
- The views of the tobacco industry and allied groups are not being ignored. On the contrary, these Public Hearings have been arranged specifically to provide the industry with a forum in which to make its views heard. All submissions will be made publicly available, including to members of the Inter-governmental Negotiating Body.

In addition, the tobacco industry is experienced at making its views known to national governments, which enables its concerns to be considered by the decision-makers in the FCTC process.

Tobacco growing nations face a ‘potential economic catastrophe’:

- The balance of available evidence clearly demonstrates that this scenario is unrealistic.

- In its important recent report, ‘Curbing the Epidemic: Governments and the Economics of Tobacco Control’^[2], the World Bank states that: “...*the negative effects of tobacco control on employment have been greatly overstated. Tobacco production is a small part of most economies. For all but a very few agrarian countries heavily dependent on tobacco farming there would be no net loss of jobs, and there might even be job gains if global tobacco consumption fell. This is because money once spent on tobacco would be spent on other goods and services thereby generating more jobs.*”
- For the small number of countries, mostly in sub-Saharan Africa who might experience job losses from a global fall in tobacco demand, the World Bank recommends policies to aid adjustment including assistance with crop diversification, rural training and other safety net systems.
- The World Bank report makes it clear that any significant fall in demand for tobacco would take place slowly, over a generation or more, so there would be plenty of time for such adjustments to occur. The 'business as usual' scenario for tobacco is a growth in smokers by 500 million over the next 20 years. The FCTC is, therefore, intervening against a background of a sharply rising trend in tobacco demand.

‘Smoking a cigarette is not the same as air-borne pollution’, ie it is not a trans-boundary issue, so an international treaty is inappropriate:

- A number of aspects of the tobacco issue are particularly trans-boundary in nature and can only be dealt with effectively by international action, including:
 - ⇨ tobacco industry marketing campaigns executed across a number of different countries simultaneously, including through satellite television;
 - ⇨ smuggling of cigarettes, co-ordinated by the tobacco industry on an international level, involving operations in numerous countries;

In addition, given that tobacco products are internationally traded, measures to address product regulation, labelling and packaging may assume a trans-boundary dimension.

- The tobacco epidemic is an international problem with developing countries set to bear the brunt of the problem in future. By 2030, if present trends continue unchecked, there will be 10 million deaths per year globally due to tobacco-related disease, with 70% of these deaths taking place in developing countries. A treaty which includes a mechanism for information sharing, to give governments of poorer countries access to models of best practice and up-to-date scientific research on tobacco control, as well as a financial mechanism to give them access to much needed funds with which to implement comprehensive national tobacco control programmes, is therefore fully justifiable on the grounds of improving health around the world, and urgently needed.

‘The proposals risk undermining governments’ rights to self-determination’:

- Governments will negotiate the FCTC and protocols, and governments will determine what it includes.
- Governments will decide whether or not they wish to sign and ratify the FCTC and protocols, and will not be bound by anything they do not sign and ratify.
- All measures contained within the FCTC and protocols will be implemented in a particular country by the government of that country.

Conclusion

ASH believes that the final sentence of the ‘Developing countries’ section of the UK House of Commons Health Committee’s report is particularly pertinent: “*It would be a hollow victory if, as a result of more stringent action taken on tobacco control in the developed world, smoking related deaths were merely exported to the world’s poorer nations.*”^[3] ASH echoes this sentiment and believes that this is precisely why an effective Framework Convention on Tobacco Control is so urgently needed. ASH urges the WHO and the member states of the World Health Assembly to press on with the FCTC as swiftly and

purposefully as possible. We have laid out our initial recommendations about the possible shape and content of the FCTC and protocols. We believe that it is particularly important that a number of specific obligations are included within the Convention itself in order to maximise the outputs for the time and money to be invested in the deliberations of the Intergovernmental Negotiating Body. We believe that participants in the Intergovernmental Negotiating Body should disregard distracting and disingenuous arguments by the tobacco industry - their business is selling tobacco, and they can never have a central role to play in a serious effort to reduce sales of tobacco and so reduce the harm caused by tobacco.

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^[1] The full report, 'The tobacco industry and the health risks of smoking', House of Commons Health Committee, HMSO, June 2000 is available at www.parliament.uk/commons/hsecom.htm

^[2] 'Curbing the Epidemic: Governments and the Economics of Tobacco Control', the World Bank, May 1999.

^[3] *ibid*, paragraph 230.