Sounding Board

The Future of the Global Tobacco Treaty Negotiations

GOVERNMENT officials around the world now recognize what industry executives have long understood — the tobacco business is fundamentally a global enterprise.[1] The sale of raw leaf and finished products, the smuggling of cigarettes to evade taxes, and the effects of print and television advertising all cross national borders. The consequences of this enterprise are staggering — by the year 2020, an estimated 8.4 million people will die annually from tobacco-related diseases, more than two thirds of them in developing countries.[2] If current trends continue, more people will perish annually from tobacco-related illness than from any single disease.

To respond to this global public health crisis, in 1995 the World Health Assembly of the World Health Organization inquired into the feasibility of an international treaty on tobacco control.[3] Experts in international law found that a legally binding agreement could be used to establish standards for international tobacco control, assist governments in developing effective domestic legislation, and create a global mechanism to counter the political influence of the tobacco industry.[4] In 1999, the World Health Assembly authorized the start of negotiations,[5] and representatives from more than 160 countries have subsequently met three times to negotiate the treaty, which is called the Framework Convention on Tobacco Control (FCTC). At least two more sessions are planned before the FCTC is ready for ratification by individual nations in 2003.

The United States has a crucial role in the FCTC process and should lead the effort to develop a strong treaty. The United States supports tobacco-control programs on several continents. Indeed, some of the most compelling evidence of the effectiveness of antitobacco policies comes from state programs in the United States.[6,7] Yet the United States also exports more cigarettes than any other nation in the world — more than one of every five traded, representing billions of dollars in revenue for U.S. tobacco companies.[8] With negotiations at a midpoint, and in many ways at a crossroads, it is important to evaluate the public health implications of U.S. actions critically.

THE CHANGING U.S. ROLE

At the first negotiating session, in October 2000, the U.S. delegation supported many strong tobacco-control positions.[9] Donna Shalala, who was then Secretary of Health and Human Services, stated that the U.S. policy was to take the lead in creating and ratifying an effective treaty that would reduce global tobacco use.

At the second session, in May 2001, the U.S. delegation appointed by the new administration reversed a number of previously held positions. In comments to the delegation, the largest U.S. tobacco company, Philip Morris, urged that 11 provisions be deleted from the treaty. U.S. negotiators proposed or supported 10 of these deletions.[10] The United States also objected to a provision that warning labels on cigarette packages be printed in the main language or languages of the country of sale.[11] During the proceedings, the chair twice publicly noted that positions being proposed by the United States conflicted with the international consensus.[9]

After considerable criticism,[12-14] U.S. negotiators at the third session, in November 2001, retreated from several of the new positions. For example, the United States abandoned its opposition to the proposal that warning labels be printed in the main language or languages of the country of sale.[15] The United States also proposed a comprehensive standard for global tobacco surveillance and advanced early discussions of measures to combat cigarette smuggling. On many key issues, however, the United States continued to oppose important public health provisions.

U.S. POSITIONS ON KEY ISSUES

Taxes

Taxes on tobacco reduce its consumption, including consumption by children.[16,17] The World Bank has recently estimated that if the prices of cigarettes were increased by 10 percent throughout the world, 40 million people would quit smoking, and 10 million lives would be saved.[18] On the basis of such evidence, in October 2000, the U.S. delegation supported the requirement that all countries signing the FCTC impose taxes on tobacco products and take steps to prevent the erosion of the value of taxes over time.[19]

In May 2001, however, U.S. negotiators supported making all tobacco taxes optional under the treaty,[20] a proposal that would render the tax provisions unenforceable. The U.S. delegation maintained this position at the session held in November 2001.[15]

Advertising and Promotion

Because television advertisements, magazines, and international travelers wearing promotional T-shirts or carrying promotional items can cross national boundaries, other countries and many public health advocates have supported an FCTC provision that would ban all tobacco advertising and promotion.

Such a provision would help reduce consumption.[21,22] U.S. negotiators, however, have opposed this proposal on the grounds that a complete ban could violate the First Amendment. The United States has instead supported the development of an associated but distinct agreement (known as a "protocol") to ban advertising, which would apply only to the countries that chose to sign it.[15,19,23]

As for the text in the FCTC on advertising and promotion, the United States has offered different proposals at each negotiating session. In October 2000, the U.S. negotiators proposed a ban on any tobacco advertising or promotion that "appeals" to children. A U.S. delegate explained that "it was possible for advertising to appeal to children and hence encourage them to smoke even if it was not consciously targeted at them."[19] In May 2001, however, the U.S. delegation supported a ban only on advertisements with a "special appeal" to children.[24] In November 2001, the U.S. proposal was even narrower, applying only to marketing efforts "targeted" at persons under the age of 18 years.[15] Under this formulation, tobacco companies could design advertising campaigns that encouraged children to smoke as long as the campaigns were ostensibly targeted at a different age group. Indeed, this proposal would permit the return of such marketing ploys as Joe Camel, which R.J. Reynolds claimed was created for adult smokers,[25] despite its known appeal to children.[26,27]

Labeling

Marketing brands of cigarettes as "light" or "mild" can mislead consumers into thinking that these brands offer a health advantage over other tobacco products.[28] For this reason, Canada and the European Union have banned such terms in their countries and have urged a global prohibition as part of the FCTC.[29-31]

In May 2001, U.S. negotiators opposed these efforts.[11] In November 2001, facing opposition from the European Union and other countries, the U.S. negotiators revised their approach. The delegation proposed barring the use of terms such as "light" and "mild" if the terms convey "a false or misleading impression that a particular tobacco product is less harmful than others."[15] Although this proposal is an improvement over the May 2001 position, it would allow tobacco companies to defer compliance until there was proof that each brand of cigarettes was being marketed in a misleading manner. The U.S. position would also permit companies to use colors to signal health benefits to purchasers without evidence of such benefits.

Passive Smoking

Policies that limit smoking in public places and workplaces both protect nonsmokers, including children, from respiratory disorders caused by passive exposure to cigarette smoke and encourage smokers to quit.[33,34] At the first negotiating session, in October 2000, the United States proposed that the FCTC require countries to adopt measures that combat passive smoking, including smoking bans on public transportation, in bars and restaurants, and at enclosed public events.[19] Yet in May 2001, the U.S. negotiators sought to make all passive-smoking provisions optional under the treaty.[35] Moreover, the United States proposed the deletion of any mention of smoking restrictions on public transportation and in workplaces.[36]

In response to criticism, the United States modified its position in November 2001. The U.S. negotiators proposed that the treaty encourage countries to prohibit smoking on public transportation and in enclosed public places, called for "systematic protection" of nonsmokers in all indoor workplaces and restaurants, and suggested that attention be paid to vulnerable groups, including children, pregnant women, and persons with chronic heart or lung disease. Nonetheless, the U.S. delegation continued to oppose mandatory restrictions on passive smoking.[15]

Trade

The underlying premise of the free-trade movement is that trade should be encouraged. Trade in cigarettes, however, is an exception to this rule. Multinational tobacco companies, when allowed into foreign markets, market their products aggressively to women and children, resulting in increased rates of cigarette smoking.[37,38] For this reason, several countries have proposed that the FCTC follow the approach of the World Trade Organization in its recently concluded agreement on patents of pharmaceuticals, which recognizes the principle that public health concerns can take priority over trade rules.[39] In November 2001, the U.S. delegation opposed this proposal, insisting that trade principles (such as "nondiscrimination" between domestic and imported products) trump public health concerns.[15]

Another trade-related issue involves standards that cigarettes should be required to meet when shipped in global commerce. At the second negotiating session, in May 2001, the European Union proposed that tobacco exports be held to the standards of the exporting country, unless the standards of the importing country would be more protective of public health.[40] The United States did not accept this position.[41]

THE POLITICS OF GLOBAL TOBACCO CONTROL

The issues cited above exemplify the high stakes of the FCTC negotiations. At future sessions, other topics, such as the regulation of tobacco products, the liability of manufacturers, cigarette smuggling, and

ongoing monitoring of national efforts to control smoking, will also receive attention. The U.S. role will be central in negotiations on all these critical public health issues.

Unfortunately, efforts to improve the U.S. position face a daunting obstacle: the political might of the tobacco industry. As Richard Kluger wrote about past efforts to reduce tobacco use, in his Pulitzer Prize–winning history, *Ashes to Ashes,* "Big tobacco did not hesitate to dig into its deep pockets to resist the social tide through the purchase and manipulation of the political process."[42] These attempts to influence federal policymakers have continued to the present day. According to the nonpartisan Center for Responsive Politics, in the 2000 campaign, U.S. tobacco companies contributed $7.0 million to George W. Bush, Republican congressional candidates, and Republican party organizations and $1.4 million to Democratic candidates and organizations. Since the election, the industry has contributed another $2.3 million to President Bush and Republicans and $400,000 to Democrats. From my vantage point as a legislator who has long battled the tobacco industry, I see a connection between the industry's pervasive political influence and the weaknesses in the current administration's negotiating positions.

With about one year to go before the FCTC is finalized, the prognosis for the treaty remains unclear. Without improvements in the U.S. position, a unique opportunity to control the enormous worldwide toll of tobacco consumption may be lost. Recent experience has shown, however, that criticism and pressure can lead to progress. Diligent oversight by Congress, combined with heightened awareness and advocacy within the medical community, can play a vital part in strengthening the U.S. resolve to establish a strong treaty.

We know more about the harm of tobacco consumption and effective ways to reduce this harm than about perhaps any other major cause of human suffering. That knowledge — not political influence or campaign contributions — should guide U.S. actions in these crucial public health negotiations.

HENRY A. WAXMAN, J.D.
U.S. House of Representatives
Washington, DC 20515

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