The Framework Convention on Tobacco Control (FCTC)

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Global Tobacco Use

- Approximately 1.1 billion people smoke—significantly higher proportion of men than women

- 82% reside in low- and middle-income countries

- Approximately 70% of 10 million tobacco-attributable deaths expected in 2030 will take place in low- and middle-income countries

- Spread by international trade, advertising, promotion, and smuggling
Section A

The Framework Convention on Tobacco Control
What Is a Framework Convention?

- A binding international legal instrument which establishes broad commitments and a general system of governance for an issue area.

- Specific measures designed to implement goals of the framework convention or further institutional commitments made through protocols.

- Example: Framework Convention on Climate Change (Kyoto Protocol)
What Is the FCTC?

- Global evidence-based treaty designed to circumscribe the global rise and spread of the tobacco epidemic
  - Addresses secondhand smoke protections, tobacco taxation, tobacco product regulation, cigarette smuggling, public education, and cessation treatment
What Is the FCTC?

- First time WHO member states have harnessed the organization’s capacity to develop a binding international convention to protect and promote global public health.

- First time that low-, medium-, and high-income countries have united to develop a collective response to chronic diseases.
Background

- 1994—9th World Conference on Tobacco or Health passes resolution in support of proposed FCTC

- 1996—World Health Assembly (WHA) passes resolution in support of FCTC planning

- 1998—Dr. Gro Harlem Brundtland creates the Tobacco-Free Initiative as one of three cabinet projects
Background

- 1999—WHA launches official work on FCTC

- 1999–2000—Two technical working groups (outlined issues for negotiation)

- 2000–2003—Six intergovernmental negotiating sessions (agreed to final treaty text)
May 2003—WHA unanimously adopts FCTC

June 2003—opened for Signature (EC first to sign)

December 2004—Ratified by the 40th Country (Peru)

February 28, 2005—Treaty enters “force” (becomes binding on countries that have ratified the treaty)

Image source: http://www.who.int/multimedia/fctcsigning/photo.html accessed 3/22/06
Next Steps

- Conference of the Parties (establish secretariat, financial mechanisms, regularly review implementation by parties)
- Protocols (cross-border advertising, illicit trade)
- National implementation . . .
Section B

The FCTC Text
FCTC Final Treaty Text

- Introduction
- Objectives, guiding principles, and general obligations
- Measures relating to the reduction of demand for tobacco
- Measures relating to the reduction of the supply of tobacco
- Protection of the environment
- Questions related to liability
- Scientific and technical cooperation and communication of information

Article 6

- Parties *may* (a) implement tax policies, (b) prohibit or restrict sales to and/or importation by international travelers of tax- and duty-free tobacco products.
Article 8

- Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease, disability

- Shall provide for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places, and as appropriate, other public places
Article 13

Parties shall, in accordance with its constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion, and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on crossborder advertising, promotion and sponsorship originating from its territory.
Article 16

1.(d) [Each party shall ensure] that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors. OR

5. [Each party] may indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines
Article 11

- [Health warnings] should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas, . . . may be in the form of or include pictures or pictograms.

- [Each party shall ensure] that packaging and labeling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. . . These may include terms such as “low tar”, “light”, “ultra-light” or “mild”
Article 20

− Develop, promote and coordinate national, regional and global research programs
− Establish joint or complementary programs for national, regional and global surveillance
− Exchange scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry
− Assist developing countries to meet their commitments
Article 21

- Cooperate to *strengthen capacity* through the transfer of technical, scientific and legal expertise and technology
The word *trade* never appears

“I congratulate all of those who worked so hard to bring about this important agreement. . . . When dealing with the pressing problems of our age, whether they relate to improving health standards or eradicating poverty, there can be no doubt that the nations of the world must work together”

— WTO Director-General Supachai Panitchpakdi (March 3, 2003)
Entry into Force

- Required 100 signatures and 40 ratifications
- First 40 ratifications included France, Japan, India...

Section C

Negotiating the FCTC
The INB Participants

- Secretariat—WHO
- Chair—Ambassador Celso Amorim (Brazil), replaced by Ambassador Felipe de Seixas Correa (Brazil)
- National delegations
- NGOs

Image source:
http://www.who.int/multimedia/tabac2002/photo.html
accessed 3/22/06
More than 170 countries participated

Delegations ranged from one ministry of health official to officials from multiple ministries (trade, finance, state, customs, national tobacco industry)

Some delegations included members from national NGO community
“Those who have done; those who want to do; those who want to, but cannot; and those who do not want to do”

— Ambassador Felipe de Seixas Correa describing states in the INB negotiations
■ Only NGOs in official relations with WHO

■ Allowed to make statements of an expository nature at discretion of the chair during plenary sessions

■ Worked closely with friendly governments

■ Held technical seminars, passed out information, protested

Continued
NGOs

Image source:
http://www.who.int/multimedia/toscani/photo.html accessed 3/22/06

Image source:
http://www.who.int/multimedia/tabac2002/photo.html accessed 3/22/06

Image source:
http://www.who.int/multimedia/genevahearings/photo2.html accessed 3/22/06
Tobacco Industry

- No formal tobacco industry participation due to “systematic and global efforts by the tobacco industry to undermine tobacco control policy and research developments”—Director General Brundtland

- Lobbied national delegations—present on some
Section D

Beyond the FCTC Text
Beyond the FCTC: TFI Activities

- Initiated policy strategy advisory committee (PSAC)
- United Nations Ad Hoc Interagency Task Force on Tobacco Control
- “Don’t Be Duped” campaign
- Public hearings
- Industry inquiries
- Global/regional conferences
UN Ad Hoc Interagency Task Force

- WHO replaces the UN Conference on Trade and Development as UN focal point on tobacco
- WHO requested by UN Secretary General Kofi Annan to convene Interagency Task Force on Tobacco Control
- Fifteen UN Organizations, as well as the World Bank, the International Monetary Fund, and the World Trade Organization
- Shifted UN debate away from supply first to health first
Interagency Cooperation

- World Bank report on tobacco control economics
- Joint WHO/UNICEF report on tobacco and the rights of the child
- FAO report on world tobacco supply, demand, and trade
- ILO report on the employment effects of tobacco control

Image source: [http://www.euro.who.int/InformationSources/Publications/Catalogue/20020308_3](http://www.euro.who.int/InformationSources/Publications/Catalogue/20020308_3) accessed 3/22/06
The Expert Committee was set up to—

"...research tobacco company documents which had become publicly available as a result of lawsuits against the tobacco industry in the United States. That documentary evidence pointed to systematic and global efforts by the tobacco industry to undermine tobacco control policy and research developments. I asked the Committee to enquire into the nature and extent of undue influence which the tobacco industry had exercised over UN organisations”

—Dr. Brundtland, 2000
Tobacco industry documents show that they carried out their plan to contain, neutralize, and reorient WHO's tobacco control initiatives by—

- Staging events to divert attention from the public health issues raised by tobacco use
- Attempting to reduce budgets for the scientific and policy activities carried out by WHO
- Pitting other UN agencies against WHO
Inquiry Conclusions

— Seeking to convince developing countries that WHO's tobacco control program was a "First World" agenda carried out at the expense of the developing world

— Distorting the results of important scientific studies on tobacco

— Discrediting WHO as an institution
514 submissions from parties with material interests in the FCTC process

Testimonies from 144 organizations—including 90 public health organizations and all four major transnational tobacco companies

First global forum for industry to admit the addictive and deadly effects of active smoking

David Davies—PMI

Image source: Pierre Virot - WHO - Geneva
http://www.who.int/multimedia/genevahearings/photo2.html accessed 3/22/06

Andrew Hayes—UICC

Image source: Pierre Virot - WHO - Geneva
http://www.who.int/multimedia/genevahearings/photo.html accessed 3/22/06
Industry Positions

- “We believe it is important to have worldwide regulation of tobacco products, and of the manner in which they are sold, marketed, and used”
  —Phillip Morris

- The FCTC “ignored the realities of cultural and societal difference, as well as intrudes on the authority of sovereign states”
  —Japan Tobacco
“The WHO assumes that the use of tobacco is being introduced into developing economies by the tobacco companies and that the governments of these countries are incapable of setting their own policies and laws on tobacco…. National governments are perfectly capable of, and best suited to, setting their own policies and rules”

—British American Tobacco

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*Industry Positions*

- **Xinhua Hu**
  Chinese National Tobacco Association

- **AXEL GIETZ**
  Japan Tobacco
Don’t Be Duped Campaign

- Campaign to change tobacco control language, image, purpose, and direction
- The campaign engaged and funded nationally based tobacco–control change agents from the media, NGOs, the health sector, and the private sector

World No Tobacco Day

Image source:
accessed 3/22/06

Image source:
accessed 3/22/06

Image source:
accessed 3/22/06
Technical seminars
- Tobacco control litigation—New Delhi
- Tobacco regulation—Oslo
- Tobacco liability—Geneva
- Tobacco economics—Malta
- Illicit trade—New York

INBs and regional intersessional consultations: NGO and expert briefings

Image source: P. Virot, WHO
http://www.who.int/multimedia/tobac2002/photo.html accessed 3/22/06
Beyond the Text: FCTC Coalitions

- Inter-agency national coalitions (China, the United States, Brazil)
- Regional coalitions (African Region)
- NGO coalitions (Framework Convention Alliance)
Section E

The FCTC and the Industry
“Along with PM [Philip Morris] USA, PMI [Philip Morris International] supported the process that led to the adoption of the World Health Organization Framework Convention on Tobacco Control, the first international treaty to set a global agenda for the regulation of tobacco products. While there are some provisions within the Framework Convention that, in our opinion, do not represent sensible and effective regulatory measures, there are many that are appropriate and useful.”

—Altria (Philip Morris) CEO Louis Camilleri
“We are afraid of the measures regarding protection from exposure to tobacco smoke, with some crazy measures like in the USA and especially California. The idea of [regulating] passive smoke—which is still unproven to be hazardous and may already be proven that the hazard doesn’t exist—is the most dangerous for the sector and the opinion. We are less afraid with packaging and labeling.”—Tobacco industry executive quoted in Tobacco Reporter’s “Who’s in Control? Just How Binding Will the FCTC Be?”
“Governments should support strongly the treaty’s stance on combating illegal trade by tracking and tracing contraband, but they should also question whether the WHO’s drive for ever higher cigarette taxes will in fact exacerbate the global problem.”

—Martin Broughton, Chairman, British American Tobacco
"Little is accomplished when organizations focus on conflict rather than seeking solutions through engagement with all interested parties.\textquotedblright\textemdash David R. Davies, Senior Vice President, Corporate Affairs, Philip Morris International.

"We understand the very legitimate concerns about smoking, but litigation is not the solution.\textquotedblright\textemdash Philip Morris International press release (March 21, 2002)
“We encourage governments to take action today, with or without ratification of the treaty. . . . For example, many member states have no minimum age laws. In those countries, it is legal to sell cigarettes to children. PMI [Philip Morris International] supports a globally consistent minimum age of 18.”

—Altria CEO Louis Camilleri
(April 29, 2004)
Gearing Up to Circumvent the FCTC

- Tax: smuggle, bootleg, use old machines, promote smokeless products, promote self-rolling
- Ad bans: public relations, celebrities, point-of-sale advertising
- Smoke-free public areas: “privatize” public space; “members only” restaurants and bars
- Product regulation: market products with lower carcinogens; market lower CO/NO2
- Education/information: industry-funded campaigns to control public messages
“Banning these terms would destroy these valuable trademarks and the specific brands and goodwill they represent. Following a ban, the affected trademarks would simply disappear from the Canadian market.”—submission by Philip Morris International in response to the National Center for Standards and Certification Information foreign trade notification No. G/TBT/N/CAN/22, page 7

“Company trademarks are protected by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of which Thailand is a member.”—letter from Philip Morris to Thailand’s Minister of Public Health (February 27, 2002)
Next Steps for Public Health

- Continue to gather scientific evidence, assess risk, articulate the cause and effect of relationships between exposure and disease
- Propose specific policy solutions and identify points for future negotiation
- Support ratification “strugglers” and push “laggards”
- Help increase national capacity to implement commitments and monitor industry