

**Big Tobacco's Attempts to Derail
the Global Tobacco Treaty:**

Cases from Battleground Countries

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A Corporate Accountability International Report

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Introduction

Just over ten years ago, the tobacco industry still denied that its products are addictive and harmful to people's health. The landscape for Big Tobacco has changed dramatically in the past decade. The global tobacco treaty, which took effect earlier this year, gives the international community tools to stand up to tobacco giants, decrease global addiction rates, and reverse the tobacco epidemic. Formally known as the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), the treaty is a major step for public health and a huge blow to Big Tobacco.

The global tobacco treaty bans tobacco advertising, promotion and sponsorship, and insulates public health policy from interference by tobacco corporations. The treaty's advertising ban means an end to some of the tobacco industry's most effective and deadly tactics, like Philip Morris/Altria's Marlboro Man, in countries that ratify. While Philip Morris/Altria, British American Tobacco (BAT) and Japan Tobacco International (JTI) continue to aggressively target developing countries to expand markets for their products, the tobacco giants are renewing their efforts to derail the treaty process in countries around the world.

The role of the United States in the global tobacco treaty stands in stark contrast to the majority of the world's countries. The Bush Administration's decision to sign the global tobacco treaty with great fanfare in May 2004 appears to have been one in a series of public relations maneuvers to gain positive recognition while working to undermine the world's first public health treaty. Throughout the WHO FCTC negotiating process, the US government took positions that would dilute the treaty. The US opposed the advertising ban, and even opposed excluding the tobacco industry from public health policymaking.

Since signing the treaty, the Bush Administration has made no demonstrable progress toward ratifying it. The global tobacco treaty has still not been introduced to the Senate Foreign Relations Committee for approval. Although the US is considered a leader in tobacco control, continued inaction on this agreement means it will not have a seat at the table as a Party when countries come together at the first Conference of the Parties (COP) to enforce the treaty.

Meanwhile, throughout the negotiating process, developing countries—who will shoulder 70% of the tobacco epidemic this century if current trends continue—formed blocs to overcome powerful industry opposition and pass a rigorous tobacco treaty. Now, each country ratification is significant. As the blocs of African, Latin American, and Asian nations that are Parties to the treaty grow, so does the political power of the health advocates who will be seated at the first Conference of the Parties—the body charged with enforcement of the global tobacco treaty.

Corporate Accountability International is currently distributing a guide for health advocates and government officials working to get their governments to ratify the treaty

before the November deadline to participate as a Party in the COP early next year. The *Global Tobacco Treaty Action Guide: Protecting National Health Policies from International Tobacco Industry Interference* alerts campaigners and officials to the tobacco industry's current attempts to undermine the treaty, and offers suggestions for curbing these efforts.

The purpose of this report is to make public a few salient examples of tobacco industry interference and to provide new information to the public about how tobacco corporations are currently meddling with health policy around the world. The report highlights one success story in overcoming corporate interference and gives an overview of two cases from battleground countries that represent a breadth of tactics currently being employed by the tobacco industry to derail the treaty process.

Thailand's case stands out as an impressive example of a developing country successfully overcoming years of powerful tobacco industry interference in health policy. In Nigeria, Big Tobacco is using its economic muscle to try to keep treaty ratification off the table for discussion by manipulating media coverage and influencing government agencies. Guatemala's current situation exemplifies the need for Article 5.3 of the WHO FCTC—requiring parties to the treaty to protect public health policy from industry interference—and the importance of being vigilant to interference throughout the implementation process. The case of Guatemala also illustrates a new variation of old tobacco industry tricks, where Big Tobacco tries to pull the wool over policymakers' eyes by advocating “regulation” while drafting legislation that actually weakens or conflicts with the tobacco treaty.

Thailand: Big Tobacco's Nightmare

Thailand has been a champion of public health throughout the treaty process for the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). In 1992 Thailand implemented its own tobacco advertising ban and by 2001 (the most recent statistics available) tobacco addiction rates had declined by more than 20%. Thailand's ad ban provided the international community with clear evidence of the effectiveness of such a ban. As the world looks to Thailand for leadership in setting effective health policies, tobacco giants like Philip Morris/Altria keep trying to undermine Thailand's tobacco control policies. Nevertheless, Thailand continues to overcome powerful commercial interests and raise the bar for public health.

In addition to initiating ad bans similar to Thailand's in countries around the world, the WHO FCTC promises to increase the effectiveness of Thailand's current ban by providing international support to close loopholes that are exploited by corporations trying to circumvent regulations. According to the WHO *Thailand Country Report on Tobacco Advertising and Promotion Bans*, "Thailand has a very good and strong law with an exceptionally comprehensive ban on advertising, promotion and sponsorship. However, law enforcement has been very weak and circumventions and violations are still common. To prevent an increase in people's tobacco consumption, enforcement of the advertising ban must be comprehensively planned and efficiently implemented." Today, Thailand is refining its own advertising regulations and will soon have national and international oversight for enforcement.

In Thailand, Philip Morris/Altria tried for years to undermine tobacco control legislation. But because of the vigilance of NGOs and officials in the Thai Health Promotion Institute, Thailand has been able to counter this interference effectively and is setting a high standard for tobacco control policy. According to an internal industry document from 1994, Philip Morris/Altria developed strategies and an action plan to "mitigate the impact of the Tobacco Control Bill." Despite Philip Morris/Altria's plans, public health advocates in Thailand have moved forward with some of the strongest tobacco control legislation in the world.

This fall, the world celebrates with Thailand as it implements an advertising law that raises the standard for controlling Big Tobacco's marketing. The law bans all point-of-sale advertising and promotions—outlawing one of the primary ways that tobacco corporations market their deadly product.

Philip Morris/Altria attempted to stop this point-of-sale advertising ban by lobbying and sending letters to key government decisionmakers, including the Public Health Minister and the Chair of the Senate Health Committee. When this tactic failed, Philip Morris/Altria (Thailand) joined British American Tobacco (Thailand), Japan Tobacco International and the Thailand tobacco monopoly in threatening to sue the Thai Ministry of Public Health for implementing this law. Public health advocates continue to move forward by meeting with key decisionmakers and holding news conferences to assert the

importance of this policy and to ensure its implementation. The Public Health Ministry has declared that all point-of-sale advertising must be removed by September 24, 2005, and retailers are pledging their compliance.

Nigeria: Influencing Media and Officials to Stall Ratification

In countries that have not yet ratified the global tobacco treaty, Big Tobacco is aggressively expanding its operations and attempting to stall effective tobacco regulation. While Nigeria signed the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in June 2004, it has not yet ratified it. As Africa's most populous country, it is a prime target for tobacco industry expansion and policy interference.

British American Tobacco (BAT), which controls 75 percent of Nigeria's cigarette market, is notorious for using its financial resources and government contacts to ensure steady profits and weak tobacco control legislation. In Nigeria BAT's tactics to undermine health policies include attempting to bribe journalists with cash prizes for favorable media coverage and giving expensive gifts to regulatory agencies and government officials. The combination of a misinformed public and easily influenced government is a proven recipe for weak, corporate-friendly regulations.

Media is a top target in BAT's efforts to misinform Nigerians. The corporation hosts expensive meals for media owners and editors, sponsors journalist association meetings, syndicates articles favoring corporate interests and tobacco products, and leverages its advertising power to stop the publication of critical articles.

The corporation's dubious "*British American Tobacco Industry Reporter of the Year Award*" rewards reporters with a new laptop and 100,000 Nigerian Naira (\$2,200 US corrected for purchasing power parity). Between January 2003 and January 2005, BAT sponsored three meetings between media executives and BAT executives at the prestigious Lagos Sheraton Hotel and awarded journalists with gifts for participating. The tobacco corporation has a track record of cultivating journalists to write pro-BAT articles that attack the WHO FCTC. Recently uncovered evidence shows that a reporter, John Ozeze-Langley, who wrote an article in the *Daily Independent* titled "*BAT: Not the Enemy to Fear*" and pleaded to "please let the tobacco companies be!" was given the information to write the article by the tobacco giant.

Common BAT tactics to influence government officials include intense lobbying and expensive gifts. Operating from its Political Liaison Office in Nigeria's capital, BAT organizes expensive vacation get-aways. During parliamentary debate on tobacco advertising regulations, some dissenting members of Parliament openly accused BAT of employing tactics to stop passage of the bill. BAT's gifts have included extravagant donations of sports utility vehicles to government agencies like the Standards Organization of Nigeria (the government agency charged with consumer protection) and to the enforcement unit of the Nigerian Custom Service.

Guatemala: Industry Involvement is Interference

For years, health advocates and officials around the world have witnessed Big Tobacco claiming to support the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) while working behind the scenes to oppose central provisions. According to *Tobacco Company Strategies to Undermine Tobacco Control Activities at the World Health Organization*, a July 2000 report, “tobacco companies have operated for many years with the deliberate purpose of subverting the efforts of the World Health Organization (WHO) to address tobacco issues. The attempted subversion has been elaborate, well-financed, sophisticated, and usually invisible.” The countries of the World Health Assembly passed a resolution in 2001 urging governments to ensure the integrity of health policy development in the face of tobacco industry interference. Similarly, the WHO FCTC requires countries to protect public health policies from industry influence. The tobacco industry has a conflict of interest with the aims and objectives of the WHO FCTC. Put simply, tobacco industry involvement in health policy equals interference.

This is why health advocates were stunned at Philip Morris/Altria’s annual shareholders’ meeting in April 2005, when CEO Louis Camilleri declared that the corporation is working with Ministries of Health and Ministries of Education in countries around the world to develop tobacco control policies and programs. In May, evidence emerged revealing that British American Tobacco (BAT) is doing similar outreach to government officials in Latin America. These insidious last-ditch efforts to manipulate policies and derail the tobacco treaty’s implementation violate the spirit and letter of Articles 5.3 and 12(e) of the WHO FCTC.

The current situation in Guatemala emphasizes how important vigilance to industry interference is in the final stages of ratification and beginning phases of implementation. Guatemala signed the WHO FCTC on September 25, 2003. In the summer of 2005, Guatemala’s Congress voted to ratify the WHO FCTC. Official WHO recognition is still pending. Meanwhile, both Philip Morris/Altria and BAT are trying to stall or derail Guatemala’s treaty process.

Both Philip Morris/Altria and BAT are aggressively doing outreach to policymakers, in an attempt to undermine Guatemala’s tobacco control policies. They have put tremendous resources into preparing and distributing lengthy documents with proposals meant to dilute health policy and stall progress on meaningful tobacco control measures, including WHO FCTC implementation.

Despite the broad consensus among policymakers and ministries in Guatemala that have recognized the global tobacco treaty as supporting Guatemalans’ constitutional right to health, a recent BAT mailing dissects proposed tobacco control measures and tries to frame them as “unconstitutional.” Philip Morris/Altria’s policy proposals are more subtle in their opposition to the global tobacco treaty, but no less insidious. Philip Morris/Altria is attempting to manipulate public policies by leading policymakers to believe that it

supports the FCTC while encouraging legislators to advance legislation that often conflicts with the tobacco treaty.

Philip Morris/Altria tells the public and policymakers that the corporation is socially responsible and supportive of the treaty. The policy proposals that Philip Morris/Altria lobbyists are shopping around to legislators however, are weaker than the public health protections Guatemala voted to support when it ratified the global tobacco treaty. Here is how this Philip Morris/Altria's strategy has been unfolding in Guatemala:

Philip Morris/Altria sent Guatemalan legislators a letter suggesting a set of "efficient and far-reaching tobacco regulations" just before Guatemala unanimously ratified the global tobacco treaty. Reading between the lines, these policies are only "efficient" with respect to Philip Morris/Altria's profits, and "far reaching" with respect to obstacles they could create.

The letter translated from Spanish opens with Philip Morris/Altria praising the treaty, "The FCTC provides governments with a framework for adopting comprehensive tobacco control legislation. Many of the provisions of the FCTC offer sensible solutions to the complex issues confronted by regulators," (Page 1). Then it goes on to suggest that policies will be more complete if they include all "parties" in policymaking. That is, *include the tobacco industry*, which is deliberately excluded from health policymaking by the WHO FCTC. The introduction closes with an invitation to all levels of government—specifically the Executive and Congress—to meet with Philip Morris/Altria directly.

The letter goes on to outline and advocate additional policies that run counter to the WHO FCTC and pose obstacles to enforcing the treaty. These policies include allowing tobacco promotion such as poster advertisements at the point-of-sale, promotional activities, and sponsorship of sporting events; moving warning labels to the back of the package; and permitting the use of terms such as "light" and "mild" on cigarette packages. If Philip Morris/Altria succeeds in convincing Guatemala to pass legislation defending some of the tobacco industry's most strategic marketing tactics, these new tobacco control laws may conflict with the treaty's ban on advertising, promotion and sponsorship.

Philip Morris/Altria's proposal also suggests a set of prohibitions, such as bans on TV and radio advertising, marketing that overtly targets youth, and product placement—all of which are understood to be inevitable within the industry. The tobacco giants are preemptively proposing these selective regulations to prevent further regulations and to protect highly valued forms of marketing—a strategy it has used for years around the world. Big Tobacco employed a similar strategy 30 years ago in the US, when it accepted a ban on TV and radio advertising in exchange for preemption of other marketing regulations. Even if it can't derail ratification, Big Tobacco could still profit from tangling up treaty implementation in a legislative quagmire.

Conclusion

Big Tobacco must not be permitted to derail the global tobacco treaty at the eleventh hour. There is too much at stake. Formally known as the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), the treaty bans advertising, promotion and sponsorship. It also protects public health policy from interference by tobacco corporations. The treaty will save millions of lives and change the way that tobacco corporations operate around the world. While corporations like Philip Morris/Altria, British American Tobacco (BAT) and Japan Tobacco International continue to aggressively target developing countries to expand markets for their products, it is critical that health advocates and public officials be attentive to the tobacco industry's efforts to undermine the treaty process.

There is a powerful consensus among health advocates and public officials around the world that Big Tobacco has no place influencing public health policies. The WHO FCTC enshrines this concept in international law. But effective implementation will require ongoing political will, creativity and vigilance.

Despite the US's reputation as a leader in tobacco control, the Bush Administration has not demonstrated the will to be a helpful participant in the ongoing treaty process. Meanwhile, the developing world remains determined to broaden participation in the convention before the November deadline to participate as a Party in the first Conference of the Parties (COP) and create a powerful COP to oversee the treaty's implementation.

As this report demonstrates, the tobacco industry continues its aggressive and insidious attempts to prevent effective regulation of its addictive and deadly products. Corporate Accountability International's new *Global Tobacco Treaty Action Guide: Protecting National Health Policies from International Tobacco Industry Interference* offers NGOs and public officials tools to continue their courageous work, challenging Big Tobacco's irresponsible and dangerous actions. The guide is available at:
<http://www.stopcorporateabuse.org/files/pdfs/GlobalTobaccoTreatyActionGuide.pdf>.

The global tobacco treaty is an important building block for international regulation of transnational corporations. It is not only the first global public health treaty, but also the first treaty to single out and regulate an individual industry at the international level. The global tobacco treaty is a major victory for the corporate accountability movement. It sets important precedents for regulating other abusive industries that profit at the expense of people's health and the environment.