

# The WHO and duty free

The WHO's tobacco control treaty, the Framework Convention on Tobacco Control (FCTC) came into effect in February 2005. Those countries that have ratified the FCTC, the Parties to the Convention, are obliged to implement the provisions in the treaty that require legislative action, such as mandatory health warnings, bans on advertising and promotion, restrictions on public smoking, as well as measures to restrict illicit trade and smuggling. The clause in the treaty calling for restrictions or the prohibition of tobacco sales and/or allowances is a recommendation and non-obligatory.

As part of the implementation process, the Parties to the treaty agreed to negotiate a Protocol, or supplementary treaty, on the necessary action to reduce the illicit trade in tobacco products and set up an Intergovernmental Negotiating Body (INB) to develop the text of the Protocol. The second meeting of the INB took place in Geneva from 20 - 25 October 2008.

In advance of this meeting, the coordinating organisation for the anti-tobacco lobby, the Framework Convention Alliance (FCA), issued a press release and a number of briefing papers for the meeting that called for the inclusion of a provision in the Protocol that would ban all duty free tobacco sales on the grounds that there are proven links to illicit trade. The FCA lobbied forcefully during the negotiations at INB2 for the inclusion of an outright ban on duty free tobacco and this issue was the main topic of discussion during the week and the subject of considerable debate.

Although we have been aware of continued hostility towards duty free tobacco from the anti-tobacco activists, this development was not anticipated. Allegations that duty free sales contributes to illicit trade were rejected during the original FCTC negotiations and duty free was not a high profile issue during the first round of discussions on the Protocol in February 2008. Although we immediately contacted many leading industry companies to call on their governments to register opposition to the proposed ban at the negotiations in Geneva, we were unable to initiate a concerted global campaign at such short notice. We now have a proposal included in the text developed at INB2 that calls for legislative action to ban sales of duty free tobacco products to international travellers and on transportation carriers.

However, although this development poses a major threat to the global duty free industry, agreement on the final contents of the Protocol is some way off, anticipated for 2010, and we still have time to mobilise all industry stakeholders and allies to build support from national governments for the rejection of proposals on duty free tobacco in the Protocol before it is finally approved.

Governments know that retailing within traditional duty free markets is a highly regulated and controlled trading environment, subject to constant customs scrutiny and supervision, with sanctions available for abuse or misuse, including the withdrawal of licences and/or the authority to trade. Sales of tax and duty free tobacco products are transacted in the most controlled retail environment for products subject to excise duties and other taxes and do not contribute to the illicit trade in tobacco products or to commercial smuggling.

The industry in all countries must now take action to lobby their regulatory authorities, government ministries and administrations, as well as mobilising support from all potential allies, such as the airport authorities, allied trade bodies, etc. to call for the removal of any references to duty free within the Protocol on illicit trade.

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