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WFPHA, THE FCTC, AND TOBACCO CONTROL: REPORT OF THE 2001 GENEVA WORKSHOP

Although various nations are engaged in developing tobacco control legislation, the role of their public health associations has not been strong. The World Federation first clearly decided in 1997 to become active in this area with the Arusha Declaration supporting Tanzanians' fight against the invasion of their country by transnational tobacco companies. This was followed by the creation of the WFPHA Task Force on Tobacco Control, whose activity now focuses on the process of the Framework Convention on Tobacco Control (FCTC), a treaty currently being negotiated by governments through facilitation by the World Health Organisation. This report is a summary of a meeting held in Geneva on 12 May 2001 to examine the status and progress of the FCTC and the upcoming role that PHAs and the WFPHA should take in relation to the treaty. National PHAs, other NGO representatives and Ministry of Health officials came from Bangladesh, Burkina Faso, Canada, Chile, Cuba, Ethiopia, Georgia, Haiti, Jordan, Korea, Malawi, Mozambique, Nepal, New Zealand, Russia, South Africa, Switzerland, Tanzania, Turkey, Uganda, United States, Vietnam.

Historically, the cultural authority of public health in relation to tobacco has not been strong. Tobacco industries consistently manoeuvre to marginalise and undermine scientific evidence about health consequences and to frame the issue as one of personal freedoms, characterising public health as zealous and interfering. In some populations such tactics are no longer successful, but in many others the tactics have paralysed public health.

The current negotiations for a treaty to control the escalation of use and to reduce deaths caused by tobacco opens the door for greater impact and authority for public health. PHAs should not be on the sidelines, but in the centre of this process, moving governments and the civil society to demand restrictions on the way the tobacco industry has operated up to today.

THE FRAMEWORK CONVENTION ON TOBACCO CONTROL

Tobacco is the world's greatest preventable killer. The ultimate goal of any public health initiative must be the reduction of this burden of disease. One step toward the goal is a stable and integrated global regulatory environment for tobacco control. This could be created by the Framework Convention on Tobacco Control. The treaty would provide a link between local, national and global public goals. The relevance of this treaty is indicated by the involvement of multiple sectors in negotiating the text: health, customs, trade, labour, agriculture. Within the UN system, the process has led to increased attention to tobacco control issues and analysis.

Brazilian Ambassador Celso Amorim, Chair of the Intergovernmental Negotiating Body on the WHO Framework Convention on Tobacco Control noted that this treaty provides a challenge and an opportunity for interaction between governments, NGOs and medical experts. Here is a unique process that aims to translate the urge to curb tobacco deaths into a legal convention that countries can sign. There is a fine line between the ideal and the possible. This means that the treaty must have meaningful standards to reduce deaths that are not impossible for most countries to ratify.

The process so far has resolved procedural issues resulting from the lack of precedents in public health treaties, for this is the first. Negotiations at the first meeting in October 2000 led to a text (the Chair's text) which was discussed at the second meeting in May 2001, by working groups which looked at 1) regulatory and health-specific measures; 2) economic and trade-related measures; and 3) legal and institutional issues for the convention. A new text with alternatives will be prepared for the next working group meeting in November 2001. Ambassador Amorim stressed that these negotiations need to allow the countries to feel ownership, and this process means that progress can be slow. At the next meeting, known as INB3, the new text will not be a clean text, as was the Chair's text for INB2, because of this "ownership" issue. The new text will be a "rolling text" and will include a large number of alternatives. Some of the excess in slightly varied amendments can be

attributed to inexperience of some delegations in negotiations. Ambassador Amorim particularly commended the African region as exemplary in having pre-established and commonly agreed positions on all articles. The next step in developing the final text is one of determining the acceptability of a text to a majority, and the Working Group Chairs will play an important role in determining consensus even when their is not unanimity. The Chairs of the Working Groups are: Group 1: France and Thailand; Group 2: Zimbabwe and Canada; Group 3: New Zealand and Egypt. All concerned hope to keep to schedule and produce a text ready for national ratification by 2003. The Ambassador felt that ratifying the convention with reservations would not be possible, as that could make it meaningless.

It is still to be decided whether or not one or more protocols, which give much greater detail and specification to a particular issue, will be negotiated alongside or after the negotiation of the framework convention itself. Topics for protocols that are currently being considered are advertising, smuggling and product regulation. The discussion on protocol development has not yet matured, as there is a definite split in perception. While some consider protocols necessary to allow the specification of obligations, others are concerned that at present negotiating protocols might weaken the framework convention.

Perhaps the most important message that Ambassador Amorim offered was that government commitment to the treaty will depend on NGOs and the media, citing J.F. Kennedy's remark that to govern is to administer pressure.

THE ROLE OF PHAS IN THE FCTC PROCESS

Clearly, with their scientific expertise, public health associations could be playing a mediating role in the FCTC process by suggesting and explaining preferred text for the next negotiation meeting, and suggesting specific comments on any protocols as they are introduced. Public health associations, preferably in coalition with other health or development associations, could be contacting delegates and the various Ministries involved in the process to present these arguments as well. Finally, the public health associations could establish regular media contacts to inform the wider population about what the national position has been and should be on the issues of the Framework Convention.

In an effort to look at the role PHAs could be playing in national legislation for tobacco control, the World Federation ran a survey of PHAs' assessments of country development, both successes and failures. Only 14 (25%) of the 56 national members responded to the questionnaire, although some country responses may yet arrive. This low rate calls for analysis – does it reflect lack of interest in the issue, or lack of a sense of urgency for action?

The majority of responses came from countries with partial legislation, that is, newly drafted or enacted legislative responses to tobacco control. The difficulties that were indicated in getting legislation included population ignorance, high smuggling, threatened tax liberalisation, increased tobacco industry activity and issues of trade liberalisation. The difficulties encountered with enacted legislation included loopholes to avoid conforming to law, watered down provisions, regional inconsistencies in application and enforcement problems. All of these difficulties could be countered through a strong Framework Convention, and the less advanced in tobacco control, the more the nation could gain from the convention. Indeed, reports from Canada, New Zealand and Finland, where there is comprehensive legislation for tobacco control, show clear public health achievements: the population is less exposed to environmental tobacco smoke (ETS), large pictorial warnings are printed on tobacco packages, data is available to monitor addiction and behaviour change, and subsidies exist for nicotine replacement products to aid cessation.

From the above, Dr. Abelin proposes that there are stages through which a country passes on its way to comprehensive tobacco control legislation: First, there are various levels of awareness that a problem exists, and of the need for action. Once action is deemed necessary, the steps include lobbying, getting legislation, then making sure that it is enforced. Laws can be worthless if they are vague or contain loopholes. Currently, in an effort to aid the FCTC process, each PHA could diagnose

the situation of its own country's legislation. For example, isolated codes on particular issues, e.g., advertising, may not be as useful as full tobacco control acts. But progression towards a full act may need to consist of such isolated ordinances, because they comply with political reality. Putting too much into an act, particularly at the beginning of legislative responses to tobacco, might kill a bill. Again, the importance of a strong FCTC here can underpin rapid advances for countries just beginning to consider legislative responses to tobacco.

Historically, the role of public health associations in getting tobacco control legislation into place is spotted. While some public health association have already been actively engaged, often it is a question of individuals from public health taking a lead in another context, such as government policy consultancy, without a visible presence of the PHA itself. In some countries leadership in getting tobacco control legislation has come from other NGOs, but the most successful approach has been in the forming of networks. It is a daunting task to work together and co-ordinate activities, and when multiple agencies are working together, each has to find its own role to play, so that it has a visible identity in the wider group. What has been seen as most effective at the national level will also be necessary at the international level.

The FCTC is going forward under special circumstances: this is the first time for the WHO, so it is inexperienced. Public health is inexperienced. And the tobacco industry is not remaining idle. One of the recent strategies is to frame this as a question of common sense, with the argument that this treaty negotiation is costing a great deal of money, money that could be used to solve problems now. The tobacco industry is good at "spin" – presenting an image of the situation that validates their credibility. Their brand image is powerful and compelling, and only through intersectoral collaboration can we possibly hope to have a common message that can be a branded message for public health. This is indeed a challenge. Public health has the science, and it must use that science to defend the public from the attack of the tobacco industry.

Public Health vs the Tobacco Industry

But the battle between public health and the tobacco industry is being won by the tobacco industry. Deaths are rising, and within 25 years we will see deaths in low-income countries rise from one to seven million per year. This is not a long time away. We will see today's fifteen-year old smokers dying at age 40. And the transnational tobacco companies are crowing that they are making record profits and developing new markets. But within the bigger battle, there are success stories. In South Africa, consumption has fallen every year over the last eight years. And the reason for this is political commitment:

- A strong Minister countered tobacco industry protests in 1994 with the comment, "If the constitution does not allow us to protect public health, then the constitution must be changed."
- The government recognised that education is not enough; there must be an environment that allows healthy decisions to be made easily, and unhealthy decisions hard;
- The policy-makers followed economists' advice to raise taxes: doing that both decreased consumption and increased government revenues. Indeed, there is unwarranted fear of losing money and having no effect on consumption by increasing taxation. Not only does consumption fall; it falls greatest among young people, before they become regular users. And government revenues increase.
- All parties seized a special moment in the history of South Africa, at the time when a government of national unity was in place.

The NGOs were active in this, particularly the Cancer and Heart societies and the National Council Against Smoking. The public health community and beyond created partnerships for health. They got the facts to put up against the tobacco industry arguments, and their facts were stronger. It must be emphasised that this was not easy. People had to work together, lobby with a coherent message, talk to journalists, work with universities to get the facts. Success was not due to strong financial resources.

The tobacco industry has more resources, which public health cannot match. We work through advocacy, information and scientific evidence. Tobacco control legislation can be put in place in poor or rich nations. Wealth is not the issue. The issue is political will and national mobilisation. We can help the tobacco industry by inaction, by waiting for financial resources, by not working together, by fighting this out one nation at a time. If we take on the tobacco industry 100 countries at a time, it will be in trouble. Our unity strengthens our fight, and the greater our numbers, the less of a chance the tobacco industry will have to wield its power and resources. They can't do it everywhere at the same time.

TOBACCO INDUSTRY INFLUENCE ON GOVERNMENTS

But the lack of political will is often linked to the influence of the tobacco industry on government policy. A recent report on the tactics of the tobacco industry to influence policy in Switzerland is instructive, for the same tactics, with local variations, are being used throughout the world. How can the same messages be successful over time and across countries? Because the responses from public health are based on the assumption that each situation is unique. These tactics included:

- Framing the tobacco issue as one of "Freedom and Responsibility".
- Framing public health evidence about tobacco as a "controversy".
- Professional lobbying. Often public health does lobbying *ad hoc*.
- Self-regulation presented as a better, more collaborative approach; this avoids legislation.
- Tobacco control legislation labelled "government interference".
- Social acceptability is maintained at all cost. This is why issues related to second-hand smoke are anathema to the tobacco industry.
- Framing youth smoking as the problem, and setting themselves up as a solution. This reinforces the social acceptability of tobacco use.

A rule of thumb from looking at the tactics used in Switzerland: if the industry agrees with a proposed public health measure, or does not react to it, the chances are great that the measure will not affect their sales, or tobacco's social acceptability.

A new tactic that is shaping up around the world is the one that seeks to cast the tobacco industry as "socially responsible" This is done primarily through youth smoking prevention campaigns, aid for orphanages or battered-women clinics. [Note: In the US, Philip Morris ran a compassion campaign with meals for the elderly and other uplifting programmes. The company then spent more on advertising about their compassion than they had spent on the campaigns themselves.]

The most successful of all of the above techniques is co-opting public support for youth smoking prevention campaigns. Throughout the world, tobacco industry-driven programmes are donated to schools. The "prevention" messages are designed without information about health consequences or the role of marketing in getting people to start using tobacco products or about the powerful addictiveness of nicotine. They certainly do not talk about manipulating consumers. The purpose of these campaigns is public relations to stress that tobacco use is a normal, acceptable adult activity, implying that this is the way for a young person to "be" adult.

The way forward to counter these international tactics is through a global movement focussing on industry manipulation and health consequences. The FCTC could be the vehicle for this global movement.

EXPECTATIONS FOR THE FCTC

The tobacco industry would be satisfied with a watered-down statement of good intentions; but if a treaty is negotiated with obligations for measures that will limit the growth of tobacco use tobacco companies can still hope for no ratifications or no enforcement. These goals will be pursued. The extent to which these goals will be pursued should not be underestimated.

The wider public health community, the WHO, the NGOs, the scientific institutions and some governments see the development of the FCTC as a powerful tool for developing national tobacco control policies as well as creating a standard for international behaviour. The FCTC comes at a time when litigation is beginning to be a feasible tobacco control tool in some countries, when the economic evidence is being put before the world of the inordinate costs to development of tobacco use, and when the tobacco industry deception and conniving are exposed to those who look in the disclosed tobacco company documents.

Within the public health community, there is disagreement as to how strong the treaty can be for the greatest potential utilisation and enforcement, thus benefit to society. All agree on the need for much greater mobilisation of civil society.

MOBILISING CIVIL SOCIETY

First of all, we might look at the excellent results already obtained in tobacco control in some national settings. In the US, for example, NGO members or volunteer staff have contacts in the highest spheres, may themselves be masters of industry, may be the best spokespeople for the impact of tobacco on their lives. What is important is that they work together. They work within the framework of their country; they analyse what is needed and what can be done at specific times. They do not underestimate the tobacco industry, nor do they consider it to be invincible. They fight the tobacco industry schemes for social acceptability. For tobacco companies to be seen as responsible caring corporations cannot be allowed.

In some countries, tobacco control is still in its infancy. Numbers of interested parties may be low. There may be no extraneous funding available. And yet, actions can be taken, governments can be influenced. In Pakistan, for example, where people live under a government that has no roots in the people, where government leaders do not listen to the experts, where the news media does not send the tobacco control message out because it is under the control of government, nevertheless, public health has begun a stunning battle. In this case, the public health community went to the lawyers who filed, *pro bono*, a suit against the government, asking the government to justify its actions in not protecting the public health. The government is being asked why it does not implement laws that have been voted, and why, when the Ministry of Health says that tobacco causes devastating health consequences, the Ministry of Education accepts 50% of its budget from a tobacco company. Now in Pakistan, the government wants to reach a settlement and work with the NGOs. So although governments may not listen to science, there are other ways to make them pay attention. And these other ways are at our disposal, if we look around. Although some solutions that have been found in one setting may not be appropriate elsewhere, many, many solutions can be adapted from one setting to another.

To understand to the greatest extent the scientific evidence and cultural relevance of public health, we need to study it. Research can look at policy, programmes, advocacy and monitoring. Currently, exchanging strategies between countries is problematic for we do not have standardised, comparable data, few networks for communications, lack of capacity for tobacco control research and little concerted mobilisation of resources.

Given this overview, the participants at the workshop broke into groups to brainstorm on key recommendations for the future:

RECOMMENDATIONS FOR NATIONAL PHAS

1) **Work in coalition with other NGOs**
   a) **Work to promote the FCTC**
      i) Provide advocacy for the FCTC
      ii) Dissemination information about the FCTC.
      iii) Bring the subject into national and local realities
      iv) Contact or meet with country delegates to INB.

      v) Establish a national media plan in support of FCTC
   - **b) Work to promote a national tobacco control plan**
      i) Monitor the national situation
         - Political mapping
         - Accountability to the public
         - Contradictions in policy
         - Tobacco industry behaviour

      ii) Provide facts for government lobbying
      iii) Promote NGO/government dialogue
      iv) Work to promote legislation, advertising controls, research/info
      v) Raise awareness both at government and public level

2) Create a tobacco control task force within the PHA
   - **a) Inform members about the issues:**
      i) Promote education with brochures, etc.
      ii) Inform and mobilise PHA members about the FCTC
   - **b) Lead research**
      i) Draft a plan of action which identifies the problem and promotes necessary research
   - **c) Expand the network**
      i) Promote contact with other NGOs

RECOMMENDATIONS FOR THE WFPHA

1) Facilitation role with member organisations
   a) Help in networking
   b) Make/update a database
   c) Promote efficient communication and sharing of information
   d) Provide a website
   e) Provide useful website links and other materials
   f) Encourage dialogue and exchange of experiences between WFPHA members.
   g) Encourage new members to join the WFPHA
   h) Promote local-international contacts

2) Mobilisation of resources
   a) Financial
   b) Human
   c) Technical

3) Collaboration in the FCTC process
   a) Guidance in the next INB meeting
   b) Provide input on the public text
   c) Encourage regional meetings on the FCTC
   d) Send a letter to all governments to encourage support for the FCTC
   e) Supply the WFPHA mailing list to other NGOs and WHO.

4) Other Task Force activities
   a) Promote collaboration at all levels
   b) Share and distribute technical information and educational materials
   c) Identify critical countries to be supported through WHO
   d) Co-ordinate and disseminate national tobacco control plans
   e) Identify lead organisations in countries with PHAs
   f) Provide technical assistance and train trainers
   g) Identify decision trees for PHAs in developing tobacco control
   h) Inform and mobilise WFPHA members about the FCTC

The workshops also indicated the following support needs:
   Educational materials

Training materials
Advocacy materials
Joint projects, workshops, symposia
Regular information systems, scientific newsletter
Common website with links to other important websites.

Timeline. These should be done prior to the next negotiating body meeting of the FCTC.

A CALL FOR ACTION.

A need is seen to enhance the cultural authority of public health in relation to the FCTC and general tobacco control, and to take concerted action to increase and enhance the infrastructure of public authority. A Call for Action was determined to be a necessary outcome of the meeting.