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Dialogue

Tobacco Politics

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ABSTRACT *Jeff Collin examines the complex politics of the pioneering campaign to put in place the Framework Convention on Tobacco Control. As one of the experts behind the scenes, he describes the negotiations to put in place WHO's first public health treaty. He gives both the unique characteristics of the campaign as it was played out, led by developing countries, as well as pointing to how in the future other health issues can take on similar seemingly impossible challenges that those who put the tobacco convention in place, faced and overcame.*

KEYWORDS *WHO; public health; Framework Convention on Tobacco Control; governance; USA; NGOs*

The Tobacco Convention

The agreement in May 2003 on the text of the Framework Convention on Tobacco Control (FCTC) represented the culmination of almost four years of negotiations by the member states of the World Health Organization (WHO). This effort to develop WHO's first public health treaty was a centrepiece of Gro Harlem Brundtland's term as Director-General, with substantial political capital invested in an ambitious departure from traditional international health governance. The text was widely welcomed among health advocates, as it included provision for the enactment of comprehensive bans on tobacco advertising, promotion and sponsorship, large rotating health warnings on packaging, and the prohibition of misleading descriptors such as 'light' or 'mild' (WHO, 2003).

While such language provides the basis for effective legislation, the greater value and interest of the FCTC to date arguably lies in the distinctive character and broader impacts of the process of its negotiation rather than the text itself. In requiring a broad international and multi-sectoral policy response, the FCTC process has provided a focus for health advocates, researchers and the tobacco industry as well as for governments. In doing so, it has both highlighted trends in the tobacco pandemic and given a new political salience to their economic, social and health impacts.

The negotiation process

A distinguishing feature of the FCTC negotiations was the persistent leadership by developing countries, a prominence that does much to explain the strength of the eventual

text (Hammond and Assunta, 2003). In part, this reflects the breadth of participation by member states, from the unanimous adoption of a resolution by the World Health Assembly in 1999 to its similarly unanimous adoption of the final text in 2003; delegations from 171 member states attended the final negotiating session in February 2003.

More significantly, the achievement of a leadership role reflects political decisions made both to shape the agenda and to cope with the onerous demands of the protracted sessions of the Intergovernmental Negotiating Body (INB) in Geneva (the latter being particularly inequitable in impacts across national delegations). Delegates from WHO's African region were the first to participate in the negotiations as a regional bloc, with the potential for divisions between tobacco producers and nonproducers avoided by the development of common positions at preparatory meetings prior to each INB. Combining a broad commitment to tobacco control with recommendations for measures to assist diversification by producers (Oluwafemi, 2003), these co-ordinated positions heightened impact on negotiations (Bates, 2001) and the practice was subsequently adopted by other regions. In turn, this provided the opportunity to develop cross-regional alliances, notably those between the African and South East Asian regions.

The role of research and evidence

This exercise of leadership provides tangible evidence of the increasing recognition of tobacco as a development issue, a recognition that has been research-driven. In part, this reflects the increasingly inequitable distribution of tobacco-related deaths, 70 per cent of which will occur in developing countries by 2030 (Gajalakshmi *et al.*, (2000); Collin, 2002). Equity issues have also been raised by increasing evidence of the consequences of trade liberalization, which has had no substantive effect on tobacco consumption in higher-income countries but a large and significant impact on smoking in low-income countries and a significant, if smaller, impact on middle-income countries (Taylor *et al.*, 2000).

Of more direct relevance to the FCTC has been the increasing interest of the World Bank in tobacco control, with the publication of research demonstrating its widespread potential economic benefits for the vast majority of countries, including many tobacco producers (Jha and Chaloupka 1999). The influential report 'Curbing the Epidemic' identified a virtuous circle of cost-effective interventions that enhance revenues and promote health (World Bank, 1999). In doing so it provided a credible evidence base for the FCTC and helped reverse the longstanding perception that the tobacco industry was economically too beneficial to developing countries to allow for effective health regulation.

This reversal was greatly enhanced by the disclosure of increasing evidence of industry misconduct from previously secret corporate documents. A committee of experts appointed by Brundtland to assess tobacco industry's influence within WHO revealed the scale of efforts to undermine the agency's tobacco control initiatives (See Figures 1 & 2). The industry had sought to present them as a 'First World' agenda being foisted on developing countries, the adoption of which could lead to economic destabilization and exacerbate poverty and malnutrition in tobacco growing-countries. The committee also identified the role of the International Tobacco Growers Association as a front group funded and directed by tobacco transnationals; a clear concern to stop developing countries becoming committed to tobacco control; efforts to restrict WHO's funding for tobacco control, and to divide it from other UN agencies; and the creation of an international consortium to mobilize officials from developing countries to advance pro-tobacco positions (Zeltner *et al.*, 2000). The perceived value of the industry to producing nations has also been undermined by reports from NGOs indicating mistreatment of local producers. Recent reports have *inter alia* highlighted the extent of control over contract farmers and reported health impacts of pesticide use in Brazil and Kenya (Christian Aid, 2002, 2004; http://www.christian-aid.org.uk/indepth/csr.behindthemask.pdf, accessed 21 January) and alleged exploitation of local farmers amounting to *de facto* slave labour in Uzbekistan (British Helsin-

ki Human Rights Group, 2002; http://www.bhhrg.org, accessed January 2004).

The role of civil society

The process of FCTC negotiations also stimulated greater involvement in global tobacco control issues among an increasingly disparate range of civil society organizations (CSOs). This is partially explained by decisions made within WHO to enable somewhat broader participation than the state-centric pattern of traditional international health governance.

This was most evident in holding public hearings in October 2000, the first time WHO had undertaken such an exercise. It allowed some involvement in the process for tobacco companies and producer groups in addition to diverse CSOs involved in health and development, and in total 144 organizations provided testimony during the hearings, while 500 written submissions were received (WHO, 2001; http://tobacco.who.int/en/fctc/publichearings.html, accessed 28 October 2001). Additionally, there were efforts to accelerate the process by which international NGOs could enter into Official Relations with WHO, this status being a pre-requisite for formal, albeit heavily circumscribed, participation in the negotiations. For the NGOs Largely confined to observing proceedings and being invited to 'make a statement of an expository nature' at the discretion of the chair (WHO, 2000d), the greater significance lies in the lobbying opportunities afforded by this status.

The involvement of CSOs in the FCTC process was greatly enhanced by the formation and development of the Framework Convention Aliiance (FCA). At the two working group meetings that preceded the formal negotiations of the INB, civil society participation had been largely confined to high-income country NGOs and international health-based NGOs (Collin *et al.*, 2002). The FCA was formed as a loose international alliance to support the development and ratification of an effective FCTC (www.fctc.org, accessed February 2004), and it only served to increase communication between CSOs already engaged, and sought to systematically reach out to and support new and small CSOs, particularly in developing countries. By February 2003 the FCA encompassed more than 180 NGOs from over 70 countries, and had established itself as an important lobbying alliance. Its impact in the final negotiations was, however, hampered by the imposition of restrictions on NGO access to the negotiating sessions. Most sessions of the final INB were designated as informal, thus providing a pretext for the exclusion of NGO participants; a reduction of access and transparency reportedly supported by delegations including the United States and China (Framework Convention Alliance, 2003; http://fctc.org/bulletin/Issue38.pdf, accessed 29 August 2003).

Reflecting on the negotiations

This exclusion highlights the contested and frequently polarized character of the negotiations, notwithstanding the surprising unanimity with which the World Health Assembly adopted the eventual text. Given the breadth of potential policy implications, huge variation in domestic legislation and the powerful economic interests involved, widely divergent positions inevitably characterized the discussion of issues such as the eradication of misleading terms such as 'light' and 'mild', comprehensive advertising bans, removing duty-free sales or funding tobacco control and diversification in producer countries. While the complex pattern of alliances and positions that emerged evades neat categorization, some broad groupings can reasonably be identified. First, there was a remarkable breadth of support for the FCTC to incorporate powerful regulation across many developing countries, positions that were shared by civil society in the form of the FCA. Secondly, a number of high income countries with comparatively strong national regulation, including Canada, Australia, New Zealand and several EU states, broadly favoured a strong convention, with occasional caveats driven by a desire to avoid revisiting domestic legislation. Finally, a small number of countries consistently argued in favour of a minimalist FCTC that would incorporate aspirations rather than obligations. Japan and Germany were persistent advocates of such positions, with the latter long serving as a brake on the EU

(Gilmore and Collin, 2002), but the United States under the Bush administration emerged as their most prominent proponent.

The Clinton-appointed head of the US delegation resigned following an uncomfortable retreat from previous positions (Washington Post, 2001; http://www.corpwatch.org/news/ accessed 22 August 2003) while Democrat Representative. Henry Waxman published articles and letters highlighting the administration's efforts to undermine negotiations (see his article in this journal issue). These included claims that, following a meeting with Philip Morris, US negotiators pursued ten of eleven requested deletions from proposed text (Waxman, 2002); a leaked memo from the US Embassy in Riyadh urging Saudi Arabia's assistance in backing US efforts to manage the debate around the relationship between trade and health; and an internal Philip Morris document suggesting that the tobacco company had taken positions on the FCTC that 'if anything, are to the left of the Bush administration' (Waxman, 2003; http://www.house.gov/reform/min/inves.tobacco/index.accord.htm, accessed 22 August 2003).

Behind-the-scenes

Such accounts are indicative of the extensive behind-the-scenes efforts by tobacco companies to influence the negotiations. An internal document from British American Tobacco (BAT) that described the FCTC as 'an unprecedented challenge to the tobacco industry's freedom to continue doing business' accepted that an agreement was likely and established a strategy for minimising its potential impact (Centre for Public Integrity 2003; http://www.publici.org/dtaweb/report accessed 22 August 2003). Part of this strategy rested on efforts to shape the negotiations by building contacts and support among potentially sympathetic states. Such efforts were to be primarily focused on health and finance ministers as 'our priority stakeholders', though growers, unions and trade organizations were also identified as potentially useful. The document noted 'some success at governmental level' in stimulating favourable contributions to the drafting process by Brazil, China, Germany, Argentina and Zimbabwe (BAT n/d; http://www.publici.org/download/fctc/BAT.Proposed.WHO.TFI.Strategy.pdf, accessed 22 August 2003). Additionally, tobacco companies were sporadically successful in ensuring that their representatives formed part of negotiating delegations (Collin *et al.*, 2002).

A less direct but arguably more significant attempt to influence the trajectory of the FCTC was the strategic adoption of a high profile commitment to corporate social responsibility (CSR). BAT proposed a strategy of repositioning itself as a co-operative advocate of 'sensible regulation'. This was part of an industry-wide embrace of CSR as a tool to reverse its drift towards pariah status and, critically, to defuse pressure for more stringent regulation. In an FCTC context, this was most evident in the industry's collective announcement of International Tobacco Products Marketing Standards, a global variation on the longstanding theme of adopting a voluntary code to pre-empt or dilute statutory regulation legislation (Collin and Gilmore, 2002).

Such adaptation by the industry demonstrates both the significant opportunity presented by this unique process and the ongoing obstacles to fulfilling its potential. Fundamentally, the FCTC is an attempt to develop a form of health governance capable of effectively regulating transnational corporations. Its negotiation has entailed wrestling with fundamental questions about the social impacts of globalization, particularly the relationship between trade and health. The failure of an alliance of the majority of developing countries and CSOs to secure a language prioritizing controlling tobacco consumption over trade agreements points to the limitations in this exercise. Notwithstanding this, however, the comparative strength of the text that emerged suggests that this innovation in governance may indeed be capable of significantly advancing global health. Real questions remain to be answered, not least of which is whether sufficient ratifications will be achieved for the FCTC to come into effect (minimum of 40 states). Additional questions include prospects for negotiating more stringent commitments via issue-specific protocols and the future role of civil society in its governance.

Some implications

While it is, therefore, too early to meaningfully appraise the character and prospects of the FCTC, its broader impacts on the politics of tobacco control are already evident. Governments have had to develop national positions on diverse cross-sectoral issues, with inter-ministerial committees established in countries as diverse as Zimbabwe, China, Brazil, and Thailand. In civil society, the process stimulated the formation of new national coalitions in countries such Bangladesh, India and the Philippines (Hammond and Assunta, 2003), while the FCA shows indications of an emergent global movement. Most significantly, participation has provided a major impetus to further national regulation. The senior vice president for

http://www.who.int/tobacco/media/en/poster-en.pdf

http://www.who.int/tobacco/media/en/enter-stadium.pdf

One of the most successful political campaigns led by WHO in recent years has been waged against the tobacco industry even as the industry promotes smoking among the marginalized communities in the South.

corporate affairs at Philip Morris International recently advised an industry conference that, whether or not the FCTC is ratified, 'the Treaty has had a significant influence on us, simply because it has accelerated the pace of regulation in individual countries' (Davies, 2003). In response, tobacco companies are clearly increasing their efforts to secure the passage of 'sensible regulation', a synonym for ineffectual measures that requires a comparable ongoing response from health advocates and regulators.

References

BAT (n/d) 'British American Tobacco: Proposed WHO Tobacco Free Initiative Strategy.

Bates, C (2001) 'Developing Countries Take the Lead on WHO Convention, *Tobacco Control* 10(3): 209.

British Helsinki Human Rights Group (2002) 'Uzbekistan 2002: British American Tobacco.

Centre for Public Integrity (2003) 'Cigarette Company Documents Outline Strategy to Derail Global Tobacco Treaty, May 16.

Christian Aid (2002) 'Hooked on Tobacco: report on BAT subsidiary Sousa Cruz.

Christian Aid (2004) 'Behind the mask: the real face of corporate social responsibility.

Collin, J (2002) 'Think Global, Smoke Local: Transnational tobacco companies, cognitive globalization', in K Lee (ed.) *Health Impacts of Globalization: Towards Global Governance*, London: Palgrave. pp 61–85.

Collin, J and A Gilmore (2002) 'Corporate (Anti)Social (Ir)Responsibility: Transnational Tobacco Companies, the Attempted Subversion of Global Health Policy, *Global Social Policy* 2(3): 353–60.

Collin, J, K Lee and K Bissell (2002) 'The Framework Convention on Tobacco Control: The politics of global health governance, *Third World Quarterly* 23(2): 265–82.

Davies, D (2003) 'External Forces: Facing the future', speech given at TABEXPO, Barcelona, 26 November.

Framework Convention Alliance (2003) 'This shameful secret negotiation', Alliance Bulletin, Issue 38, 19 February.

Gajalakshmi, CK *et al.* (2000) 'Global Patterns of Smoking and Smoking-Attributable Mortality', in P. Jha and F. Chaloupka (eds.) *Tobacco Control in Developing Countries*, Oxford: Oxford University Press.

Gilmore, A and J Collin (2002) 'The World's First International Tobacco Control Treaty', *British Medical Journal* 325: 846–7.

Hammond, R and M Assunta (2003) 'The Framework Convention on Tobacco Control: promising start uncertain future, *Tobacco Control* 12: 241–2.

Jha, P and F Chaloupka (1999) *'Curbing the Epidemic: Governments and the Economics of Tobacco Control*, World Bank: Washington, DC.

Oluwafemi, A (2003) 'Regional Summary for the African Region', in O. Shafey, S. Dolwick and G.E. Gunidon (eds.) *Tobacco Control Country Profiles*, second edition Atlanta GA: American Cancer Society.

Taylor, A, F Chaloupka, E Gundon and M Corbett (2000) 'The impact of trade liberalization on tobacco consumption', in P. Jha and F. Chaloupka (eds.) *Tobacco Control in Developing Countries*, Oxford: Oxford University Press. pp 343–64.

Washington Post (2001) 'Negotiator in Global Tobacco Talks Quits, 2 August.

Waxman, H (2002) 'The Future of the Global Tobacco Treaty Negotiations, *New England Journal of Medicine* 346: 936–9.

Waxman, H (2003) 'Letter to The President. Washington, DC: Committee on Government Reform, February 26.

World Bank (1999) *Curbing the Epidemic: Governments and the economics of tobacco control*, Washington, DC: World Bank.

WHO (2000d) 'Participation of Nongovernmental Organizations in the Intergovernmental Negotiating Body', Intergovernmental Negotiating Body on the Framework Convention on Tobacco Control, First session, A/FCTC/INB1/5 Para 4 and 6.

WHO (2001) FCTC Public Hearings.

WHO (2003) 'The Framework Convention on Tobacco Control' (available in full on WHO web site (www.who.int)).

Zeltner, T, D Kessler, A Martiny and F Randera (2000) *'Tobacco Company Strategies to Undermine Tobacco Control Activities at the World Health Organization'*, Geneva: WHO.