

# From public health to international law: possible protocols for inclusion in the Framework Convention on Tobacco Control

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Faced with a difficult business environment in the United States and the falling demand for cigarettes in industrialized countries, multinational tobacco companies have been competing fiercely to expand their sales in developing countries. Because of the worldwide threat posed by smoking to health and the emphasis being placed by international tobacco companies on marketing in developing countries, an international regulatory strategy, such as the WHO proposed Framework Convention on Tobacco Control, is needed. This review describes from a public health perspective the possible scope and key considerations of protocols that should be included in the convention. The key international areas that should be considered in tobacco control are: prices, smuggling; tax-free tobacco products; advertising and sponsorship; the Internet; testing methods; package design and labelling; agriculture; and information sharing.

**Keywords:** tobacco industry, legislation; tobacco, adverse effects; treaties; taxes; advertising, legislation; product packaging, legislation; World Health Organization.

*Voir page 935 le résumé en français. En la página 936 figura un resumen en español.*

## Introduction

A feature of the global cigarette market during the present decade has been the fall in demand in industrialized countries which has been coupled with a rapidly growing demand in other parts of the world, in particular among the emerging countries of Eastern Europe and Asia. As a consequence, there has been fierce competition among major multinational companies to establish a foothold in markets where cigarette sales are continuing to grow and this has been accompanied by a drive towards internationalizing brands (1). At the same time, mergers and acquisitions have led to a few tobacco companies becoming more dominant in the world cigarette market. The merger of the British American Tobacco company and Rothmans, the acquisition of RJR International by Japan Tobacco, and the merger of the French company Seita with the Spanish Tabacalera this year have dramatically changed the face of the industry worldwide. Four companies now dominate the list of the world's top cigarette manufacturers and account for more than 70% of the market (2).

The enormity and the gravity of the worldwide tobacco epidemic make it urgent that an international instrument for tobacco control be adopted. Although 91 countries have enacted national tobacco control legislation, many countries still have weak legislation

or none at all and many have produced only a limited response to the dangers of tobacco use. The aggressive marketing practices of the multinational tobacco companies threaten the lives and health of the people in both developing and industrialized countries (3).

Four factors support the efforts being made towards adopting a collective international response to the death and disease caused by tobacco: the scope of the damage makes tobacco a public health tragedy of the first order; the problem exists in every country; key elements — smuggling, for instance — transcend national boundaries; and the proven inability of controlling the tobacco problem by countries acting in isolation (4).

Multilateral organizations have developed a variety of mechanisms to encourage international agreement and action on matters of global concern. In general, there are two categories of international agreement that can be used to promote tobacco control strategies: non-binding international resolutions and legally binding international instruments (3).

The "convention-protocol" is recognized as a legally binding instrument and it is used in numerous human rights and environmental treaties (4). An important advantage of the convention-protocol is its flexibility: all substantive issues do not have to be resolved in a single document, rather each issue is dealt with under separate agreements. States first adopt a framework convention that calls for cooperation in achieving broadly stated goals, and there is the possibility that the parties to the convention will conclude separate protocols contain-

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ing specific measures designed to implement these goals (3).

Underlying the framework, or protocol, approach is the premise that a division of the obligations into smaller, more manageable pieces advances the overall goal (4). Most framework treaties organize protocols primarily along thematic lines. This paper will discuss eight areas and how they relate to tobacco control. These areas include prices and taxes, smuggling, duty-free tobacco products, advertising and sponsorship, testing and reporting of toxicity and other constituents, the design and labelling of tobacco packaging, agricultural policies towards tobacco, and cooperation and information sharing. All of the proposals contained in this article are based on public health considerations and must be evaluated on the basis of their political and legal feasibility.

## Prices and taxes

Taxation has often been considered as one of the most effective means of reducing consumption (5). The laws of supply and demand dictate that expensive products deter people from purchasing them. Despite tobacco being an addictive product, price has, nevertheless, been shown to have an important influence on consumption. A tobacco price policy should aim to bring about an increase in the real price of tobacco products that is greater than the effects of inflation.

The international harmonization of taxes on tobacco products is necessary to avoid excessive price differences among neighbouring countries. Such global harmonization may be difficult to achieve because the price of the same brand of cigarettes may vary from US\$ 1 in developing countries to US\$ 5–7 in industrialized countries. Also, the structure of tobacco taxation varies widely among countries, and a uniform taxation system would be difficult to achieve. It may be impossible to implement quickly a worldwide tobacco tax structure or bring tobacco taxation to the same level in each country by setting target rates. The latter option would result in reductions in prices in some countries (unacceptable from a health point of view) and sharp price increases in other countries (difficult to achieve from a political point of view). The experiences of the European Community might serve as an example of a more flexible and politically acceptable approach to the international harmonization of tobacco taxes.

Article 99 of the Treaty of Rome, which established the European Economic Community in 1957, requested that legislation on excise duties should be harmonized within the community. The process of harmonizing taxes on tobacco products has, however, been long and difficult. The difficulties experienced in reaching an agreement were partly linked to the significant differences in taxation structures and partly due to the fact that such measures must be adopted unanimously. On 19 October 1992, 35 years after the Treaty of Rome came

into force, the European Council adopted a package of three directives on the harmonization of taxes on tobacco products in the European Community. According to these directives, excise duties levied on cigarettes by member states must account for at least 57% of the retail selling price. Another directive stipulated the minimum rate of value added tax should be about 13% of the final retail price, which means that the tobacco taxation directives impose a minimum taxation level of 70% for cigarettes.

Because the rates were expressed in percentages and not in specific amounts, important price differences still exist within the community, but between January 1992 and September 1996 the gap between the country that had the cheapest cigarettes and that which had the most expensive had been reduced (6). The European Community's tobacco taxation rules are a compromise between full harmonization (in which all cigarettes cost almost the same because the tax is the same) and no harmonization: they are an acceptable compromise. A 1998 European Commission report on the implementation of the tobacco taxation directives stated that the system worked rather well and no major modifications were suggested (7). From the point of view of health considerations, these directives were considered to have been positive in that they had led to price increases in countries with lower taxes and had not led to decreases in prices in countries with higher taxes (6).

At the international level, a proposal could be made that taxes (excise duties plus value added tax) on cigarettes must account for at least 70% of the final retail price and that substitutes for cigarettes (such as hand rolling tobacco or bidis — a tobacco product made from a mixture of granulated tobacco and special tobacco stems rolled into a dried tendu leaf) should be taxed in the same way as manufactured tobacco.

The adoption of a protocol on taxation will be difficult: taxes on tobacco products are rather low in some countries or almost non-existent on some products (such as bidis in India), and longer transition periods should be granted to allow countries with lower taxes to meet these targets.

## Smuggling

According to an international report on the tobacco trade, the smuggling of cigarettes grew by about 73% worldwide between 1990 and 1995 (8). The surge in the sale of contraband cigarettes in the early 1990s was driven by the dissolution of the former Soviet Socialist Republics and the rise in demand for international brands in emerging markets in Asia (8).

The magnitude of the smuggling problem can be estimated by looking at the difference between global exports and imports: most of the "missing" cigarettes are smuggled. Statistics on world cigarette production are fairly accurate, and since cigarettes do not keep for very long, world production is very close

to world consumption — that is, large quantities of cigarettes are not in storage. Global imports should thus be close to exports, after allowing for legitimate trade usually excluded from national statistics. (These are principally imports for duty-free sales to travellers, the diplomatic community, and military establishments.) But for many years imports have been lower than exports to a degree that cannot adequately be explained by legitimate duty-free sales. Although the volume of duty-free trade is not on public record, it has been estimated with some confidence by the tobacco industry at about 45 000 million cigarettes a year. Even the time lag of three to six months between recording export statistics and import statistics cannot explain the differences between the two, which have remained high for years. In 1997, 1 009 000 million cigarettes were exported but only 661 000 million were imported, a difference of 348 000 million. After deducting 45 000 million for legitimate, duty-free sales, there are still almost 303 000 million cigarettes missing. A plausible explanation for the whereabouts of these missing cigarettes is smuggling. The estimate of 300 000 million smuggled cigarettes may be low: in 1993 internal documents at the British American Tobacco company estimated that nearly 6% of the total world cigarette sales of 5.4 trillion were “duty non-paid” sales. Duty non-paid is the term that industry documents often use to describe contraband sales (9). Cigarette smuggling can be reduced, but it will require international action, and this action will need to include measures designed to control the international transport of cigarettes to prevent a third of annual global exports from becoming contraband (10).

Provisions to reduce smuggling should include the measures shown in Box 1.

A protocol on smuggling could be extended to all illegal trade in cigarettes and include measures to prevent the production and marketing of counterfeit cigarettes. The production of counterfeit cigarettes is increasing in several developing countries. In China, for instance, it has been estimated that more than 50 000 million cigarettes are manufactured illegally each year (11).

## Duty-free tobacco products

Duty-free sales have grown because of the increase in the number of international travellers. Around 45 000 million cigarettes were sold through duty-free outlets worldwide in 1997. This represents 0.8% of all cigarettes sold in the world. Altogether, approximately 39% of duty-free tobacco sales occur in airports, 20% on ferries, 12% on aeroplanes, and 29% through other shops. The largest proportion of tobacco products are sold through duty-free outlets in Europe (which account for 69% of sales); this is followed by sales in the Asian-Pacific region (18%), sales in the Americas (12%), and sales in Africa (1%) (1).

To end the sale of all duty-free tobacco would be consistent with the health policy targets of WHO

### Box 1. Provisions to reduce smuggling

Strengthen penalties: smugglers get involved in cigarette smuggling because the benefits are greater than the risks.

Place “tax paid” markings on tobacco products: the purpose is to distinguish clearly between legal and illegal goods, making contraband products easier to detect and trace and the laws easier to enforce.

Require special package and product markings to indicate duty-free status: combating smuggling requires strict control of the transport of tax-free cigarettes.

Require manufacturers, exporters, importers, wholesalers, transporters, retailers, and warehouses to have tobacco-specific licences: licences assist in identifying and monitoring the different participants in the tobacco sector and facilitate anti-smuggling enforcement. Conditions can be attached to licences. Licences can be suspended for breach of the conditions or tobacco laws. The loss of a licence could become a real threat and act as a deterrent to those who might consider trading in smuggled cigarettes.

Require manufacturers of tobacco products to print legibly a unique serial number on all packages of tobacco products to enable authorities to identify the manufacturer of the product and the location and date of manufacture: each tobacco product should also contain a “chain of custody” mark, which would not only identify the manufacturer and the country of final destination but would also indicate the distributor, wholesaler, and exporter. Tracking and record-keeping systems are needed that would place the onus on the manufacturers to prove that cigarettes arrive legally in their markets.

Require exported cigarettes to indicate on the label the country of final destination and to have appropriate and country-specific health warnings: exporters should label the final destination and show that the products for a specific country have the appropriate health warnings.

for reducing tobacco use; ending the availability of duty-free tobacco does not contravene customs conventions. The protocol amending the International Convention on the Simplification and Harmonization of Customs Procedures was adopted in Brussels on 26 June 1999 and may come into force in 2001. The protocol changes the international convention (adopted in Kyoto on 18 May 1973 and brought into force on 24 September 1974). The Kyoto convention stipulates in articles 22a and 39a of annex F3 that travellers are allowed to import free of duties and taxes the following amounts of tobacco: 200 cigarettes or 50 cigars or 250g of tobacco or an assortment of these products with a total weight not exceeding 250g. The new protocol changed this provision to a recommended practice rather than a standard (which would be binding on all parties agreeing the protocol): parties agreeing the protocol can thus make changes based on their own notions of public security, public hygiene or health, or other considerations. The increase in international travel has had a considerable effect on the work of customs

administrations, since travellers must pass through customs control during their journey. The adoption of the new customs protocol has two consequences. Firstly, individual countries can ban the duty-free allowances for tobacco products. Secondly, WHO may propose banning duty-free allowances for tobacco in the Framework Convention on Tobacco Control in a related protocol, and this would not be in contravention of the amended Kyoto convention (Kameswari Subramanian, World Customs Organization, personal communication).

## Tobacco advertising and sponsorship

A total ban on advertising and sponsorship is essential if tobacco consumption is to be reduced significantly and quickly. In 1979, the report of the WHO Expert Committee on Smoking Control had already called for the total prohibition of all forms of tobacco promotion (12). In 1986, the Thirty-ninth World Health Assembly deplored all direct and indirect practices that aimed to promote the use of tobacco. In 1990, the World Health Assembly urged all WHO Member States to consider imposing progressive restrictions and taking concerted action to eliminate eventually all direct and indirect advertising, promotion, and sponsorship of tobacco.

A ban on advertising and sponsorship should: (1) prohibit direct and indirect advertising (examples of indirect advertising include promotion of Camel shoes, Marlboro leisure wear or Peter Stuyvesant travel); (2) include all media (such as radio, television, press, hoardings, cinema advertising, the Internet, etc.); (3) include bans on the sponsorship of national and international events; (4) cover the whole world, but be introduced progressively taking into account progress made at the national level to restrict tobacco advertising.

Most countries have already restricted the advertising of tobacco to some extent. A total ban is possible in all countries. Different transition periods could be allowed for the implementation of the ban in different media. For instance, television and radio advertising could be banned first, then outdoor advertising, and finally advertising in all media.

## Testing and reporting of toxic and other constituents

Tobacco smoke is estimated to contain over 4000 compounds, many of which are pharmacologically active, toxic, mutagenic, and carcinogenic. There are 43 known carcinogens in tobacco smoke (13). Legislation has already been enacted in some countries to control harmful substances in tobacco by controlling the composition of tobacco, requiring the disclosure of additives and ingredients, authorizing the inspection and approval of tobacco products, and authorizing governments to set maximum tar and nicotine levels.

In Germany, for instance, the Tobacco Ordinance of 20 December 1977 details the substances that may be used in the manufacture of tobacco products. In New Zealand, the Toxic Substances Act empowers the Governor-General to regulate the methods of testing tobacco to ascertain its composition and to specify the maximum amount of toxic substances that may be present in tobacco or any class of tobacco. In Thailand, Ministerial Regulation BE 2535 (20 February 1998) requires that manufacturers disclose the ingredients of tobacco products sold in the country to the Ministry of Public Health. The Tobacco Sales Amendment Act of British Columbia (15 September 1998) requires that tobacco companies disclose all additives and ingredients, including chemicals used to treat papers and filters. Beginning on 31 October 1998, tobacco companies were required to provide reports on 44 selected poisons found in tobacco smoke, using test procedures developed by Health Canada.

The use of inaccurate and different methods to test ingredients is of international concern. Procedures may vary from country to country. The use of different methods means that the results obtained in one country will not be comparable with those obtained elsewhere. Test procedures should not only be comparable but should also be accurate and valid. Tests of the safety of additives are often done on ingested substances. The effect of combustion on many additives is not known. Another example of inaccurate methods are the European Union's regulations on tar content, which are based on International Organization for Standardization (ISO) methods and which underestimate the tar concentrations of cigarettes, thus providing the smokers with misleading information (14).

Although tobacco products are widely used and are chemically complex, they have escaped meaningful regulation in part because of the gaps in knowledge about them outside of the industry (15). More information is needed about the role of their constituents, chemicals, flavourings, and other additives. Their safety when burned needs to be established. Before additives can be recognized as safe, the industry must be able to prove their safety when used as intended (e.g. when burned in conjunction with other ingredients and additives). The gathering of this information can be facilitated by requiring the industry to disclose all ingredients and additives in all tobacco products and to report all major toxic constituents using internationally accepted test methods.

There are several potential opportunities to make the use of tobacco less dangerous. An international expert committee under the supervision of WHO could (1) determine which additives contribute to toxicity and addiction; (2) set a maximum level for yields of toxic ingredients, such as tobacco-specific nitrosamines, and specify progressive reductions; (3) determine which ingredients that enhance nicotine delivery or interact with its reinforcing



qualities should be removed; (4) review the ISO standards, which measure the tar and nicotine yield in cigarettes, in line with the revision of the Federal Trade Commission's methods for testing tar in the United States; (5) explore the possibilities for a gradual removal of nicotine from tobacco products.

## The design and labelling of tobacco packaging

### Package size

Sales of single cigarettes and small packs (containing, for example, 10 cigarettes) are common in many developing countries, if not the norm, because having low disposable income places the purchase of larger packs out of reach of most smokers. The same marketing logic obviously applies in more affluent nations in so far as for those with the lowest income (poor and unemployed people and children) it will be easier to find money for a small pack than for the standard, more expensive pack (16).

Research in several countries has confirmed that small packs of cigarettes are mainly bought by teenage smokers. One study in Australia showed that 56% of teenage smokers purchased small packs, compared with only 9% of adult smokers (17).

Labelling tobacco products is an important component of policies designed to prevent smoking. In this context, the principal role of labelling is to discourage people from starting to smoke and to encourage smokers to give up or to smoke less. Labelling influences smoking behaviour by providing additional information to support the motivation not to smoke or to give up smoking (18). However, a WHO report concluded that of the 77 countries requiring warning labels in 1991, 44 warnings did no more than state that smoking may be dangerous to the smoker's health (19). A report on health warnings in 56 countries in 1998 emphasized that warnings in developing countries were far less effective than warnings in developed countries, which were themselves inadequate (20).

### Product claims

There should be international minimum standards setting out which health warnings ought to appear on packages and what information ought not to appear. The manufacturers of products that make unproven health claims (such as that their cigarettes are light, mild, or low tar) that falsely communicate safety should be prevented from making these claims. The promotion of "light" cigarettes has kept many people smoking who otherwise would have made a more concerted effort to stop. It has been asserted that low-tar, low-nicotine cigarettes encourage people, and women in particular, to start smoking and that these designations may influence smokers to continue in the belief that the product offers some protection. The net effect of the introduction and mass marketing of these brands may have been, and

may continue to be, an increase in the number of deaths attributable to smoking (21).

## Proposed solutions

To overcome these difficulties in package design, the sale of cigarettes in packs of less than 20 should be banned; health claims that cigarettes are low tar, light, or mild should be removed from packages of tobacco products. Obligatory and multiple health warnings should be introduced on all tobacco products and these should be displayed in black on white or white on black and occupy a minimum of 25% of the two large surfaces of the pack.

## Agricultural policies towards tobacco

Tobacco will be grown as long as there continues to be a demand for it. The best way to cut the production of tobacco is, clearly, to cut the demand. Two measures should be considered: in line with the policy of the World Bank, no financial incentives or legislative protection should be given to encourage tobacco production (the World Bank does not lend for tobacco production, processing, importing or and marketing, whether for domestic consumption or export (22)); and help should be provided to tobacco farmers to enable them to change to alternative crops.

The classic argument made by farmers is that they grow tobacco because there is no alternative. The truth is that no funds have been used to examine the possibilities of alternative crops. What is really needed is to give small farmers a positive outlook for the future and to help them overcome the problems linked with converting from growing tobacco to growing other crops; these problems include lower returns, a lack of capital investment, irrigation problems, training, the lack of agricultural research, and the impossibility of replacing tobacco with just one other commodity. Diversification is not an easy process, but without investment in research, an alternative to tobacco growing will never be found (23).

Both the US government and the European Union are financing projects to develop less harmful varieties of tobacco, but there are few studies of ways in which tobacco growers can convert to growing other crops. In July 1998, European Union agriculture ministers agreed a package of reforms for the tobacco sector that will apply from the 1999 harvest; this includes financing for studies into the possibility for producers of raw tobacco to switch to other crops or activities (24).

## Cooperation and information sharing

In its 1998 guidelines on controlling and monitoring the tobacco epidemic, WHO defined the minimum desirable data and information that would be necessary for delineating the population groups most affected by the tobacco epidemic, the presence and significance of the tobacco industry in a country, and

the policy responses that have already been implemented or are in the process of being implemented (25). Based on many countries' experiences with tobacco control measures, WHO has prepared a list of indicators that should be monitored by each country to effectively support the health policy process (24). The WHO guidelines grouped these indicators under six broad headings: sociodemographic characteristics; tobacco production, trade, and industry; tobacco consumption; prevalence of tobacco use; mortality and morbidity; and tobacco control measures, organizations, and institutions. (The full list of recommended indicators for each of these sections is given in annex 4 of reference 25).

The collection and sharing of information discussed above will require new financial resources if all parties are to produce comparable data of sufficient quality. However, data without the means to interpret them, or data interpreted inconsistently between parties, are of limited use. If information collection and sharing were to be undertaken in earnest, resources would be required to analyse that information. The administrative tasks of coordinating the production, collation, evaluation, and dissemination of this information would also require resources (4).

Arrangements for financial contributions to facilitate the collection and sharing of information would be undertaken by the relevant ministries. There may be a need to establish, by protocol, what might be termed a "centre for tobacco control facilitation" (4). Created with new money, this body would exist under the auspices of the WHO or, perhaps, be responsible directly through a secretariat administering the framework convention and protocols. The latter option might provide a measure of flexibility that would be unavailable if WHO oversaw the project (4).

## Discussion

The framework convention-protocol approach allows law-making to proceed incrementally, beginning with a framework convention that establishes a general system of governance for an issue proceeding to develop more specific commitments and institutional arrangements in protocols (26).

The WHO Framework Convention on Tobacco Control has been discussed by delegates from more than 100 countries at meetings of the working

group in Geneva from 25 to 29 October 1999 and from 27 to 29 March 2000.

The choice of the possible protocols, the content, and the question of what obligations should be placed in the framework convention, as distinct from the protocols, should be part of the negotiations, which will start in October 2000. At the first meeting of the working group a number of countries emphasized that the protocols should focus on items on which there was political consensus. It was proposed that protocols should be addressed during the negotiation phase according to their impact on public health, their feasibility, and the need for international action.

Possible protocols have been discussed in this article. These protocols are not exhaustive: during the first meeting on the framework other possible subjects were mentioned (27). The main criterion for selecting possible protocols for discussion in this article has been their need for cross-border cooperation. Other possible important public health areas, such as environmental tobacco smoke or the protection of children and adolescents, could be addressed more easily at a national level, rather than through international agreements. Both the choice of the possible subjects for initial protocols and the content of the proposals suggested in this article need to be evaluated in terms of their political and legal feasibility. A protocol on taxation will be more difficult politically to implement than a protocol on smuggling. Taxation policy often takes into account national economic and social factors, while the international implications of tobacco smuggling are more evident. The smuggling of tobacco products involves international brands produced by multinational companies and distributed by criminal organizations that operate in all parts of the world.

Close examination should be made of the constraints that might be applied to all potential protocols by other treaties or international organizations, such as the World Trade Organization, the Food and Agriculture Organization, or the World Intellectual Property Organization. The development of a protocol on smuggling, for instance, should be considered to complement existing agreements and would require collaboration with other international organizations, such as the World Customs Organization and the International Criminal Police Organization (Interpol). ■

## Résumé

### De la santé publique à la législation internationale : protocoles pouvant être inclus dans la convention-cadre pour la lutte antitabac

Les délégués de plus de 100 pays ont discuté de la convention-cadre pour la lutte antitabac lors des réunions du groupe de travail à Genève du 25 au 29 octobre 1999 et du 27 au 29 mars 2000. Le choix des protocoles, leur contenu et les obligations à intégrer en outre dans la convention-cadre devraient faire partie des

sujets discutés aux négociations qui commenceront en octobre 2000. Lors de la première réunion du groupe de travail, un certain nombre de pays ont insisté sur le fait que les protocoles devaient porter sur les points pour lesquels existait un consensus politique. Il a été proposé de les examiner pendant les négociations en fonction de

leur incidence sur la santé publique, de leur faisabilité et du besoin d'une action internationale.

Le présent article passe en revue différents protocoles sans les avoir tous abordés: d'autres sujets ont été mentionnés au cours de la première réunion sur la convention-cadre. Le critère de sélection appliqué a été la nécessité d'une coopération transfrontalière, certains aspects importants en santé publique, comme la fumée de tabac ambiante ou la protection de la jeunesse, étant traités plus facilement au niveau national que dans le cadre d'accords internationaux. Le choix des sujets pour les protocoles initiaux aussi bien que le contenu des propositions reprises par cet article doivent être évalués en fonction de la faisabilité politique et juridique.

On y trouvera, du point de vue de la santé publique, une description de la portée des protocoles éventuels et des considérations fondamentales sur la convention-cadre. Certains domaines essentiels au niveau international doivent être examinés pour la lutte antitabac: les prix (l'harmonisation internationale des taxes sur les produits du tabac est nécessaire pour éviter des différences de prix excessives entre pays voisins); la contrebande (le transport de cigarettes doit être strictement contrôlé au niveau international pour éviter qu'un tiers des exportations mondiales annuelles n'alimentent la contrebande); les produits exonérés de

taxes (la fin de la vente hors taxes du tabac suivrait la ligne politique de l'OMS qui vise à réduire la consommation de ces produits, les cigarettes non taxées étant moins chères); la publicité et le parrainage (il est nécessaire d'interdire la publicité dans le monde entier afin de supprimer les réclames pour les produits du tabac dans les magazines importés ou au cours de la diffusion de manifestations nationales ou internationales); Internet (la coopération internationale est requise pour combattre la publicité et le commerce sur le Web, les informations pouvant être téléchargées dans la plupart des pays); les méthodes de test (l'analyse des composants retrouvés dans les produits du tabac doit reposer sur des méthodes reconnues internationalement afin d'informer précisément les consommateurs sur ce qu'ils absorbent); la conception du conditionnement et l'étiquetage (il convient de s'accorder sur des paramètres internationaux communs pour régir l'aspect des conditionnements, améliorer les relations commerciales et promouvoir la santé publique); l'agriculture (les agriculteurs devraient recevoir des subventions pour les aider à passer à d'autres récoltes); le partage de l'information (il faudrait instaurer des méthodes standardisées pour faciliter la surveillance mondiale de l'épidémie de tabagisme et l'évaluation des politiques mises en œuvre pour la maîtriser).

## Resumen

### De la salud pública al derecho internacional: posibles protocolos para el Convenio Marco para la Lucha Antitabáquica

El Convenio Marco de la OMS para la Lucha Antitabáquica ha sido debatido por delegados de más de cien países en las reuniones celebradas por el grupo de trabajo correspondiente en Ginebra del 25 al 29 de octubre de 1999 y del 27 al 29 de marzo de 2000. La elección de los posibles protocolos, su contenido, y la determinación de las obligaciones que deberían incluirse en el Convenio Marco, en oposición a las que formarían parte de los protocolos, son temas que deberán tratarse en las negociaciones, que darán comienzo en octubre de 2000. En la primera reunión del grupo de trabajo varios países hicieron hincapié en que los protocolos deberían centrarse en aspectos sobre los que existe consenso político. Se propuso discutir los protocolos durante la fase de negociación en función de su impacto en la salud pública, de su viabilidad y de la necesidad de acción internacional.

En este artículo se abordan posibles protocolos. No se trata de protocolos exhaustivos: durante la primera reunión sobre el Marco se mencionaron otros posibles temas. El principal criterio de selección de los protocolos examinados en este artículo ha sido la necesidad de cooperación transfronteriza. Otros posibles aspectos importantes para la salud pública, como el humo ambiental del tabaco o la protección de la juventud, se pueden tratar a nivel nacional más fácilmente que con acuerdos internacionales. Pero los posibles temas para los protocolos iniciales, así como el contenido de las propuestas sugeridas en este artículo, se han de evaluar en relación con su viabilidad política y jurídica.

Se adopta una perspectiva de salud pública para describir el alcance de los posibles protocolos y de aspectos clave del Convenio Marco. Las cuestiones más importantes de ámbito internacional que debería abordar la lucha antitabáquica son las siguientes: los precios (es necesaria una armonización internacional de los impuestos sobre los productos del tabaco para evitar que se produzcan diferencias de precios excesivas entre países vecinos); el contrabando (el transporte internacional de cigarrillos debe ser objeto de una estricta fiscalización internacional, para evitar que una tercera parte de las exportaciones mundiales se efectúen como contrabando); los productos del tabaco libres de impuestos (la imposibilidad de vender productos del tabaco libres de impuestos sería coherente con las metas de la política de la OMS de reducir el consumo de tabaco, dado que los cigarrillos no gravados son más baratos); la publicidad y el patrocinio (hay que prohibir a nivel mundial todas las formas de publicidad del tabaco, para evitar que se inserten anuncios de productos del tabaco en revistas importadas y durante la difusión de espectáculos nacionales e internacionales); Internet (se requiere cooperación internacional para hacer frente a la publicidad y el comercio por Internet, pues la información puede llegar por ese medio a la mayoría de los países); los métodos de análisis (los procedimientos de análisis de los ingredientes de los productos del tabaco deberían basarse en métodos aceptados internacionalmente que proporcionen a los consumidores medidas fiables de las sustancias que se asimilan al consumir esos productos); el diseño y etiquetado de los paquetes (se deben acordar unos

parámetros internacionales comunes para controlar el aspecto de los envases y mejorar las relaciones comerciales y promover la salud pública); la agricultura (se debe subvencionar a los agricultores para que sustituyan el tabaco por otros cultivos); y el intercambio de información

(deben aplicarse enfoques normalizados para facilitar la vigilancia mundial de la epidemia de tabaquismo y la evaluación de la eficacia de las políticas empleadas para combatirla).

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