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ONE HUNDRED SEVENTH CONGRESS

# Congress of the United States

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The President  
The White House  
Washington, DC 20500

Dear Mr. President:

In recent months, the United States has backed out of efforts by the world community to fight global warming, opposed international negotiations to curb the production of biological weapons, and announced its intention to abrogate the Anti-Ballistic Missile Treaty. Now it appears that the United States is also seeking to undermine world efforts to negotiate an international agreement to reduce tobacco use.

Specifically, I have obtained previously unreleased minutes and other documents from the second negotiating session of the Framework Convention on Tobacco Control (FCTC), sponsored by the World Health Organization. This session was held from April 30 to May 5, 2001, in Geneva, Switzerland. The documents from this negotiating session reveal that the United States has reversed its position in many key areas, jeopardizing the success of the international tobacco treaty.

Tobacco use kills an estimated four million people around the globe each year. Because of growing international sales, experts believe that by the year 2020, one in three adult deaths in the world will be caused by smoking and other forms of tobacco use. And these experts believe that by the year 2030, over ten million deaths worldwide will be caused each year by tobacco use.<sup>1</sup>

To address this enormous public health problem, the World Health Organization initiated an effort to negotiate an international convention on tobacco control. At the first

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<sup>1</sup>Kumra V, Markoff BA. The epidemiology of tobacco use in the United States and abroad. *Clinics in Chest Medicine* 2000;21:1-9.

international negotiating session from October 16 to 21, 2000, the U.S. delegation backed a strong treaty to reduce global tobacco use. Secretary of the Department of Health and Human Services Donna Shalala wrote to me last year stating, "It is the policy of the U.S. to take a leadership role in seeking development and ratification of a strong FCTC."

According to the documents I have obtained, however, your administration is seeking to prevent adoption of an effective international tobacco agreement. During the second negotiating session for the Framework Convention, your negotiators repeatedly sought to weaken or eliminate many key provisions. For example:

- **Advertising.** At the October 2000 negotiations, the U.S. delegation supported an end to tobacco advertising that "appeals to" children, while objecting to the weaker idea of only limiting advertising that is "targeted to" children. As one U.S. delegate explained, "It was possible for advertising to appeal to children and hence encourage them to smoke even if it was not consciously targeted at them." In May 2001, the U.S. negotiating team reversed course, opposing only advertising that "is targeted or focused on children" or that has "a special appeal to children."
- **Cigarette Warning Labels.** In May 2001, the U.S. delegation objected to the simple requirement that all cigarette packages have warning labels that are published in the "principal language or languages" of the country where they are sold. One U.S. delegate justified this position by saying that a country might believe such an approach would not "work best for its own population."
- **Licensing of Retailers.** Despite broad international support, even among poor countries, for licensing tobacco retailers to reduce smuggling, U.S. delegates in May 2001 spoke out against this provision on the grounds it was too "costly" and not "practical." The Chair of the negotiating session announced a "general consensus" against the United States on the issue.
- **Tobacco Taxes.** In May 2001, in a policy reversal, the U.S. delegation objected to mandating any tobacco taxes as part of the treaty.
- **Passive Smoking.** Reversing the U.S. position from October 2000, the U.S. delegation in May 2001 opposed smoking restrictions on public buses and trains and at indoor public events. Your delegation then proposed making all passive smoking provisions "nonmandatory" parts of the treaty. Again, the Chair of the negotiating session announced that "there was little support" in the world for the U.S. position.

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- **Role of WHO.** Despite the World Health Organization's expertise and leadership in global tobacco control, the U.S. delegation in May 2001 objected to giving it a central role in implementing the final Framework Convention.
- **Scope of Tobacco Control Programs.** In contrast to its position at the first negotiating session, the U.S. delegation in May 2001 opposed several important efforts to reduce tobacco use among adults as well as children.

On these issues and others, the U.S. delegation in Geneva not only contradicted commonsense public health principles, but also further isolated our nation internationally. Where we once provided global leadership in tobacco control, we are now widely seen as advocates for the tobacco industry.

In effect, your delegates are adopting positions that seemingly further the interests of the tobacco industry while clearly undermining worldwide efforts to reduce the incidence of tobacco-related death and disease. I urge you to intercede personally in this issue. The United States should be leading international efforts to control tobacco use. It is appalling and inexplicable that we appear instead to be subverting them.

The remainder of this letter explains my concerns in more detail.

#### **U.S. Efforts to Weaken the Framework Convention**

I have recently obtained the minutes of the second negotiating session on the Framework Convention on Tobacco Control held from April 30 to May 5, 2001. These minutes, which are called "provisional summary records," summarize the contributions of each speaker at each negotiating session. The date, time, name of speaker, and country are included with each description. These minutes have not previously been made public.

I have also obtained the "textual proposals" of the United States and other countries, which are the amendments that each nation formally proposed to the draft convention treaty, as well as the minutes from the first negotiating session held in October 2000. In addition to these official documents, my staff also received from the Department of Health and Human Services a document detailing all of the amendments proposed at the second negotiating session by the U.S. delegation. Copies of these documents are enclosed with this letter.

A careful review of these documents shows that at the second international negotiating session from April 30 to May 5, 2001, the U.S. negotiating team sought to weaken or eliminate key public health provisions from the Framework Convention in numerous areas.

### **Tobacco Advertising**

It is now well demonstrated that colorful and imaginative tobacco advertising lures children into nicotine addiction.<sup>2</sup> At the first Framework Convention negotiating session in October 2000, the United States provided leadership in urging strong measures to curtail this danger. The U.S. delegate spoke in favor of an end to tobacco advertising that “appeals to” children, while objecting to the weaker idea of only limiting advertising that is “targeted to” children.<sup>3</sup> He explained:

[I]t was possible for advertising to appeal to children and hence encourage them to smoke even if it was not consciously targeted at them.<sup>4</sup>

At the second Framework Convention negotiating session, however, your delegates reversed this U.S. position. Rather than supporting a prohibition on advertising that “appeals to” children, the delegation proposed:

*(a) eliminating, to the extent permitted under domestic law, tobacco advertising, promotion and sponsorship that has a **special appeal to** children and adolescents;*

*(b) banning outdoor advertising of tobacco products, to the extent that such advertising is **targeted or focused on** children.<sup>5</sup>*

By rejecting limitations on advertising that “appeals to” children in favor of narrow limitations on advertising “targeted or focused on” or having “special appeal to” children, the U.S. position now creates a significant loophole. Tobacco manufacturers can fight

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<sup>2</sup>See, e.g. Fischer PM, Schwartz MP, Richards JW Jr., Goldstein AO, Rojas TH. Brand logo recognition by children aged 3 to 6 years. Mickey Mouse and Old Joe the Camel. *Journal of the American Medical Association* 1991;266:3145-8. For a review, see U.S. Food and Drug Administration at 61 *Federal Register* 44475-44496.

<sup>3</sup>Delegate Forbes (United States). Provisional summary record of the first meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 19 October 2000, 10:40 session. A/FCTC/INB2/3: 126.

<sup>4</sup>Delegate Forbes (United States). Provisional summary record of the first meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 19 October 2000, 10:40 session. A/FCTC/INB2/3: 126.

<sup>5</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 4 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.3:16.

restrictions on cartoons and other child-friendly advertising by claiming that adults, not children, are the “targeted” audience. In fact, this was exactly R.J. Reynolds’s defense of Joe Camel.<sup>6</sup>

### **Cigarette Warning Labels**

Labeling rules on tobacco products vary widely from country to country. More prosperous developed countries typically require strong warning labels, while poorer developing countries often have inadequate laws and oversight.<sup>7</sup>

To rectify this disparity, the draft treaty discussed at the second negotiating session included minimal labeling standards. One provision stated:

*Warnings shall ... appear in the principal language or languages of the country in whose territory the product is placed on the market.*<sup>8</sup>

Despite the commonsense nature of this proposal, the text was unacceptable to your delegation, which proposed to strike the labeling provision altogether.<sup>9</sup> The U.S. delegate explained to the international gathering that the United States “opposed any requirement for specific language or disclosures in the warnings, since each country must decide which approach would work best for its own population.”<sup>10</sup>

The delegate, however, did not mention any reasons why a country might conclude that its own population would be better off with incomprehensible tobacco warning labels.

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<sup>6</sup>Brody JE. Smoking among children is linked to cartoon camel in advertisements. *New York Times*. 11 December 1991: D22. (“Officials at R.J. Reynolds said the campaign was aimed at smokers in their 20’s, not children.”)

<sup>7</sup>Aftab M, Kolben D, Lurie P. International cigarette labeling practices. *Tobacco Control* 1999;8:368-372.

<sup>8</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair’s text of a framework convention on tobacco control*. A/FCTC/INB2/2: 4.

<sup>9</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 1 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.2: 4.

<sup>10</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 1 May 2001, 19:40 session. A/FCTC/INB2/WG1/SR/2: 10.

### Licensing of Retailers

National licensing of retailers who sell tobacco products allows for enhanced government oversight both of sales to children and of the supply of tobacco products to the black market. At the second negotiating session, the draft Framework Convention treaty recognized:

*an effective licensing system for retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to children and young persons.*<sup>11</sup>

Your negotiating team proposed deleting this provision. First, the U.S. delegate argued that licensing requirements:

could raise issues of national and subnational competencies in jurisdictional issues, and his Government would not wish to sign an agreement that might be successfully challenged in its courts.<sup>12</sup>

This reason appears specious. The possibility that Congress could not constitutionally pass a law requiring licensing of tobacco retailers is remote at best. The retail sales of tobacco fall squarely under federal jurisdiction by virtue of the Commerce Clause of the U.S. Constitution. Moreover, licensing raises no additional federal issues beyond regulation of vending machines, which the U.S. delegation did support as part of the Framework Convention.<sup>13</sup>

Second, the U.S. delegate contended:

[T]here were practical concerns at different levels in the tobacco distribution chain, which involved a wide variety of retailers, ranging from department stores to street

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<sup>11</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair's text of a framework convention on tobacco control*. A/FCTC/INB2/2: 7.

<sup>12</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 2.

<sup>13</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 3 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.4:7.

vendors. The resources required to enforce licensing regimes might prove to be astronomical.<sup>14</sup>

This contention is also suspect. While the richest country in the world complained of the cost of licensing, delegates from Belarus,<sup>15</sup> Central African Republic,<sup>16</sup> Kenya,<sup>17</sup> Malaysia,<sup>18</sup> Papua New Guinea,<sup>19</sup> Philippines,<sup>20</sup> Rwanda,<sup>21</sup> Sierra Leone,<sup>22</sup> Thailand,<sup>23</sup>

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<sup>14</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 2.

<sup>15</sup>Delegate Zenkevich (Belarus). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>16</sup>Delegate Ngaba (Central African Republic). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>17</sup>Delegate Muga (Kenya). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 15.

<sup>18</sup>Delegate Zariyah (Malaysia). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>19</sup>Delegate Liskia (Papua New Guinea). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>20</sup>Delegate Anden (Philippines). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>21</sup>Delegate Sekabaraga (Rwanda). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 13.

<sup>22</sup>Delegate Gbomor (Sierra Leone). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 14.

<sup>23</sup>Delegate Swasdivorn (Thailand). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 12.

Togo,<sup>24</sup> Trinidad and Tobago,<sup>25</sup> and Uzbekistan<sup>26</sup> – among others – all supported licensing as a key element of tobacco control.

In fact, the U.S. position was so isolated that the Chair of the negotiations announced:

[T]here seemed to be general consensus, with a few exceptions, that some form of licensing, registration or identification of those involved in the tobacco industry would be valuable in dealing with the tobacco epidemic.<sup>27</sup>

### **Tobacco Taxes**

Over the last decade, the experience of U.S. states such as California has proven to the world that cigarette taxes both reduce smoking rates substantially and save tens of thousands of lives.<sup>28</sup> In October 2000, the U.S. delegation did not object to a proposal that countries “shall” adopt measures, including tobacco taxes, “to reduce consumption.”<sup>29</sup>

At the second international negotiating session, however, the United States took a

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<sup>24</sup>Delegate Djondo (Togo). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 15.

<sup>25</sup>Delegate Alexis-Thomas (Trinidad and Tobago). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 13.

<sup>26</sup>Delegate Ilkhamov (Uzbekistan). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 13.

<sup>27</sup>Chair Stamps (Zimbabwe). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 2 May 2001, 10:00 session. A/FCTC/INB2/WG2/SR/2: 16.

<sup>28</sup>Fichtenberg CM, Glantz SA. Association of the California Tobacco Control Program with declines in cigarette consumption and mortality from heart disease. *New England Journal of Medicine* 2000; 14;343:1772-7.

<sup>29</sup>Intergovernmental negotiating body on the WHO framework convention on tobacco control. *Proposed draft elements for a WHO framework convention on tobacco control: provisional texts with comments of the working group*. 26 July 2000. A/FCTC/INB1/2.



very different position. The U.S. delegation proposed deleting the following language from the working draft:

*Each party **shall** adopt ... measures ... in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include ... imposition of taxes on tobacco products so as to achieve a stable and continuous reduction in tobacco consumption.*<sup>30</sup>

As a substitute measure, the United States proposed:

*Each party **should**, taking into account the means at its disposal and its capabilities, adopt measures, and cooperate with other Parties in developing appropriate tax policies, in order to reduce tobacco consumption and exposure to tobacco smoke.*<sup>31</sup>

The difference between “shall” and “should” is critical. “Shall” indicates that all nations that sign the treaty are required to impose taxes; otherwise, they can be held in violation. “Should” only calls for them to do so, with no enforcement mechanism. According to a U.S. delegate, “should” is used when the intent is to “emphasize the non-mandatory nature” of the provision.<sup>32</sup> In addition, the new U.S. proposal deletes the clear language calling for “the imposition of taxes.” Instead, it asks only for “appropriate tax policies.”

During deliberations, the U.S. delegate stated that the United States “generally supported ... the goal of imposing taxes on all tobacco products.”<sup>33</sup> But your negotiators’ proposal had the opposite effect, making “appropriate tax policies” strictly voluntary.

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<sup>30</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair’s text of a framework convention on tobacco control*. A/FCTC/INB2/2: 3.

<sup>31</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 1 May 2001. A/FCTC/INB2/WG2/Conf.Paper No.1: 12.

<sup>32</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 30 April 2001, 15:00 session. A/FCTC/INB2/WG1/SR/1: 4.

<sup>33</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 1 May 2001, 10:10 session. A/FCTC/INB2/WG2/SR/1: 3.

### **Passive Smoking**

Secondhand smoke is both noxious and dangerous. Experts believe that passive smoking causes lung cancer,<sup>34</sup> heart disease,<sup>35</sup> and pneumonia and asthma in children,<sup>36</sup> among other disorders. U.S. citizens now benefit from restrictions on smoking on public transportation, at indoor public events, and in many workplaces.

At the first international negotiating session in October 2000, the U.S. delegation supported reasonable smoking restrictions to protect against exposure to secondhand smoke. The United States proposed that all nations “shall” adopt policies to include restrictions on smoking “at public events arranged indoors to which the public has unrestricted access” and “inside public means of transport consistent with existing treaty obligations.”<sup>37</sup>

Yet at the second negotiating session in May 2001, the United States opposed the inclusion of any restrictions on smoking on public transportation, including trains and buses. Your delegates also proposed deleting smoking restrictions in “enclosed public places” and “indoor workplaces.”<sup>38</sup>

In addition, the U.S. delegate also proposed that “shall” be changed to “should” in order to “emphasize the non-mandatory nature” of all remaining passive smoking provisions.<sup>39</sup> This position was so isolated that the Chair of the negotiating session again

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<sup>34</sup>Hackshaw AK, Law MR, Wald NJ. The accumulated evidence on lung cancer and environmental tobacco smoke. *British Medical Journal* 1997;315:980-8.

<sup>35</sup>He J, Vupputuri S, Allen K, Prerost MR, Hughes J, Whelton PK. Passive smoking and the risk of coronary heart disease--a meta-analysis of epidemiologic studies. *New England Journal of Medicine* 1999;340:920-6.

<sup>36</sup>American Academy of Pediatrics Committee on Environmental Health. Environmental tobacco smoke: a hazard to children. *Pediatrics* 1997;99:639-42.

<sup>37</sup>United States. Textual proposals of the first meeting. *Proposed draft elements for a WHO work convention on tobacco control*. A/FCTC/INB2/3: 21.

<sup>38</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 5 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.1.Add.1: 2-3.

<sup>39</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 30 April 2001. A/FCTC/INB2/WG1/Conf.Paper No.1: 2-3.

took the unusual step of announcing that “there was little support for changing the tense of ‘shall.’”<sup>40</sup>

### **Role of WHO**

Despite the expertise and leadership provided by the World Health Organization in tobacco control, the U.S. delegation objected to giving the organization a leading role in implementing the global tobacco treaty.

The draft language of the Framework Convention stated: “The secretariat of this Convention shall be provided by the World Health Organization.”<sup>41</sup> In the second negotiating session, however, the United States proposed deleting this reference to the World Health Organization, proposing instead: “The secretariat of this Convention should be provided by [INSERT].”<sup>42</sup>

Similarly, where the draft language stated that “[t]he first session of the Conference shall be convened by the Director-General of the World Health Organization,”<sup>43</sup> the United States proposed instead that “[t]he first session of the Conference shall be convened by [INSERT].”<sup>44</sup> The United States also objected to a key role for the World Health Organization in selecting members of ad hoc panels on scientific and technical questions to advise nations after the creation of the treaty,<sup>45</sup> and in providing technical support for

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<sup>40</sup>Chair Girard (France). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 30 April 2001, 15:00 session. A/FCTC/INB2/WG1/SR/1: 6.

<sup>41</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair’s text of a framework convention on tobacco control*. A/FCTC/INB2/2: 11.

<sup>42</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 3 May 2001. A/FCTC/INB2/WG3/Conf.Paper No.2: 1.

<sup>43</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair’s text of a framework convention on tobacco control*. A/FCTC/INB2/2: 9.

<sup>44</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 4 May 2001. A/FCTC/INB2/WG3/Conf.Paper No.1 Add.1.

<sup>45</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 3 May 2001. A/FCTC/INB2/WG3/Conf.Paper No.2: 8.

the final Framework Convention.<sup>46</sup>

The tobacco industry has long viewed the World Health Organization as an enemy. According to an extensive review of industry documents conducted by a committee of international experts:

[T]obacco companies have operated for many years with the deliberate purpose of subverting the efforts of the World Health Organization to control tobacco use. The attempted subversion has been elaborate, well financed, sophisticated and usually invisible.<sup>47</sup>

While the tobacco industry would be delighted if the World Health Organization had a reduced role in the Framework Convention, it makes little sense for the United States to try to make this goal a reality.

### **Scope of Tobacco Control Programs**

A key issue at the negotiations is whether the treaty should aim to reduce the toll of tobacco on adults as well as children. At the first negotiating session in October 2000, the United States took the view that important provisions to protect adults needed to be mandatory parts of the Convention. The U.S. delegate declared his opposition to limiting “the scope of tobacco control programmes to youth or other vulnerable groups.”<sup>48</sup>

At the second negotiating session, however, the U.S. delegation opposed several important efforts to reduce tobacco consumption by adults. For example, the United States opposed a “phase out” on all tobacco industry sponsorships of cultural and sporting events.<sup>49</sup> Instead, the United States proposed an end only to “sponsorship that has a

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<sup>46</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 3 May 2001. A/FCTC/INB2/WG3/Conf.Paper No.2: 2.

<sup>47</sup>Committee of Experts on Tobacco Industry Documents. *Tobacco company strategies to undermine tobacco control activities at the World Health Organization*. Geneva: World Health Organization, 2000. Available at: <http://www.who.int/genevahearings/inquiry.html>

<sup>48</sup>Delegate Novotny (United States). Provisional summary record of the first meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 17 October 2000, 10:00 session. A/FCTC/INB2/3: 71.

<sup>49</sup>Intergovernmental negotiating body of the WHO Framework Convention on tobacco control. *Chair’s text of a framework convention on tobacco control*.

special appeal to children and adolescents.”<sup>50</sup> Similarly, the United States proposed deleting altogether “strict restrictions on all forms of direct and indirect tobacco advertising, promotion and sponsorship targeted at persons 18 years of age and older, including incentives such as gifts, coupons, rebates, competitions and frequent-purchaser programmes, with the aim of reducing the appeal of tobacco products to all segments of society.”<sup>51</sup>

### **Other Issues**

The United States also adopted tobacco-friendly positions on other matters discussed during the second negotiation session. For example, when the delegates discussed whether tobacco companies should be barred from exporting tobacco products that do not meet the domestic standards of the exporting countries, the U.S. delegate opposed any such rule. The delegate stated that the provision “raised a concern that ... other countries or parties could have standing to sue in the United States judicial system to enforce requirements that applied to products sold only in other countries.”<sup>52</sup>

In other words, your negotiators created the appearance of preferring the corporate benefit of helping the tobacco industry stay out of court over the public health benefit of holding the industry accountable for the labeling and standards of its exports.

The U.S. delegation also repeatedly opposed provisions detailing the kinds of assistance that developing countries require to develop strong tobacco control programs. The United States specifically proposed to delete provisions related to “supply of necessary equipment,” “support for the establishment and maintenance of training programmes,” and “provision of technical, scientific, legal and other expertise.”<sup>53</sup>

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A/FCTC/INB2/2: 5.

<sup>50</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 4 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.3:16.

<sup>51</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 4 May 2001. A/FCTC/INB2/WG1/Conf.Paper No.3:16.

<sup>52</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 1 May 2001, 19:40 session. A/FCTC/INB2/WG1/SR/2: 3.

<sup>53</sup>U.S. Department of Health and Human Services. *Chair's text of a framework convention on tobacco control. Second Intergovernmental Negotiating Body*. April 30-

Other areas where the United States appeared to adopt pro-tobacco positions include cigarette smuggling,<sup>54</sup> tobacco product regulation,<sup>55</sup> support to help tobacco farmers transition to other crops,<sup>56</sup> and the content of warning labels.<sup>57</sup>

### Conclusion

As you know, your Administration has been severely criticized for a series of decisions in the United States that seem to favor the tobacco industry. These include efforts to defund the federal tobacco lawsuit and the current initiative to settle the lawsuit, appointments of paid tobacco consultants to key federal positions at the Federal Trade Commission (including the appointments of J. Howard Beales to head the Consumer Protection Bureau and David Scheffman to head the Economics Bureau), and the apparent lack of interest in granting the Food and Drug Administration strong authority to regulate cigarettes.

It has also been widely noted that the tobacco industry has been one of the largest contributors to your campaign and the Republican Party, giving over \$7 million in the last election cycle alone, according to the Center for Responsive Politics. Some have suggested that this created an uncomfortable appearance of favoritism to a powerful supporter.

Unfortunately, your Administration's actions in the second negotiating session of the Framework Convention only reinforce this view. I realize that the change from "shall" to "should" may seem slight to some, but in fact even this one change will have a critical impact. And taken together, all of the weakening changes that your Administration is

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May 5, 2001, with suggested text by U.S. delegation inserted, Section L.

<sup>54</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 2 May 2001. A/FCTC/INB2/WG2/Conf.Paper No.2: 5.

<sup>55</sup>U.S. Department of Health and Human Services. *Chair's text of a framework convention on tobacco control. Second Intergovernmental Negotiating Body*. April 30-May 5, 2001, with suggested text by U.S. delegation inserted, Section G.

<sup>56</sup>United States. Textual proposals of the second meeting. *WHO framework convention on tobacco control*. 1 May 2001. A/FCTC/INB2/WG2/Conf.Paper No 1: 15.

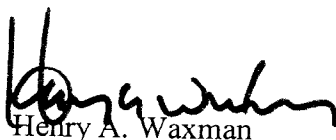
<sup>57</sup>Delegate Novotny (United States). Provisional summary record of the second meeting. *Drafting and negotiation of the WHO framework convention on tobacco control*. 1 May 2001, 19:40 session. A/FCTC/INB2/WG1/SR/2: 10.

The President  
August 2, 2001  
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advocating are a devastating blow to international efforts to protect the world from tobacco's death toll. I urge you to personally review these issues and to direct your negotiating team to reverse course. Our country should be a leader in the international negotiations to reduce the use of tobacco worldwide.

In addition, I am sending separate letters to the heads of agencies and departments involved in the negotiations over the Framework Convention to obtain additional information about the U.S. position in these important negotiations. I urge you to work with these agencies to ensure as expeditious and complete a response as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is fluid and cursive, with a large initial "H" and "W".

Henry A. Waxman  
Ranking Minority Member

Enclosures