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Submission No:1.....



SUBMISSION TO THE JOINT STANDING COMMITTEE ON TREATIES ON THE FRAMEWORK CONVENTION ON TOBACCO CONTROL

This Submission has been prepared jointly by The Cancer Council Australia and the National Heart Foundation. Additionally support and endorsement of the following organisations:

- Action on Smoking and Health (ASH)
- Australian Consumers Association
- Clinical Oncological Society of Australia
- Quit SA
- Quit Victoria
- The Australian Council on Smoking and Health
- The Pharmacy Guild of Australia
- Thoracic Society of Australia and New Zealand
- Public Health Association of Australia
- VicHealth Centre for Tobacco Control
- Western Australian Clinical Oncology Group

The Cancer Council Australia and the National heart Foundation would be would be happy to assist the committee by:

- Providing further information,
- Appearing before the Committee, ,
- Respond to any queries or issues that arise during the Committee's deliberations.

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SUBMISSION TO THE JOINT STANDING COMMITTEE ON TREATIES ON THE FRAMEWORK CONVENTION ON TOBACCO CONTROL

We write to express our strong support for ratification of the Framework Convention on Tobacco Control (FCTC). In our view, ratification of the FCTC is clearly in Australia's national interest, both in terms of its potential effect on public health within Australia, and on the leadership role Australia has played, and can continue to play in tobacco control, internationally, and in our region in particular.

The FCTC has been the subject of much consultation both within Australia and internationally over a number of years. It reflects the view of the international community, and the Australian Government, on what is required to deal with the enormous death, disease and social costs that tobacco causes worldwide.

The Australian Government is to be commended for its international leadership role in the negotiation of the FCTC. Ratification will represent the next step in that ongoing leadership role in tobacco control.

Development of the FCTC

In May 1996, the World Health Assembly adopted a resolution calling on the Director-General of the World Health Organization (WHO) to develop a treaty on tobacco. The FCTC was formally adopted on 21 May 2003 and is the world's first international public health treaty. In September 2003, the Australian Government signed the FCTC in a move that was widely welcomed by the health community.

The basic elements of the treaty were agreed by a working group convened by the WHO in October 1999. In October 2000 the WHO hosted unprecedented public hearings on tobacco control, and the first formal Intergovernmental Negotiating Body (INB) meeting brought together representatives of health, finance, foreign affairs, trade, and agriculture ministries. Subsequently the INB met on a biannual basis until March 2003, when agreement was reached on the final text of the treaty.

The time taken to negotiate and conclude the FCTC, and the frequency of the meetings of the INB, reflect the level of care and consultation that has gone in to the process.

The Australian Government played a constructive and leading role in the negotiations on the FCTC. The nature of its participation throughout the negotiations indicated strong support for an FCTC, and a desire to see the development of a robust treaty that reflected the international evidence and experience regarding effective tobacco control measures.

The Australian Government also consulted extensively, and on an ongoing basis, with state and territory and national Australian stakeholders to ensure wide domestic support for the treaty and positions adopted during the negotiation of the final text for the treaty. The stakeholders included state and territory governments, peak national non-government organisations, the tobacco and tobacco retail industries, and relevant

portfolios within the Federal Government. Consultation with key stakeholders was on a biannual basis at minimum, and took the form of face-to-face meetings and written submissions.

The importance of the FCTC

Australia has been a world leader in reducing tobacco-related mortality and morbidity. Nevertheless tobacco kills over 19,000 Australians a year, and in 1998-99 cost the community over \$21 billion. Around 20% of the Australian population continues to smoke. Any measures that can help reduce the prevalence of smoking in Australia and the toll of mortality and morbidity and social costs caused by smoking should be encouraged and implemented.

While tobacco use remains a serious public health problem in Australia, it represents an even more significant problem in other parts of the world. The WHO estimates that 4 million people die prematurely each year as a result of tobacco-related disease¹. By the year 2020, it is estimated that tobacco will cause 8.4 million premature deaths annually². It will kill 500 million people who are alive today³.

Increasingly, the burden of mortality and morbidity is moving to the developing world, where many countries have higher rates of smoking and less advanced tobacco control educational and regulatory measures, and where multinational tobacco companies are seeking to capitalise on the weaker (or total lack of) tobacco control programs and policies.

In many parts of our own region, prevalence of smoking is alarmingly high. The most recent publication of the American Cancer Society's *Tobacco Control Country Profiles*⁴ includes the following data (the most up-to-date available were used):

- Cambodia: Adult (15-45 year olds): urban males 64.7%; rural males 86.3%;
- Cook Islands: Adult (35-69 year olds): males 40%; females 17%;
- Fiji: Young Adult (15-30 year olds): males 55%; females 34%;
- Kiribati: Adult (35-59 year olds): males 82%; females 65%;
- Malaysia: Adult (18 years & older): males 49.2%; females 3.5%;
- Nauru: Adult (35-59 year olds): males 61 %; females 47%;
- Niue: Adult (35-59 year olds): males 63%; females 21%;
- Papua New Guinea: Adult (20-96 year olds): males 76%; females 80%;
- Philippines: Adult (20 years & older): males 75%; females 18%;
- Samoa: Adult: males 58%; females 24%;
- Tonga: Adult (20 years & older): males 62.4%; females 14.2%;
- Tuvalu: Adult (20 years & older): males 51%; females 31%;
- Vanuatu (20 years & older): males 50%; females 10%;

¹ 'Tobacco - Health Facts', Fact Sheet No 221, April 1999. Retrieved: 2 February 2004 from <http://www.who.int/inf-fs/en/fact221.html>

² Murray C., & Lopez, A. 1997, 'Alternative projections of mortality and disability by cause 1990-2020: Global burden of disease study. *Lancet*, 1997: 349(9064): 1498-1504

³ 'Tobacco - Health Facts', Fact Sheet No 221, April 1999. Retrieved: 2 February 2004 from <http://www.who.int/inf-fs/en/fact221.html>

⁴ Corra MA, Guindon GE, Sharma N, Shokoohi DF (eds). 'Tobacco Control Country Profiles', American Cancer Society, Atlanta, GA, 2000.

- Viet Nam: Adult (18-92 year olds): males 72.8%: females 4.3%.

Benefits to Australians from ratification

We see the benefits of ratification to Australia, in terms of impact within Australia itself, falling into four main categories.

First, as strong as Australian tobacco control policies and programs are, the realities of globalisation mean that Australia's capacity to achieve our own objectives can be compromised by weaker measures overseas. Two obvious examples are the capacity of international smuggling to reduce local prices, and the potential for cross-border advertising to undermine Australia's tobacco advertising restrictions, whether through international film, broadcasting of sporting events, via the internet, and so on.

In each case, strong international cooperation, and strong regulatory measures in other countries, are required if the effectiveness of Australia's tobacco control measures is not to be compromised.

Second, ratification of the FCTC will, through the external affairs power, provide the Commonwealth with additional powers to legislate to regulate tobacco and the tobacco industry. This will be important both for future regulatory measures that have not yet been undertaken in Australia, and for circumstances in which a nationally uniform approach is preferable to approaches in which, without good reason, regulation differs markedly among the States and Territories.

Third, a well-functioning FCTC will provide efficient processes for the sharing of information between parties. It will be valuable for Australia to have ready access to such information, whether relating to research, scientific, technical, legal or other matters.

Fourth, ratification of the FCTC by Australia will allow Australia to play a constructive role in the Conference of the Parties, which is the forum in which parties to the FCTC will oversee and consult on the implementation and ongoing operation of the FCTC. The capacity for involvement will allow Australia to work to ensure that our national interest is furthered in that ongoing operation and implementation. For example, it will be important for Australia to play a role in the negotiation and implementation of Protocols under the FCTC, which will be important in ensuring that the global issues that can impact on the effectiveness of tobacco control measures in Australia can be appropriately addressed.

Australia's leadership role

As important as the FCTC is for Australia, it is perhaps even more important for countries, and particularly developing countries, that have not made the progress that Australia has in adopting tobacco control policies and programs. The FCTC may have its greatest impact in such countries, where the prevalence of smoking is alarmingly high and, in many cases, continuing to increase, as the multinational tobacco industry moves to take advantage of the opportunities these markets represent.

As we have said, Australia has already played a leading role in the negotiation of the FCTC. Our ratification would be another important leadership step and help give the FCTC momentum for other countries, and particularly those in our region. Australia would be able to share our substantial regulatory, educational, scientific, legal and research experience and expertise with countries that would greatly benefit from it.

While Australia has always been happy to play a leadership role, our responsibility to do so is underlined by the fact that Australian tobacco companies export products to many developing countries in our region, where they advertise their products in ways that were prohibited long ago in Australia, and where they use much weaker health warnings than are required for products on the market in Australia. Australia has a responsibility to ensure that people in developing countries are not exploited by Australian companies in ways that have been prohibited in Australia. Australia's ratification of the FCTC will be a key step in this process, as it will encourage developing countries in the region to follow suit and to pay heed to the treaty's objectives.

As a minimum number of ratifying countries is required for the FCTC to enter into force (40), Australia's ratification will take the FCTC one step closer to coming into effect, and is likely to encourage other countries to ratify, and help reach the minimum number needed to give effect to the treaty.

Objections of the tobacco industry

The National Interest Analysis indicates that certain elements of the tobacco industry have expressed the view that some of the FCTC's proposals "go beyond what is reasonable" in the context of regulating the tobacco. It is hardly surprising that the tobacco industry would have a different view of what is "reasonable" in tobacco regulation from that of the rest of the world. The tobacco industry's interest, of course, is in maximising its profits, notwithstanding that the more products it sells, the more people who will become addicted to its products, the more people who will suffer death and disease, and the greater the social costs that society as a whole will have to bear.

The tobacco industry's objections should, therefore, be seen for what they are: self-serving statements that run counter to the interests of the rest of the community, both in Australia and internationally. The FCTC is all about using evidence-based approaches to reduce the harm caused by tobacco. To the extent that reducing the harm caused by tobacco ends up reducing tobacco industry profits, the tobacco industry may be unhappy - but the rest of the community will be better off. People will live longer and more productive lives, and society will bear lower levels of unnecessary costs and waste.

The various, oft-repeated complaints of the tobacco industry about the FCTC, and tobacco regulation in general, are by now familiar. The FCTC reflects the view of the international community about what is appropriate, notwithstanding what the tobacco industry may prefer.

Conclusion

We are firmly of the view that there is clear national support for ratification of the FCTC, that ratification will yield enormous public health benefits for the Australian community and strengthen international cooperation in tobacco control, and that, in light of the support for the FCTC and international significance of the treaty in curbing the tobacco epidemic, the Australian Government should move to ratify the treaty as a matter of urgency.

Yours sincerely