

United States Senate

WASHINGTON, DC 20510

March 19, 2002

The President
The White House
Washington, DC 20500

Mr. President:

We are writing to express our concern over the positions taken by the United States delegation at recent negotiating sessions of the Framework Convention on Tobacco Control (FCTC) in Geneva. The U.S. delegation has repeatedly used its considerable leverage to weaken the treaty by insisting on the inclusion of language that would benefit U.S. tobacco companies rather than public health.

The 4th meeting of the FCTC Intergovernmental Negotiating Body (INB) will take place March 18-23. The United States government will Chair these important proceedings. Unless U.S. negotiating guidelines are changed to reflect public health principles, the ability of concerned nations to appropriately address the growing epidemic of tobacco-related disease within their borders will be weakened. The World Health Organization (WHO) has already projected that tobacco-related deaths will rise sharply within developing countries unless strong, comprehensive and coordinated measures are taken to reduce tobacco consumption and restrict tobacco advertising and marketing.

The U.S. bears a special responsibility for the worldwide growth in tobacco consumption, particularly by women and children in the developing world. For many years our nation promoted the export of tobacco products and actively fought efforts by other nations to adopt regulatory measures to protect the health of their citizens. These earlier practices have left a legacy of increasing deaths from tobacco-related disease among the emerging economies of Asia, Africa, the Americas, and Eastern Europe.

We want to highlight a number of areas where U.S. negotiators have ignored public health as a guiding principle and sought to weaken the draft treaty and protect narrow commercial interests.

The U.S. opposed efforts supported by developing countries to ban tobacco advertising and marketing that are consistent with their Constitutional or basic rights.

Many nations support the inclusion in the treaty of a provision banning all direct and indirect tobacco advertising, reserving to those countries with Constitutional limitations the right to enact lesser restrictions. The overwhelming majority of independent peer-reviewed studies show that tobacco-advertising leads to an increase in consumption, while comprehensive bans significantly reduce consumption. The United States, however, has opposed a ban, citing Constitutional concerns and offering language that would significantly weaken this protection. While there are

U.S. constitutional issues involving advertising bans, the U.S. should not prevent other nations from adopting advertising bans in keeping with their own legal systems when the U.S. Surgeon General has concluded that such limits have been shown to reduce tobacco consumption, especially among youth. Under the WTO Agreement on Technical Barriers to Trade, countries are permitted to establish regulations to protect human health, as long as they are consistent with sound science.

The U.S. opposed efforts to protect workers in the private sector from exposure to secondhand smoke while advocating a ban on smoking in government buildings.

There is universal consensus among public health experts that exposure to secondhand smoke is a significant and thoroughly preventable health risk to nonsmokers. In the United States close to 70% of all workplaces are now smoke-free environments. The United States should support the strongest protections possible for citizens of other countries.

The U.S. opposed efforts that would prohibit the use of the dangerously deceptive terms “low tar”, “light” and “mild” to market tobacco products.

On 27 November 2001, the U.S. National Cancer Institute released a comprehensive report *“Monograph 13: Risks Associated with Smoking Cigarettes with Low Machine-Yields of Tar and Nicotine”*¹ detailing the 50-year history of light and low-tar cigarettes in this country and their impact on the public health. The report found that there is no significant health difference between any of the cigarettes currently on the market (e.g. lights, regulars or full flavor) and that the industry’s use of terms such as “light” and “low tar” is deceptive and harmful to public health. On the same day the report was released, the United States opposed a total ban on these terms, a provision that is supported by a broad range of nations.

The U.S. opposed efforts to exempt tobacco from normal trade rules.

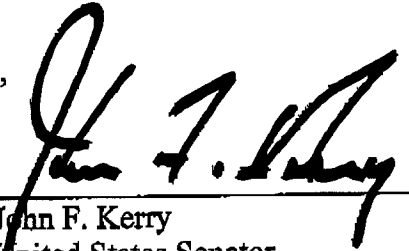
The United States has blocked provisions that would prioritize public health over commercial considerations, despite widespread support for such measures by the majority of countries in the negotiations, including many of our major trading partners. Given the exceptionally hazardous and addictive nature of tobacco products, public health measures should take precedence over purely commercial considerations.


We are greatly concerned that if the United States maintains these negotiating positions, tobacco-related deaths will continue to increase worldwide. The United States has great expertise to share because it has invested more than any other country in developing the science that identifies the most effective programs and strategies for reducing tobacco consumption and preventing young people from starting. We have an opportunity to use this knowledge and experience to assist in the creation of the strongest possible treaty, one that can help the other nations of the world avoid a tobacco epidemic of the magnitude faced by the United States. How the U.S. responds during these negotiations will be a true test of our leadership in the international community.

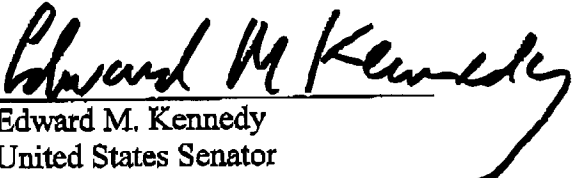
We urge you to review and revise U.S. negotiating guidance on the FCTC in light of these concerns. It is still early in the negotiations and a change in the U.S. posture could yield agreement on policies, which could save millions of lives over the next twenty years. Your intervention at this time will go far to restore U.S. credibility as an international leader in tobacco control and ensure that a strong treaty, which protects human health, emerges.

Sincerely,

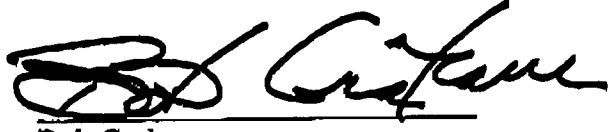

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ⁱ National Cancer Institute, Risks Associated with Smoking Cigarettes with Low Machine-Yields of Tar and Nicotine, Smoking and Tobacco Control Monograph NO. 13, Bethesda, US Department of Health and Human Services, NCI, October 2001.