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## Clearing the Smoke: Addressing the Tobacco Issue as an International Body

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# Clearing the Smoke: Addressing the Tobacco Issue as an International Body

## I. Introduction

By the year 2030, ten million people annually are expected to die from tobacco-related diseases.<sup>1</sup> In that year, the World Bank's report on the tobacco epidemic estimates that those ten million deaths will be greater than the number of deaths worldwide from pneumonia, diarrheal diseases, tuberculosis, and the complications of childbirth combined.<sup>2</sup> Tobacco use increases an individual's risk of heart disease,<sup>3</sup> cancer,<sup>4</sup> stroke,<sup>5</sup> chronic airway obstruction,<sup>6</sup> and pneumonia.<sup>7</sup> In 1998, smoking caused 7.5% of the world's 53.9 million deaths.<sup>8</sup> Despite these health

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1. World Health Organization, Tobacco Free Initiative, Health Impact, at <http://tobacco.who.int/page.cfm?pid=42> (last visited Mar. 26, 2002) [hereinafter TFI Health Impact]. Smoking has been determined to be significantly associated with 25 causes of death. Research for International Tobacco Control and the World Health Organization, at <http://tobacco.who.int/page.cfm?pid=53> (last visited Mar. 26, 2002) [hereinafter WHO Research]. The Tobacco Free Initiative is a cabinet project of the World Health Organization, which the WHO has charged with bringing attention, resources and action to what it calls a "global tobacco pandemic." About TFI, at <http://tobacco.who.int/page.cfm?pid=39> (last visited Mar. 26, 2002) [hereinafter About TFI].

2. FRANK J. CHALOUKKA, CURBING THE EPIDEMIC, GOVERNMENTS AND THE ECONOMICS OF TOBACCO CONTROL 22 (World Bank 1999), available at <http://www1.worldbank.org/tobacco/reports.htm> (last visited Mar. 26, 2002). The number of deaths by tobacco use will be one in six according to the World Bank report. *Id.*

3. In the United States alone, more than 134,000 people died in 1990 as a result of heart disease attributable to smoking. Center for Disease Control, Cigarette Smoking-Related Mortality, at [http://www.cdc.gov/tobacco/research\\_data/health\\_consequences/mortali.htm](http://www.cdc.gov/tobacco/research_data/health_consequences/mortali.htm) (last visited Mar. 26, 2002), citing Centers for Disease Control and Prevention, *Smoking-attributable mortality and years of potential life lost—United States, 1990*. 42 MORBIDITY AND MORTALITY WEEKLY REPORT 633, 645-48 (1993).

4. More than 151,000 cancer deaths in the United States were a result of cigarette smoking in 1990. *Id.*

5. The CDC ascribes 23,000 deaths in 1990 to smoking-related strokes. *Id.*

6. Nearly 50,000 deaths resulting from chronic airway obstruction were attributed to tobacco use in the US in 1990. *Id.*

7. The CDC attributed Nineteen thousand pneumonia deaths to tobacco use in 1990 in the United States. According to their data, smoking-related issues caused approximately 400,000 total deaths in the United States in 1990. *Id.*

8. WHO Research, *supra* note 1.

risks posed by tobacco use, seven metric tons of tobacco is produced per year,<sup>9</sup> and over 100 countries produce tobacco leaf.<sup>10</sup>

Because tobacco contains nicotine, it is highly addictive.<sup>11</sup> According to the World Bank, nicotine satisfies all of the criteria for addictiveness, including: compulsive use despite repeated attempts to quit, “psychoactive” effects within the brain resulting from use of the substance, and behavior motivated by the substance reinforcing the use.<sup>12</sup> Studies done on nicotine addiction in the United Kingdom suggest that dependence is established quickly in the case of tobacco use, finding that the level of nicotine in the saliva of beginning smokers rises rapidly to those found in long-time smokers.<sup>13</sup> The level of cotinine, the byproduct of nicotine found in the saliva, reinforces the use of tobacco in these new smokers.<sup>14</sup>

Although tobacco use can be viewed as a global health epidemic in light of the health risks outlined above, there are a myriad of interests that international bodies must address before instituting policies regarding tobacco consumption. As a result of these varying interests, attempts by world bodies<sup>15</sup> to regulate tobacco are likely to face barriers that become increasingly more difficult to overcome.

#### A. *The Health Effects of Tobacco Use in the Global Market*

About 500 million people currently living will die from tobacco related diseases, and lose 20 to 25 years of lifespan as a result of smoking.<sup>16</sup> By the year 2030 the number of deaths annually will reach ten million, and nearly half of these deaths will occur within the middle-aged population,<sup>17</sup> particularly in the more politically and industrially developed countries.<sup>18</sup> This high number of deaths resulting from tobacco consumption is not surprising, when one considers that research

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9. International Tobacco Growers Association, *World Tobaccoleaf Data*, at <http://www.tobaccoleaf.org/publications/infot14.htm> (last visited Mar. 26, 2002).

10. International Tobacco Growers Association, *The World of Tobacco*, at <http://www.tobaccoleaf.org/wot/wot.htm> (last visited Mar. 26, 2002).

11. CHALOUKKA, *supra* note 2, at 21.

12. *Id.*

13. *Id.* at 21-22, citing A.D. McNeill, Nicotine Intake in Young Smokers: Longitudinal Study of Saliva Cotinine Concentrations. 79 AM. J. PUB. HEALTH 172, 172-75 (1989).

14. *Id.*

15. Some of these world bodies that have become interested in the tobacco issue include the United Nations, European Union, World Health Organization, and World Bank.

16. CHALOUKKA, *supra* note 2, at 23.

17. The World Health Organization, which is the source for these statistics, defines middle-aged years as being between 35 to 59 years of age. WHO Research, *supra* note 1.

18. *Id.*

shows tobacco use to be significantly related to 25 causes of death.<sup>19</sup> Further, these risks posed by tobacco products are not limited to smokers alone. Environmental tobacco smoke (ETS), otherwise known as second-hand smoke, can increase the risk of cancer in non-smokers as well as cause respiratory diseases in children.<sup>20</sup>

Research done for the Tobacco Free Initiative<sup>21</sup> shows that smoking increases an individual's risk of lung, esophagus, larynx, tongue, salivary gland, lip, mouth, pharynx, urinary bladder and kidney, uterine cervix, breast, pancreas, and colon cancers.<sup>22</sup> For example, the risk of developing lung cancer for smokers is 5 to 10% greater than non-smokers in developed countries.<sup>23</sup> In less developed countries, smoking causes 80% of all lung cancers.<sup>24</sup> Risk of oral cancer is increased by 27% in smokers, due largely to tobacco smoke that passes through the tissues of the head and neck.<sup>25</sup> The absorption of carcinogens into the blood flowing through organs and into bile is the main link between smoking and the increased occurrence of cancer.<sup>26</sup>

Smoking also increases the risk of heart disease, by causing an increase in the size of plaques in the carotid artery.<sup>27</sup> Heart attacks, known as myocardial infarctions, occur when blood is unable to pass through the vessels due to arteriosclerosis.<sup>28</sup> Causes of arteriosclerosis<sup>29</sup>

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19. These can include many cancers, heart disease, respiratory diseases, and a vast number of birth-related complications. *Id.* These and other diseases will be discussed in more detail later.

20. *Id.*

21. The Tobacco Free initiative is a cabinet project of the World Health Organization. The organization's main goal is to promote global awareness about the global tobacco pandemic, and through that awareness focus resources to reduce tobacco deaths. The Tobacco Free Initiative is a source of information for health statistics related to tobacco use, a depository for tobacco-related research, and as an arm of the Framework Convention on Tobacco Control allows access to all documents related to that body. TFI also provides individuals with access to information related to treatment for dependence. TFI—Tobacco Free Initiative, at <http://tobacco.who.int> (last visited Mar. 26, 2002).

22. Tobacco Free Initiative, *Cancer*, at <http://tobacco.who.int/page.cfm?tld=16> (last visited Mar. 26, 2002).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. Tobacco Free Initiative, *Heart Disease*, at <http://tobacco.who.int/page.cfm?tld=19>, citing A. Haapanen, et al., *Carotid Arteriosclerosis in Identical Twins Discordant for Cigarette Smoking*, 80 CIRCULATION 10, 10-16 (1989). (last visited Mar. 26, 2002) [hereinafter TFI Heart].

28. *Id.*

29. Arteriosclerosis is a disease characterized by the thickening of the walls of the veins due to deposits of cholesterol that harden into a plaque that narrows the vascular channels. This lessens the flow of blood through the veins, resulting in higher blood pressure. Such deposits can become large enough to completely block a passageway. The deposits have also been known to break away from the walls of the veins, becoming

include the buildup of plaques, fatty acids, blood clots, or the breakup of plaques in the blood vessels.<sup>30</sup> A follow-up study done of 16 cohorts of men in the United States, Finland, the Netherlands, Italy, Croatia, Serbia, Greece, and Japan found that of men who smoked thirty cigarettes or more in the original study on smoking and health, 57.7% of them had died prior to the follow-up.<sup>31</sup> British physicians have also followed up on a 40 year old study in that country, finding that deaths from cardiovascular disease were two times higher among smokers than non-smokers.<sup>32</sup>

Strokes are somewhat similar to heart attacks, occurring when the flow of blood to the brain is limited by a blood clot in a brain vessel.<sup>33</sup> According to research in the United States and the United Kingdom, the risk of a stroke among smokers is related to the amount of cigarettes consumed.<sup>34</sup> In the United States, smokers consuming more than 20 cigarettes a day are three times more likely to suffer a non-fatal stroke than non-smokers.<sup>35</sup> In the United Kingdom, the risk is nearly four times greater.<sup>36</sup> Because the risk of stroke is tied to consumption, heavy smokers can greatly improve their risk by quitting.<sup>37</sup> According to the Tobacco Free Initiative, five years after quitting even a formerly heavy smoker is at no greater risk of a stroke than a non-smoker.<sup>38</sup>

Smoking-related deaths are not limited to smokers, however. Over three thousand lung cancer deaths in the United States are attributed to passive smoking, or exposure to second-hand smoke.<sup>39</sup> In contrast, lung cancer from outdoor pollution accounts for only 100 deaths per year in the United States.<sup>40</sup> Infants and children are at particular risk from the effects of second-hand smoke. ETS has been shown to exacerbate asthma and other respiratory problems, and research has shown it to be

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blood clots that narrow already clogged veins. The condition can cause heart attacks, strokes, lameness in the legs, pain, ulceration, and increase the risk of infection. The Britannica Concise, available at <http://education.yahoo.com/search/be?lb=t&p=url%3Aa/arteriosclerosis> (last visit-ed Mar. 26, 2002).

30. TFI Heart, *supra* note 27.

31. *Id.*, citing Dr. Jacobs, et al. *Cigarette Smoking and Mortality Risk*, 159 ARCHIVES OF INTERNAL MED. 733, 733-40 (1999).

32. *Id.*, citing R. Doll, et al., *Mortality in Relation to Smoking: 40 Years' Observations on Male British Doctors*, 309 BRIT. MED. J. 901, 901-11 (1994).

33. Tobacco Free Initiative, *Stroke*, at <http://tobacco.who.int/page.cfm?tid=22> (last visited Mar. 26, 2002) [hereinafter TFI Head Stroke].

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. TFI Stroke, *supra* note 33.

39. Tobacco Free Initiative, *Second-Hand Smoke*, at <http://tobacco.who.int/page.cfm?pid=43> (last visited Mar. 26, 2002).

40. *Id.*

an important cause of Sudden Infant Death Syndrome (SIDS) in infants.<sup>41</sup>

Moreover, even *working* with tobacco can prove hazardous to an individual's health. Scientists have identified a disease they call Green Tobacco Sickness (GTS), which affects individuals who work with tobacco on a day-to-day basis.<sup>42</sup> The nicotine in tobacco is absorbed through the skin during harvest, and results in symptoms like weakness, difficulty breathing, diarrhea, vomiting, dizziness, perspiration and salivation, chills, and fluctuations in heart rate.<sup>43</sup> Though these symptoms in and of themselves are not as significant as the risk of lung cancer or heart disease in smokers or passive smokers, they nevertheless are significant in the lives of those who suffer from GTS.<sup>44</sup>

In addition to risk fluctuations between smokers and non-smokers, gender can also affect the risks posed by tobacco. Whereas men smokers are three times more likely to experience a heart attack than non-smokers, women smokers were *six* times more likely to have a heart attack!<sup>45</sup> Some researchers have gone so far as to suggest that women might be more sensitive to tobacco,<sup>46</sup> which is not so far fetched considering the unique threat tobacco poses to the female body in the form of uterine cancer.<sup>47</sup> In addition to worries about their own health, pregnant smokers also put their babies at risk. Smoking during the pregnancy can result in low birth weight babies, and intrauterine growth retardation.<sup>48</sup> ETS can cause similar results in pregnant women and their babies.<sup>49</sup>

These issues are going to be increasingly significant in the

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41. Tobacco Free Initiative, *International Consultation on Environmental Tobacco Smoke (ETS) and Child Health*, at <http://tobacco.who.int/page.cfm?sid=50> (last visited Mar. 26, 2002).

42. Tobacco Free Initiative, *Working With Tobacco*, at <http://tobacco.who.int/page.cfm?tid=24> (last visited Mar. 26, 2002).

43. *Id.*, citing J.S. McBride, et al., *Green Tobacco Sickness*, 7 TOBACCO CONTROL 294, 294-98 (1998).

44. *Id.*, suggesting that GTS decreases productivity and may cause an increase in absenteeism from work.

45. TFI Heart, *supra* note 27, citing I. Njolstad, et al., *Smoking, Serum Lipids, Blood Pressure, and Sex Differences in Myocardial Infarction*, 93 CIRCULATION 450, 450-56 (1996).

46. *Id.*, citing E. Prescott, et al., *Smoking and Risk of Myocardial Infarction in Women and Men: Longitudinal Population Study*, 316 BRIT. MED. J. 1043, 1043-47 (1998).

47. Tobacco use has been linked to an increase in breast cancer among women, and one Danish study has even found that breast cancer can occur earlier in the lives of a smoker than generally found in nonsmokers. Women are also at a greater risk of cervical cancer as a result of tobacco consumption. Tobacco Free Initiative, *Women's Health*, at <http://tobacco.who.int/page.cfm?pid=49> (last visited Mar. 26, 2002).

48. *Id.*; see also WHO Research, *supra* note 1.

49. *Id.*

developing countries of the world, where the effects of long-term smoking have yet to be felt.<sup>50</sup> Because tobacco-related diseases take decades to develop, developing countries that have only recently increased their tobacco consumption are only now beginning to realize the effects of consumption.<sup>51</sup> Using the United States as an example of these long-term effects, the World Bank Report showed that the increased tobacco consumption between 1915 and 1950 did not begin to result in higher instances of lung cancers or other smokers' diseases until 1945.<sup>52</sup> The report asserts that by 1980, lung cancer had increased to eleven times the levels present in 1940.<sup>53</sup> Although the increase in tobacco consumption did not begin at the same time in China as they did in the US, researchers have found parallels in the rises of health issues caused by smoking in the two countries.<sup>54</sup> This evidence of mirrored trends in tobacco and health suggests the future threat posed by tobacco consumption in countries that are only now beginning to smoke.

These significant health concerns facing smokers and non-smokers alike certainly seem to warrant attention both from the medical and political world. Many countries, as will be shown later, have attempted to curb the effects of consumption through tobacco regulation. But, in light of the impending increase in deaths caused by tobacco consumption, why have they not gone so far as to ban the production of tobacco?

### *B. Tobacco Growth and the Global Market*

The International Tobacco Growers Association (ITGA)<sup>55</sup> estimates

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50. CHALOUKKA, *supra* note 2, at 23.

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.* at 23-24.

55. The ITGA was established in 1984, as the worldwide voice of tobacco farmers. The UK based organization founded by members from Argentina, Brazil, Canada, Malawi, the United States and Zimbabwe to promote and develop their common interests. Today the organization also represents farmers from Burundi, Nigeria, South Africa, Tanzania, Zambia, Poland, Cyprus, India, Malaysia, the Philippines, Mexico, Croatia, Portugal and Venezuela. ITGA: World of Tobacco, at <http://www.tobaccoleaf.org/wot/wot.htm> (last visited Mar. 26, 2002). These countries and the six founding companies currently account for 80% of the world's tobacco production. Nearly 35 million people are represented by the ITGA worldwide. ITGA's purpose is to share non-competitive information, to monitor market conditions, build mutual understanding and protect its members and their dependants. To further these goals, ITGA conducts research, composes and distributes strategy papers and guidance to members, and participates in the discussion of a wide range of issues concerning the well-being of all tobacco producers. Funding comes from member subscriptions, publications, events, and conferences. The association makes particular note of the fact that it is in no way linked to manufacturer's interests. ITGA: FAQs, at

that over 100 million people are employed in tobacco-related industries, with 33 million people employed in the actual cultivation of tobacco.<sup>56</sup> The number of people employed by the tobacco industry exceeds even that of the industries surrounding maize and sugar cane.<sup>57</sup>

Tobacco is grown in 100 countries around the world, and constitutes a major cash crop in 80 developing countries.<sup>58</sup> Tobacco production is fast becoming a primary source of income for these countries, as their portions of the total tobacco production increases while more industrially developed countries are reducing their share of the market.<sup>59</sup> Developing nations like Zimbabwe have become major producers of tobacco leaf, and the crop has become a major export and important source of cash.<sup>60</sup> Other nations whose overall tobacco production constitutes a small percentage of the total worldwide tobacco production have also come to rely on the money that can be made from the exportation of the crop.<sup>61</sup> The World Bank finds tobacco to be a highly attractive crop for developing nations because tobacco prices are relatively stable, allowing farmers to obtain loans and plan ahead; the industry tends to be helpful to tobacco farmers; tobacco is generally non-perishable and thus does not present storage, collection, and delivery problems; and tobacco provides a higher income than most cash and food crops.<sup>62</sup>

The ITGA has pointed to the tobacco industries in Zimbabwe and Kenya as examples of what a tobacco market can do for a developing country. Although Kenya has been a self-supporting nation participating in the production of tea, coffee, and other horticultural endeavors, the addition of tobacco to the farming industry has allowed the country to become more diverse in their export base.<sup>63</sup> It has also reduced the country's economic risk and provided more opportunities for farmers.<sup>64</sup> Zimbabwe's exportation has become essential to the government's

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<http://www.tobaccoland.org/publications/faqs.htm> (last visited Mar. 26, 2002).

56. International Tobacco Growers Association, *Tobacco—A Major World Crop*, at <http://www.tobaccoland.org/publications/infot2.htm>, citing *Tobacco in the Developing World*. ITGA. (1990) (last visited Mar. 26, 2002) [hereinafter ITGA World Crop].

57. Only 1.65 million people are employed in these industries. *Id.*

58. CHALOUKKA, *supra* note 2, at 58.

59. CHALOUKKA, *supra* note 2, at 58. Countries in the Middle East and Asia now produce approximately 60% of the world's tobacco, up from 40% two decades ago. High-income countries like the United States reduced their total production percentage as the developing world discovered tobacco farming, and their contribution to the market only constitutes about 15% of tobacco production. *Id.*

60. *Id.* at 59.

61. These countries include Bulgaria, Moldova, the Dominican Republic, Macedonia, Kyrgyzstan, and Tanzania. *Id.* at 59-62.

62. CHALOUKKA, *supra* note 2, at 61.

63. ITGA World Crop, *supra* note 56, citing *Price Prospects for Major Primary Commodities 1990-2005*, THE WORLD BANK (1992) (last visited Oct. 28, 2001).

64. *Id.*

ability to provide the basic foodstuffs for its citizens.<sup>65</sup> After a significant population increase and droughts that decreased the availability of homegrown food products, Zimbabwe was forced to begin importing products that it had previously provided for itself.<sup>66</sup> The imports were paid for largely by the funds from tobacco exportation.<sup>67</sup>

Tobacco growers are thus opposed to measures seeking to curb the production and availability of tobacco and tobacco products. The growers assert that should tobacco production be curbed by regulation, there would be massive job losses within the industry that would leave millions without income.<sup>68</sup> For them, the job losses are as destructive as any health risk posed by the consumption of this key crop.

### C. *A Tense Situation*

Consideration must be given to the competing interests of health and finances when discussing tobacco production and consumption. On the one hand, there is the substantial risk of serious health problems arising out of the consumption of tobacco products.<sup>69</sup> On the other, tobacco production can become the backbone of a given community. Regulation by a state can threaten the prosperity of such communities, and the country itself, by restricting the productivity and the financial success of the community.<sup>70</sup> States regulating tobacco have thus been forced into a position where they must balance the interests of health and finance in a way that adequately addresses the health epidemic posed by cigarette consumption without significantly altering production and profitability. The balance is a difficult one to achieve, although many countries have tried.

## II. Individual States: The Tension Between Production, Consumption, and Health Concerns

The regulation of tobacco has become an interest to many people in the last few years. Regulation of tobacco is widespread throughout the world, with large and small states attempting to address the health issues posed by nicotine consumption.<sup>71</sup> Even Kenya, where the introduction of

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65. *Id.*

66. *Id.*

67. *Id.*, citing J.S. Campbell, *Tobacco Production in the Developing World*, TROPICAL AGRIC. ASS'N NEWSLETTER (Tropical Agric. Ass'n) Dec. 1992. (last visited Oct. 28, 2001).

68. CHALOUPIKA, *supra* note 2, at 67.

69. *See supra* text accompanying notes 1-54.

70. *See supra* text accompanying notes 54-68.

71. *See generally* Nations Country Data, at [http://apps.nccd.cdc.gov/nations/nations/country\\_specific\\_indicators.asp](http://apps.nccd.cdc.gov/nations/nations/country_specific_indicators.asp) (last visited Mar. 26, 2002).

tobacco production to their economy has allowed them to diversify their exports, has tried to regulate tobacco.<sup>72</sup> Countries have addressed a wide variety of concerns in their regulation of tobacco, however. Presented below are the regulations in place in four larger countries (Australia, Canada, The United Kingdom, and the United States) that show the similarities and dissimilarities in tobacco law that occur around the world.

#### A. Australia

Australia contributes 8,460 metric tons of tobacco leaf to the tobacco market, placing 938 metric tons into the global market.<sup>73</sup> Nearly 2,900 hectares<sup>74</sup> of Australian land is dedicated to the production of tobacco leaf.<sup>75</sup> In 1995 Australia produced approximately 32,000,000,000 cigarettes.<sup>76</sup> Like many other countries, however, Australia has recognized the risks posed by cigarette consumption and has balanced the competing interests through tobacco regulation.

One of the most popular ways to regulate tobacco is through the use of warning labels on the product packaging. Australia has required a health warning on cigarettes since 1982.<sup>77</sup> In addition to these general health warnings relating to the risks of cigarette smoking, the Australian government has also required that cigarette packaging include a phone number where consumers can request more information on nicotine addiction.<sup>78</sup> These warnings and informational sources are accompanied by the ingredient information and some generic requirements on the label

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72. NATIONS Package Labeling, *Kenya*, at [http://apps.nccd.cdc.gov/nations/legislation/global\\_leg\\_type\\_1.asp?group=7&grpName=Package+Labeling&token=1&nationCode=404&nationName=Kenya](http://apps.nccd.cdc.gov/nations/legislation/global_leg_type_1.asp?group=7&grpName=Package+Labeling&token=1&nationCode=404&nationName=Kenya) (last visited Mar. 26, 2002). Admittedly, the regulation has mostly been limited to package design and warning label requirements. The key to this argument is that even countries that depend on, or enjoy, the benefits of tobacco production nevertheless recognize the health risks posed by the product. *Id.*

73. National Tobacco Information Online System (NATIONS): Tobacco Leaf Production: Australia, at <http://apps.nccd.cdc.gov/nations/economics/leafProd.asp?nationCode=36&nationName=Australia> (last visited Mar. 26, 2002).

74. A hectare is a metric unit of area equal to 2.471 acres. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 609 (New College ed. 1976). Australia's land area dedicated to tobacco production would thus equal about 7200 acres of land.

75. National Tobacco Information Online System (NATIONS): Land Area: Australia, at <http://apps.nccd.cdc.gov/nations/economics/landArea.asp?nationCode=36&nationName=Australia> (last visited Mar. 26, 2002).

76. The World Bank Group, *Report on Tobacco Production in Australia*, at [http://www1.worldbank.org/tobacco/brieflist\\_db.asp](http://www1.worldbank.org/tobacco/brieflist_db.asp) (last visited Mar. 26, 2002).

77. *Id.*

78. National Tobacco Information Online System (NATIONS): Package Labeling: Australia, at [http://apps.nccd.cdc.gov/nations/legislation/global\\_leg\\_type\\_1.asp?group=7&grpName=Package+Labeling&token=1&nationCode=36&nationName=Australia](http://apps.nccd.cdc.gov/nations/legislation/global_leg_type_1.asp?group=7&grpName=Package+Labeling&token=1&nationCode=36&nationName=Australia) (last visited Mar. 26, 2002) [hereinafter Australia Package Labeling].

design,<sup>79</sup> which have been required by the Australian government since 1986.<sup>80</sup>

In addition to product labeling requirements, in the 1990s Australia also began regulating the types of advertising that was available to manufacturers. The Tobacco Advertising Prohibition Act of 1992 (TAPA) reinforced the prohibition against broadcast advertisements,<sup>81</sup> which was first introduced under The Smoking and Tobacco Products Advertisements (Prohibition) Act of 1989,<sup>82</sup> and instituted a prohibition against the importation of periodicals that contained tobacco advertisements.<sup>83</sup>

Further, tobacco products are only to be advertised publicly in certain locations, including: places of sale (including vending machines), international air flights, place of sale shops, and point of sale vending machines.<sup>84</sup> However, it should be noted that in these prohibitions there were no particular limitations with respect to audiences<sup>85</sup> – it seems that materials could be aimed at children<sup>86</sup> as well as adults, which some groups have fought to change.<sup>87</sup> The final restrictions on advertising under the TAPA allow cigarette manufacturers to sponsor sporting or cultural events only if they have international significance.<sup>88</sup>

Although Australia's regulatory scheme for tobacco with respect to advertising and labeling does not cover all areas that other countries have examined,<sup>89</sup> it should be noted that they have placed some restrictions on

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79. *Id.* These requirements include message placement, size, and content requirements. Trade Practices Consumer Product Information Standards Tobacco Regulations, *available at* <http://www.austlii.edu.au> (last visited Mar. 26, 2002).

80. WBG Australia, *supra* note 77.

81. This prohibition was first put in place under the Broadcasting Services Act of 1992. National Tobacco Information Online System (NATIONS): Advertising, Sponsorships, and Promotion: Australia, *at* [http://apps.nccd.cdc.gov/nations/legislation/global\\_leg\\_type\\_1.asp?group=3&grpName=Advertising%2C+Sponsorships%2C+and+Promotion&token=1&nationCode=36&nationName=Australia](http://apps.nccd.cdc.gov/nations/legislation/global_leg_type_1.asp?group=3&grpName=Advertising%2C+Sponsorships%2C+and+Promotion&token=1&nationCode=36&nationName=Australia) (last visited Mar. 26, 2002) [hereinafter Australia Sponsorship].

82. TOBACCO CONTROL COUNTRY PROFILES 444-45 (MA Corrao et al., eds. 2000), *available at* [http://tobacco.who.int/repository/tld77/Appendix\\_B.pdf](http://tobacco.who.int/repository/tld77/Appendix_B.pdf) (last visited Mar. 26, 2002).

83. Australia Package Labeling, *supra* note 78.

84. *Id.*

85. *Id.*

86. Although there are no particular prohibitions against advertising to children, this does not mean that there are no age-related sales restrictions. Australia prohibits sale to minors, and has done so since 1988. WBG Australia, *supra* note 77.

87. *See* A Vision for Tobacco Control in Australia, 2001, *at* <http://www.cancersa.org.au/1-cms?page=1.6.36.580.732&print=yes> (last visited Oct. 26, 2001).

88. Australia Package Labeling, *supra* note 78.

89. For instance, Australia has taken no measures with respect to counter advertising, ingredient disclosure in advertising, or placed any prohibitions on the use of misleading information in ads and on the packaging of cigarettes themselves. *See* Australia Package Labeling, *supra* note 78, and Australia Sponsorships, *supra* note 81.

nicotine, tar, and carbon monoxide levels allowed in cigarettes, as well as proscribing the methods for testing these levels.<sup>90</sup> Despite the high level of tobacco production in Australia, some measures have been taken to address the health concerns.

### B. Canada

Canada contributes a great deal more tobacco to the international market than Australia, which is perhaps to be expected considering the size of Canada in contrast to Australia. Twenty-six thousand hectares<sup>91</sup> of land is used in the production of tobacco in Canada,<sup>92</sup> resulting in 73,000 metric tons of tobacco leaf.<sup>93</sup> Canadian tobacco farmers export almost thirty thousand metric tons of tobacco leaf.<sup>94</sup> Fifty-eight billion cigarettes are made from Canadian-grown tobacco per year.<sup>95</sup> Like Australia, Canada does regulate the sale of those billions of cigarettes despite their financial value to Canadian tobacco growers.

Canada regulates tobacco sale and production through the Tobacco Act of 1997.<sup>96</sup> The Act's drafters noted the public health problem created by cigarette consumption in the Act's statement of purpose, and in doing so sought to protect the health of Canadians generally.<sup>97</sup> Of particular note in the Canadian legislation, as opposed to the Australian regulation of tobacco, are the specific provisions intended to protect the youth population.<sup>98</sup>

Canada, like many countries, prohibits the sale of tobacco and cigarettes to minors.<sup>99</sup> In pursuing this prohibition against sale to minors,

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90. National Tobacco Information Online System (NATIONS): Product Regulation and Disclosure: Australia, at [http://apps.nccd.cdc.gov/nations/legislation/global\\_leg\\_type\\_1.asp?group=6&grpName=Product+Regulation+and+Disclosure&token=1&nationCode=36&nationName=Australia](http://apps.nccd.cdc.gov/nations/legislation/global_leg_type_1.asp?group=6&grpName=Product+Regulation+and+Disclosure&token=1&nationCode=36&nationName=Australia) (last visited Mar. 26, 2002).

91. Twenty-six thousand hectares is approximately 64,000 acres of Canadian land.

92. National Tobacco Information Online System (NATIONS): Land Area: Canada, at <http://apps.nccd.cdc.gov/nations/economics/landArea.asp?nationCode=124&nationName=Canada> (last visited Mar. 26, 2002).

93. National Tobacco Information Online System (NATIONS): Tobacco Leaf Production: Canada, at <http://apps.nccd.cdc.gov/nations/economics/leafProd.asp?nationCode=124&nationName=Canada> (last visited Mar. 26, 2002).

94. *Id.*

95. The World Bank Group, *Report on Tobacco Production in Canada*, at [http://www1.worldbank.org/tobacco/brieflist\\_db.asp](http://www1.worldbank.org/tobacco/brieflist_db.asp) (last visited Mar. 26, 2002) [hereinafter WBG Canada].

96. Tobacco Act, available at <http://laws.justice.gc.ca/en/T-11.5/95581.html> (last visited Mar. 26, 2002).

97. *Id.*

98. The Tobacco Act seeks to protect youths from inducements to use tobacco products and from the likelihood that they will become dependent upon them. *Id.*

99. WBG Canada, *supra* note 95. According to the World Bank Group, these restrictions have been in place since 1988. *Id.*

the Tobacco Act restricts the availability generally of these products. For instance, vending machines and other self-serve methods of purchasing cigarettes are disallowed except in locations where children are not permitted (such as bars).<sup>100</sup>

In addition to the regulations involving sale to minors, the Tobacco Act restricts the advertising of cigarettes within Canada. Advertisements may not depict the package of a tobacco product or any particular brand element unless the advertisement appears in: a publication directly mailed to a *named* adult, the publication has an adult readership of at least 85%, or the advertisement appears in a place where young people are not permitted by law.<sup>101</sup> Event sponsorships are permitted, however, regardless of the audience.<sup>102</sup> However, sports and other facilities may not be named for cigarette companies or brands.<sup>103</sup>

Under the Tobacco Act, the Minister of the Council may promulgate specific regulations with respect to product labeling,<sup>104</sup> which he did in 2000 in enacting the Tobacco Products Information Regulations (TPIR).<sup>105</sup> The TPIR proscribes the manner of health warning labels to appear on cigarettes, cigars, oral tobacco, and nasal tobacco as required by the Minister.<sup>106</sup> The warnings proscribed for cigarettes include information about smoking and pregnancy, the risk of lung cancer, the effects of secondhand smoke, the effect of smoking on oral health, the risk of heart attack, and the addictive nature of nicotine.<sup>107</sup>

### C. *The United Kingdom*

The United Kingdom produces over 163 billion cigarettes per year.<sup>108</sup> The UK is the second largest producer of manufactured cigarettes in the European Union, after Germany.<sup>109</sup> Nearly 240,000

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100. Tobacco Act, *supra* note 96.

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. Tobacco Products Information Regulations, JUS-601413SOR/DORS, *available at* [http://www.hc-sc.gc.ca/hppb/tobacco/ehd/tobacco/legislat/prop\\_may\\_13.htm](http://www.hc-sc.gc.ca/hppb/tobacco/ehd/tobacco/legislat/prop_may_13.htm) (last visited Mar. 26, 2002).

106. *Id.*

107. Cigarettes, Cigarette Tobacco, Tobacco Sticks, Leaf Tobacco, and Kreteks Health Warnings, *at* [http://www.hc-sc.gc.ca/hppb/tobacco/ehd/tobacco/pdf/new\\_part1.pdf](http://www.hc-sc.gc.ca/hppb/tobacco/ehd/tobacco/pdf/new_part1.pdf) (last visited Jan. 2, 2002).

108. National Tobacco Information Online System (NATIONS): Production and Trade: The United Kingdom of Great Britain and Northern Ireland, *at* [http://apps.nccd.cdc.gov/nations/economics/production\\_trade.asp?nationCode=826&nationName=United+Kingdom+of+Great+Britain+and+Northern+Ireland](http://apps.nccd.cdc.gov/nations/economics/production_trade.asp?nationCode=826&nationName=United+Kingdom+of+Great+Britain+and+Northern+Ireland) (last visited Mar. 26, 2002).

109. United Kingdom of Great Britain and Northern Ireland, Tobacco Production,

metric tons of tobacco leaf is imported into the United Kingdom for the production of cigarettes, and approximately 14,000 metric tons of tobacco leaf grown in the UK is exported.<sup>110</sup>

Advertisements on television and radio have been banned since 1964,<sup>111</sup> however, and the allowance of other advertising venues is governed by a voluntary agreement between the government and tobacco companies that was first instituted in 1971.<sup>112</sup> The agreement governs the amount of money tobacco companies can spend on advertisements, as well as limiting content and placement of the ads.<sup>113</sup> The agreement is revised as necessary every four years.<sup>114</sup> In addition to advertising limitations, the industry and government have also composed an agreement limiting the sponsorship of sports teams and stadiums.<sup>115</sup>

The United Kingdom, like many states, also requires that a health warning be placed on cartons and packs of cigarettes.<sup>116</sup> While the EU labeling directives that will be discussed later have been incorporated into the UK law, the government has increased the minimum space requirements for such warnings.<sup>117</sup> Where the EU Directives require only 4% of the surface for warnings, the United Kingdom requires that 6% of the carton or pack surface be dedicated to the label.<sup>118</sup> For tobacco products that are not cigarettes, 1.5% of the surface must have a warning as opposed to the 1% required by the EU Directives.<sup>119</sup>

Cigarette sales are prohibited to minors under British law, but for purposes of sale one must only be sixteen years of age.<sup>120</sup> The Children and Young Persons Protection From Tobacco Act of 1991 requires all cigarette vendors to post a sign warning of the prohibition against sale to

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Trade, and Industry, at <http://www.cdc.gov/tobacco/who/unitedki.htm> (last visited Mar. 26, 2002).

110. National Tobacco Information Online System (NATIONS): Tobacco Leaf Production: The United Kingdom of Great Britain and Northern Ireland, at <http://apps.nccd.cdc.gov/nations/economics/leafProd.asp?nationCode=826&nationName=United+Kingdom+of+Great+Britain+and+Northern+Ireland> (last visited Mar. 26, 2002).

111. TOBACCO CONTROL COUNTRY PROFILES 502(MA Corrao et al., eds. 2000), available at [http://tobacco.who.int/repository/tld77/Appendix\\_B.pdf](http://tobacco.who.int/repository/tld77/Appendix_B.pdf) (last visited Jan. 8, 2002).

112. United Kingdom of Great Britain and Northern Ireland, Tobacco Control Measures, available at <http://www.cdc.gov/tobacco/who/unitedki.htm> (last visited Mar. 26, 2002) [hereinafter UK Tobacco Control].

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. UK Tobacco Control, *supra* note 112.

118. *Id.*

119. *Id.*

120. *Id.*

minors at their place of business.<sup>121</sup> The signs are also required on all cigarette vending machines.<sup>122</sup>

#### D. *The United States*

The United States contributes 670,940 metric tons of tobacco leaf to the global marketplace, growing the leaf on 290,430 hectares<sup>123</sup> of land.<sup>124</sup> Despite this high level of US production, the federal government has required a warning label on cigarette packages since the mid-Sixties.<sup>125</sup> The Federal Cigarette Labeling and Advertising Act of 1965,<sup>126</sup> which first provided for the Surgeon General's warning, has changed over the years,<sup>127</sup> although the underlying policy remains the same: providing cigarette smokers with knowledge of the health risks posed by cigarette smoking.<sup>128</sup>

The most recent development in the field of US tobacco regulation has not come in the form of federal legislation, however, but a court settlement. The Master Tobacco Settlement Agreement (MSA), a result of the suit by the state of Mississippi against several tobacco companies, goes much farther than merely regulating package warnings; it regulates everything from indoor advertising to tobacco lobbying in Washington, D.C.<sup>129</sup>

The MSA is an agreement settling all claims made by the states against the tobacco companies alleging breaches of antitrust, consumer protection, common law negligence, statutory and common law in which

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121. The Children and Young Persons Protection from Tobacco Act of 1991 (C. 23), Sec. 4, at [http://www.bailii.org/cgi-bailii/disp.pl/uk/legis/num%5fact/caypfta\\_1991503/s4.html?query=%7e+tobacco](http://www.bailii.org/cgi-bailii/disp.pl/uk/legis/num%5fact/caypfta_1991503/s4.html?query=%7e+tobacco) (last visited Mar. 26, 2002).

122. *Id.*

123. Approximately 720,000 acres of land in the United States would thus be devoted to tobacco production.

124. National Tobacco Information Online System (NATIONS): Country Data for United States of America, at <http://apps.nccd.cdc.gov/nations/economics/landArea.asp?nationCode=840&nationName=United+States+of+America> (last visited Mar. 26, 2002).

125. 15 U.S.C.S. § 1331, et seq. (2001). The current version requiring package warnings provides for four different warnings: 1) SURGEON GENERAL'S WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, and May Complicate Pregnancy. 2) SURGEON GENERAL'S WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health. 3) SURGEON GENERAL'S WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, and Low Birth Weight. 4) SURGEON GENERAL'S WARNING: Cigarette Smoking Contains Carbon Monoxide. *Id.*

126. 15 U.S.C.S. § 1331 (2001).

127. For instance, the statute is now known as the Comprehensive Smoking Education Act. *Id.*

128. *Id.*

129. See Master Tobacco Settlement Agreement, available at <http://www.naag.org/tobac/cigmsa.rtf> (last visited Mar. 26, 2002) [hereinafter MSA].

they sought equitable claims for monetary, restitutionary, equitable and injunctive relief.<sup>130</sup> The five largest tobacco companies,<sup>131</sup> forty-six States Attorneys General,<sup>132</sup> and various other representatives<sup>133</sup> negotiated the agreement to end four years of litigation on the issues.<sup>134</sup> The states, in pursuing the litigation and the MSA, endeavored to promote public health as well as reduce the number of youth smokers.<sup>135</sup>

In furthering their primary interest in reducing smoking among minors, the primary focus of the MSA is a prohibition on youth targeting by manufacturers.<sup>136</sup> Within the MSA this means the end of cartoons in advertising and bans on sponsorship of concerts, athletic events, or any event where the attendees or participants are largely youths.<sup>137</sup> The MSA prohibits tobacco company sponsored cultural or sports events, stadiums named for tobacco companies, and teams sponsored by tobacco companies.<sup>138</sup> They are further prohibited from advertising outdoors, such as on billboards or on buildings, unless they are in adult-only facilities.<sup>139</sup>

Additionally, tobacco placements in movies and television are prohibited to the extent they are paid for by the tobacco companies, and merchandise bearing the name of tobacco products is prohibited from being distributed unless the products are in an adult-only location or are otherwise unavailable to the general public.<sup>140</sup> Gifts and free samples are also impermissible under the MSA where available to youths.<sup>141</sup> Because the settlement is primarily concerned with reducing youth access to tobacco products, the manufacturers agreed that they would be prohibited from opposing any legislation undertaken by the states on this

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130. Joy Johnson Wilson, *Summary of the Attorneys General Master Tobacco Settlement Agreement, Introduction*, available at <http://www.ncsl.org/statefed/tmsasumm.htm> (last visited Mar. 26, 2002).

131. Including Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Commonwealth Tobacco, and Liggett & Myers. *Id.*

132. *Id.*

133. The list of other participants includes state representatives, representatives of Puerto Rico, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, Guam, and the District of Columbia. *Id.*

134. *Id.*

135. MSA, *supra* note 129, at 1.

136. *Id.* at 15.

137. *Id.* at 15-16.

138. *Id.* at 18.

139. *Id.* at 19-20.

140. MSA, *supra* note 129, at 20-21.

141. *Id.* at 20.

matter.<sup>142</sup> Finally, tobacco companies are prohibited from entering into agreements limiting anti-tobacco advertising, and the manufacturers waive all prohibitions imposed under previous agreements.<sup>143</sup>

A significant undertaking by the MSA is its establishment of a national foundation supporting and studying programs that attempt to reduce youth smoking and prevent tobacco-related diseases.<sup>144</sup> The primary goal of the American Legacy Foundation (the Foundation) is to educate teenagers and youths on the problems of tobacco consumption through a wide variety of educational programs. The Foundation<sup>145</sup> finances thetruth.com, one of these educational programs required by the MSA.<sup>146</sup> Thetruth.com is responsible for anti-tobacco ads in print<sup>147</sup> and on television<sup>148</sup> that seek to inform teens about the perils of cigarette smoking.<sup>149</sup> According to their mission statement, thetruth.com is about helping people to make their own decisions about tobacco.<sup>150</sup>

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142. *Id.* 16 24-26.

143. *Id.* at 19

144. MSA, *supra* note 129, at 20-21.

145. The American Legacy Foundation was established in 1998 in the Master Settlement Agreement, and is funded by that agreement. The Foundation is aimed at reducing tobacco use, and its initiatives reach youth, women, and priority populations through grant awards, research initiatives, marketing campaigns, training programs, and collaboration with national and local partners. About Legacy: The Legacy Mission, at <http://www.americanlegacy.org/section.asp?location=content/about/mission.asp> (last visited Mar. 26, 2002). Legacy's four main goals include: reducing youth tobacco use, decreasing exposure to second-hand smoke, increasing successful quit rates and reducing disparities in access to prevention and cessation services and in exposure to secondhand smoke. Legacy funds both research and prevention programs like thetruth.com. About Legacy: Legacy Overview, at <http://www.americanlegacy.org/section.asp?Page=7> (last visited Mar. 26, 2002).

146. thetruth.com, *Funding*, at <http://www.thetruth.com/html/index.cfm?id=5> (last visited Mar. 26, 2002).

147. thetruth.com's most well-known print ad advised readers to make the world a better place by ripping cigarette ads out of their favorite magazines, referencing the deeds of Mahatma Ghandi and Mother Teresa. See thetruth.com, *Rip It Out*, at <http://www.thetruth.com/html/index.cfm?id=46> (last visited Mar. 26, 2002).

148. In one ad, several youths fashioned mini-billboards out of straws and paper that were placed in piles of dog poo "to spread knowledge about the tobacco industry." See thetruth.com, *Infect truth tv*, at <http://www.thetruth.com/html/index.cfm?id=198> (last visited Mar. 26, 2002).

149. See *id.*

150. thetruth.com, *Mission*, at <http://www.thetruth.com/html/index.cfm?id=4> (last visited Mar. 26, 2002). See also thetruth.com, *Who We Are*, at <http://www.thetruth.com/html/index.cfm?id=2> (last visited Mar. 26, 2002).

While the MSA, on its face, certainly restricts the availability of tobacco, the participating states and manufacturers nevertheless gave a nod to the concerns of growers. The negotiating parties recognized the concern that the measures undertaken would reduce tobacco consumption, as it was meant to, and thus threaten the profitability of tobacco farming for the growers.<sup>151</sup> The manufacturers thus affirmed their desire to work with local governments towards reducing the adverse economic effects on the growers.<sup>152</sup> This assurance by the manufacturers that they would continue to work towards the interests of the growers despite the multitude of restraints placed on them by the MSA shows the careful balance that governments are trying to strike between protecting the public health and protecting the economic viability of communities that participate in the tobacco industry. In this case, striking the balance meant that the governments had to limit the scope of its regulation to preventing youth consumption.

### III. The International Move: Regulating Tobacco in Light of a Global Market

The health epidemic posed by the consumption of tobacco is not limited to a particular country, however. The health risks are global, and the international community has come to realize that perhaps the best way to address the problem is through global consensus. However, addressing the tobacco issue from a world standpoint is going to increase the potential for dissent and lack of consensus. A national political body can weigh and measure the costs and benefits of particular regulation and tailor it to their particular needs. The scope of their analysis can generally be limited to that nation alone. An international body, however, must consider all of the nations and the wide variety of circumstances facing them in order to strike their regulatory balance. Reaching consensus in light of these varying circumstances, one would think, would be nearly impossible.

The recent movements of the World Health Organization, the European Union, and the United Nations have received a great deal of support despite the increased tension between health and finance. A study conducted in Argentina, India, Japan, Nigeria, and Russia between November 2000 and January 2001 shows that 87% of those surveyed approve of international efforts to create rules and regulations regarding tobacco.<sup>153</sup>

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151. MSA, *supra* note 129, at 1-2.

152. *Id.* at 1.

153. Citizens from Four Continents Condemn Tobacco, Call for Tougher Regulation, at <http://erg.vironics.net/news/default.asp?aID=482> (last visited Mar. 26, 2002)

Only 9% were opposed to the recent measures.<sup>154</sup> Of particular note in this study is that the five countries involved have a high consumption of tobacco products, yet still show overall support for the measures despite this use.<sup>155</sup> Although there was some disparity among non-smokers and smokers in the level of their support for the measures at issue, it is notable that even a majority of smokers expressed their support.<sup>156</sup>

Although the health risks posed by cigarettes alone stand as a sufficient basis for making tobacco regulation an international issue, it has not been the only reason that the European Union, World Health Organization, and United Nations have taken an interest in smoking. In the emerging global economy, the work that individual nations have done with respect to national tobacco regulation has in fact created barriers to global trade. Cigarette packaging requirements in one country may be less stringent than in another, making it impossible to effectively market the cigarettes in both areas. The difference in the definitions of what a “minor” is for purposes of sale also creates problems—if a child can’t get cigarettes in one country, but can purchase them at a store a few miles away across the border, the problem of youth smoking remains despite the regulation.

A particular problem is the differences among nations with respect to acceptable advertising of tobacco products. Periodicals, books, movies, television programs, and sporting events are now widely disseminated throughout the world. Problems arise when materials that are acceptable in one country make their way to other countries where they would otherwise be banned under local advertising law. With the advent and availability of satellite and digital cable systems, local television stations may in fact become broadcast throughout the world. If the originating state allowed cigarette commercials on the air, there is

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[hereinafter Citizens]. See also PUBLIC SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL TOBACCO: A SURVEY IN FIVE COUNTRIES, Environics Research Group Limited 6 (2001) [hereinafter Public Support].

154. *Id.* at 14. According to the study, the support can vary depending on the measures being addressed. Ninety percent of those surveyed approved the regulation and monitoring of the harmful chemicals found in tobacco. Public Support, *supra* note 153, at 16. Eighty-nine percent want tougher tobacco smuggling laws. *Id.* at 18. Eighty-eight believe in strong and visible written warnings on tobacco products. *Id.* at 12. Eighty-five percent agree with restrictions on advertising and promotion of tobacco products. *Id.* at 9. The World health Organization’s Executive Director of Noncommunicable Diseases says this support is evidence that consumers don’t believe in the tobacco companies’ arguments that tobacco products are harmless. Citizens, *supra* note 153.

155. Citizens, *supra* note 153.

156. Public Support, *supra* note 153, at 6. The following table shows the differences in support among smokers vs. nonsmokers of the tobacco initiatives. *Id.* at 8. Support for International Efforts to Create Rules and Regulations to Curb Tobacco Use\* less than 1%.

the potential that the ads will reach an audience that would otherwise never see them. Further, periodicals are no longer aimed at only one locale—you can get the New York Times in just about every country in the world. A tobacco ad placed in that newspaper will thus be seen in a country that banned print ads for cigarettes.

In effect, the differences in tobacco regulation throughout the world may be placing obstacles in the path to achieving the global marketplace. The work of the European Union, the World Health Organization, and the United Nations, then, is an effort to eliminate these barriers and help pave the way for a stronger international community. Because of the greater scope of consideration for these international bodies, the balancing of finance and health tends to take on a focus drastically different from the national regulations—they go beyond the tobacco production issue to agriculture and crop use generally. This means that the financial balance might lean away from continuing tobacco production, without showing a lack of concern for farmers. They can focus on finding alternative crops that will ensure the continued success of these farmers, especially where eliminating trade barriers and addressing the global health issue requires drastic measures.

#### *A. The European Union*

The countries comprising the European Union have particularly felt the effects of varying tobacco regulations.<sup>157</sup> The European Commission, which makes proposals to the Council and Parliament for Community Directives, has suggested that the trade barriers caused by the varying state of regulation is sufficient enough to warrant official action by the EU. The variation in regulation, according to the Commission, has led to differing treatment of “economic operators” in the member states that is damaging to the Internal Market.<sup>158</sup>

The establishment and functioning of the Internal Market is one of the key tasks of the European Union, but in achieving that goal it must ensure that the public health is highly protected.<sup>159</sup> In light of the half million deaths in the EU attributed to smoking,<sup>160</sup> the restrictive ban is

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157. According to its official website, the EU is comprised of fifteen member states: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. European Union Member States, at [http://europa.eu.int/abc/governments/index\\_en.html](http://europa.eu.int/abc/governments/index_en.html) (last visited Mar. 26, 2002).

158. Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products, COM(2001)283 final at 2 [hereinafter Proposed Directive on Advertising and Sponsorship].

159. *Id.* at 14.

160. Opinion of the Economic and Social Committee on the “Proposal for a Decision

viewed as entirely warranted by the Commission.<sup>161</sup>

While all television advertising for tobacco products has been banned in the EU since 1989,<sup>162</sup> there is great disparity among the member states with respect to other forms of advertising. Four of the fifteen members have total bans on tobacco advertisements; five are redrafting their legislation to impose more stringent prohibitions; and the remaining six member states have limited restrictions with a number of exceptions to the limitations.<sup>163</sup> The key problem posed by the divergence of advertising regulation among the states is the creation of trade barriers resulting from non-compliance with national provisions.<sup>164</sup> Strict bans on advertising might limit the availability of otherwise essential media in any given country.<sup>165</sup>

Noting the World Bank's data showing that bans on advertising are effective in reducing smoking only if they are comprehensive, cover all media, and are imposed on all brand names and logos, the Commission suggests that the harmonization of laws relating to tobacco advertising is essential for the public health and the circulation of media within the member states.<sup>166</sup> Because member states are moving towards the most stringent bans on tobacco advertising, the proposed directive prohibits all advertising in the press and other printed publications.<sup>167</sup> Only those materials that are not principally intended for Community use or are directed exclusively at professionals in the tobacco trade are permitted to contain tobacco advertisements.<sup>168</sup>

The proposal also seeks to ban all forms of radio advertising, as well as prohibiting all sponsorship of radio programs by companies whose principal activity relates to the sale or manufacture of tobacco.<sup>169</sup> Further, the sponsorship of events and activities in any member states that affect other member states is prohibited.<sup>170</sup> Finally, the free

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of the European Parliament and of the Council adopting a programme of Community action in the field of public health (2001-2006)," 2001 O.J. (C 116) 78. The Commission considers smoking and tobacco consumption public health issues, and one goal of the EU's public health policy is to link together networks, rules, and bodies dealing with public health issues. The harmonization of member states laws on the issue would clearly fall within this goal. *Id.*

161. Proposed Directive on Advertising and Sponsorship, *supra* note 158, at 14.

162. Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities, 1989 O.J. (L 298) Article 13.

163. Proposed Directive on Advertising and Sponsorship, *supra* note 158, at 3-6.

164. *Id.* at 8.

165. *Id.* at 8, 13.

166. *Id.* at 7.

167. *Id.* at 8, 17.

168. Proposed Directive on Advertising and Sponsorship, *supra* note 158, at 17.

169. *Id.*

170. *Id.*

distribution of tobacco products in connection with the sponsorship of these events is also barred under the proposal.<sup>171</sup>

The Commission is not unaware of the financial repercussions of these proposed regulations, however. Bans on tobacco advertisements could be potentially detrimental to the publications that would gain the advertising revenue, to the tobacco companies who lose business without advertisements, and the tobacco farmers who have fewer companies to sell to as a result of declining cigarette sales. Once again, governing bodies are faced with the competing interests of finance and health. In this case, the Commission notes that the tobacco companies themselves deny that there is any connection between advertising and cigarette consumption,<sup>172</sup> so the effects of a ban would likely be negligible. If the effects on cigarette consumption are negligible, then there should be no effects to pass on to the tobacco farmer, either.<sup>173</sup> The Commission suggests that the ban on tobacco advertising should have no effect on the publishing world, either, and instead will merely level the playing field for other businesses in terms of advertising costs.<sup>174</sup> The balance has thus been struck, even though it strongly favors the health concerns.

Another recent development in the European Union's work on tobacco regulation was the Directive adopted in June of 2001 dealing with the manufacture, presentation, and sale of tobacco products.<sup>175</sup> Again, the Council and the European Parliament are primarily focused on the impediments on the internal market caused by tobacco regulation disparities.<sup>176</sup> The focus, however, is shifted from reducing consumption caused by advertising to consumption caused by a lack of knowledge about the dangers. The lack of information caused by disparities in cigarette labeling requirements among the member states is seen as a barrier to trade impeding the Internal Market.<sup>177</sup>

The June directive imposes measures to increase consumers' awareness of the risks of tobacco consumption through warning labels, ingredient disclosure, and maximum levels of the carcinogenic ingredients.<sup>178</sup> General warnings<sup>179</sup> are mandatory on all cigarette packs,

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171. *Id.* at 17.

172. *Id.* at 21.

173. *See* Proposed Directive on Advertising and Sponsorship, *supra* note 158, at 21.

174. *Id.*

175. Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products, 2001 O.J. (L 194) 26 [hereinafter Directive 37 of 2001].

176. *Id.*

177. *Id.* at 27.

178. *Id.* at 26.

179. These warnings, which are to appear on packs regularly through a rotation process, include: "Smoking kills/Smoking can kill." "Smoking seriously harms you and

and must be placed on the most visible part of the packaging.<sup>180</sup> They are to cover no less than 30% of the packaging.<sup>181</sup>

The directive also regulates tar, nicotine, and carbon monoxide levels.<sup>182</sup> They are not to exceed 10 mg per cigarette, 1 mg per cigarette, and 10 mg per cigarette respectively.<sup>183</sup> These levels are to be measured by the member states in accordance with the methods prescribed by the Council, and the results are to be printed on one side of the cigarette packs.<sup>184</sup> Ten percent of the package is to be devoted to the yield results of tar, nicotine, and carbon monoxide.<sup>185</sup>

Finally, cigarette companies are required to provide a yearly report to the member states listing all ingredients and their quantities in the company's products.<sup>186</sup> Member states are to make the information available to the general public to further inform consumers.<sup>187</sup> The Commission will also receive this information from the member states, with a view towards amending the regulations as necessary and reporting the need for changes to the Council as required by the directive.<sup>188</sup>

These changes to the laws of members states through Union directives certainly provides for a uniformity that will better ensure free trade. However, the scope of applicability remains limited to the European Union states, and the problems of health and economics on a global level are not addressed by the regulations. For a non-member state, trade with member states may still be restricted on account of disparities among tobacco regulations. It is in this context that the work of the World Health Organization and the United Nations becomes key to the success of a global marketplace.

### *B. The World Health Organization's Framework Convention on*

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others around you." "Smokers die younger." "Smoking clogs the arteries and causes heart attacks and strokes." "Smoking causes fatal lung cancer." "Smoking when pregnant harms your baby." "Protect children: don't make them breathe your smoke." "Your doctor or your pharmacist can help you stop smoking." "Smoking is highly addictive, don't start." "Stopping smoking reduces the risk of fatal heart attack and lung diseases." "Smoking can cause a slow and painful death." "Get help to stop smoking: (telephone/postal address/consult your doctor/pharmacist)." "Smoking may reduce the blood flow and causes impotence." "Smoking causes ageing of the skin." "Smoking can damage the sperm and decreases fertility." "Smoke contains benzene, nitrosamines, formaldehyde and hydrogen cyanide." Directive 37 of 2001, *supra* note 174, at 30, 33.

180. *Id.* at 30.

181. *Id.*

182. *Id.* at 29.

183. *Id.*

184. Directive 37 of 2001, *supra* note 174, at 29.

185. *Id.*

186. *Id.* at 30-31.

187. *Id.* at 31.

188. *Id.*

### *Tobacco Control*

The World Health Organization (WHO) was first established in 1948 as a specialized agency of the United Nations, and was designed to promote and protect the health of all peoples.<sup>189</sup> The objective of the WHO is to achieve the highest possible level of health for all people,<sup>190</sup> and in that endeavor the body is the directing and coordinating authority for international health work.<sup>191</sup> The World Health Assembly (WHA), which is the governing body of the WHO, guides the work of the WHO legislatively in connection with these goals and obligations.<sup>192</sup>

Recognizing the "silent epidemic" caused by tobacco consumption, the WHA in 1999 unanimously backed a proposal establishing a Framework Convention on Tobacco Control (FCTC).<sup>193</sup> The FCTC is intended to set up multilateral negotiations regarding rules and regulations governing tobacco and tobacco products, in an effort to reduce consumption.<sup>194</sup> Since the introduction of the FCTC, the WHA has instituted a Working Group and an Intergovernmental Negotiating Body (INB) to begin drafting what will ultimately become the FCTC.<sup>195</sup> Member states of the WHO participate in both the Working Group and the INB to draft the proposals, and are also expected to aid in the work by establishing structures at the state-level to provide resources and determine the implications of any proposals.<sup>196</sup>

The Working Group and the INB have met several times since their establishment in 1999, and at the first meeting of the INB the basic structure of the FCTC had already been outlined.<sup>197</sup> The FCTC is intended to provide a set of obligations for member states that will

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189. CONST. OF THE WORLD HEALTH ORG. 1946 PREAMBLE, *available at* [http://whqlibdoc.who.int/hist/official\\_records/constitution.pdf](http://whqlibdoc.who.int/hist/official_records/constitution.pdf) (last visited Jan. 9, 2002).

190. CONST. OF THE WORLD HEALTH ORG. 1946 ch.1, art. 1, *available at* [http://whqlibdoc.who.int/hist/official\\_records/constitution.pdf](http://whqlibdoc.who.int/hist/official_records/constitution.pdf) (last visited Jan. 9, 2002).

191. CONST. OF THE WORLD HEALTH ORG. 1946 ch. 2, art. 2, *available at* [http://whqlibdoc.who.int/hist/official\\_records/constitution.pdf](http://whqlibdoc.who.int/hist/official_records/constitution.pdf) (last visited Jan. 9, 2002).

192. Framework Convention on Tobacco Control, *available at* <http://tobacco.who.int/page.cfm?pid=40> (last visited Mar. 26, 2002).

193. *Id.*

194. *Id.*

195. *Towards a WHO framework convention on tobacco control*, WHA 52.18, 52nd World Health Assembly, 9th Meeting, WHO Doc. A52/7(1999), *available at* <http://tobacco.who.int/page.cfm?tld=134> (last visited Mar. 26, 2002).

196. *Id.*

197. *See Proposed draft elements for a WHO framework convention on tobacco control: provisional texts with comments of the working group*, Intergovernmental Negotiating Body on the WHO Framework Convention on Tobacco Control, 1st Sess., Provisional Agenda item 8, WHO Doc. A/FCTC/INB1/2 (2000), *available at* <http://www.who.int/gb/fctc/inb1/PDFinb1/e1inb2.pdf> (last visited Mar. 26, 2002) [hereafter FCTC Proposed Draft].

constitute the minimum standards for tobacco regulations.<sup>198</sup> Like most of the regulations already present at the state level, the FCTC provides minimum requirements for youth smoking,<sup>199</sup> product labeling,<sup>200</sup> and tobacco advertising.<sup>201</sup>

Since the objective of the World Health Organization is the promotion of public health, the FCTC introduces tobacco prevention and treatment of dependence into the regulatory mixture.<sup>202</sup> Member states, under the proposed draft of the FCTC, would be required to establish programs for the treatment of tobacco dependence and use as practical.<sup>203</sup> This includes educational campaigns and the introduction of dependence treatment into reproductive health programs.<sup>204</sup> Treatment is to become part of a broad strategy of the WHO, making cessation a key component of primary health care.<sup>205</sup>

Despite being primarily concerned with improving the health of citizens all over the world, the participants were also uniquely aware of the precarious situation they were placed in by attempting to strictly regulate tobacco. Many of the participants stressed the need to aid tobacco farmers and the "developing" governments that have become dependent on the revenue earned from tobacco farming.<sup>206</sup> There were suggestions that countries of different types should be held accountable in different ways, to allow the specific circumstances of each to be adequately addressed within that country.<sup>207</sup>

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198. FCTC Proposed Draft, *supra* note 197.

199. *Id.* at 10. One of the general duties of all member states will be to prohibit tobacco sales to minors, though the age of minority is as of yet undefined by the FCTC. *Id.*

200. *Id.* at 17. The FCTC imposes four main regulations on the packaging and labeling of cigarettes. First, cigarettes will not be sold unless in packages of 20 or more. Second, the use of the terms "low tar," "light," "ultra light," "mild," and other similar terms will be prohibited, on the grounds that they convey the message that those products would be less harmful than others. Third, false or misleading labeling will be prohibited because they are likely to create erroneous impressions about the safety and effects of cigarette smoking. Finally, tobacco products are required to carry health warnings, although there remains debate as to whether mere text is enough—some states have suggested that the warnings should be accompanied by pictures showing the effects of smoking. *Id.*

201. *Id.* at 13. Tobacco advertising is strictly proscribed where it is aimed at children by the FCTC. Any advertising that is undertaken by the companies must be disclosed to the member states, with the amount of the expenditure to be made public knowledge. The FCTC has not been completely finalized on this topic, however, with the Conference of the Parties directed to prepare a Protocol for acceptable advertising procedures by the proposal. *Id.*

202. *Id.* at 14.

203. FCTC Proposed Draft, *supra* note 197, at 14.

204. *Id.*

205. *Id.*

206. *Id.* at 2.

207. *Id.*

Although some concessions should be made regarding the differing characteristics of all involved states, there is danger in allowing too much flexibility for individual governments. For one, an important purpose of these regulations is to harmonize the laws of individual states and provide some uniformity in regulation to promote tobacco control. While the WHO is primarily concerned with health, participants themselves pointed out (and attempted to regulate) some matters that had decidedly more to do with trade than with health concerns. For instance, the draft proposal requires participating parties to take appropriate measures to take steps to prevent the smuggling of tobacco products.<sup>208</sup> According to the INB and the Working Group, the elimination of tobacco smuggling is essential to the control of tobacco.<sup>209</sup>

The allowance for differences makes sense only when limited to the unique positions of countries that rely on tobacco production as their primary source of money. The commentary on the convention noted that financial support would be essential to countries whose economy depended upon tobacco, which meant that support from the World Bank for the convention would be essential to the participation of these countries.<sup>210</sup> Without that support, these countries should be exempted from the provisions of the FCTC.<sup>211</sup> Support, both financial and political, would also be necessary to help identify alternative livelihoods and crops for both these tobacco-dependant countries and tobacco farmers generally.<sup>212</sup>

The difference between allowances for dependant countries and the "specific circumstances" of all countries comes down to nothing more than the effectiveness of the convention. The aid to dependant countries moving away from tobacco production will lead to their ultimate participation in the FCTC. As they gain support to establish the programs outlined in the draft proposal, the ultimate goals of that convention move forward. However, where individual states are allowed to compose their own rules regulating tobacco that are not necessarily consistent with the framework, the future success of the convention is diminished, potentially causing trade barriers that the FCTC is seeking to eliminate.

As the work on the Framework Convention on Tobacco Control continues into the next few years before it becomes a part of international law, the key to its success will be which side of the coin wins the specificity debate. Quite a lot of the commentary on the draft proposal

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208. FCTC Proposed Draft, *supra* note 197, at 15.

209. *Id.*

210. *Id.* at 3.

211. *Id.*

212. *Id.* at 24.

focused on whether or not the FCTC should be specific or general.<sup>213</sup> Ultimately, this seems to be just another way to skew the question of whether the framework will become a guideline for countries or a formal set of regulations participating countries must follow. Should the framework become a mere guideline, allowing for differing interpretations and uses by individual countries, then we have the lack of uniformity described above that is not likely to completely achieve the goals of the FCTC. If the final document is to act as a formal set of regulations for all nations, allowing for aid to tobacco-dependant countries, then perhaps the convention stands a greater chance of achieving its goals.

### C. *The United Nations*

The Economic and Social Council of the United Nations in 1999 recommended the establishment of an Ad Hoc Interagency Task Force on Tobacco Control (the Task Force) to provide a voice for the UN in the tobacco control debates.<sup>214</sup> The Task Force was established under the leadership of the World Health Organization to aid and participate in the Framework Convention on Tobacco Control as a representative body of the United Nations.<sup>215</sup> Originally, the Task Force had two main functions: first, to assess the economic and social impact of the tobacco and health initiatives of the World Health Organization for the United Nations; second, to aid in the adoption of effective strategies to address any negative effects of those health and tobacco initiatives.<sup>216</sup>

Like the WHO and the EU governing bodies prior to recent work, the United Nations had no unified policy on tobacco control issues. In addition to its functions as an information-gathering body, the Task Force was intended to provide a mechanism through which the UN could develop a unified voice on the tobacco issue.<sup>217</sup> A wide variety of agencies both within and without the United Nations are participating in the Task Force, allowing the UN to use their comprehensive expertise to examine the issues affecting the success of international tobacco control measures.<sup>218</sup>

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213. FCTC Proposed Draft, *supra* note 197, at 24.

214. United Nations Ad Hoc Interagency Task Force on Tobacco Control, Report of the First Session, at 1, *available at* <http://tobacco.who.int/page.cfm?pid=50> (last visited Mar. 26, 2002) [hereinafter First Report].

215. *Id.*

216. *Id.*

217. *Id.* at 4.

218. *Id.* at 4-8. Participating bodies and their involvement include: UN Department of Economic and Social Affairs (involved in women and youth tobacco issues), UN Office of Human Resources and Management and the Medical Service (participating from a medical standpoint), Food and Agriculture Organization (working on crop

This expertise has allowed the Task Force to address tobacco issues from the beginning that the World Health Organization and the European Union have only recently addressed. From the First Session of the Task Force, participants recognized several themes at the heart of the tobacco debate, including: agricultural diversification issues and crop alternatives for farmers, ensuring information available to the Task Force was also made available at the country level, country-specific analytic work on the economics of tobacco control (particularly for tobacco-dependent countries), employment effects of tobacco control in developing countries with a particular focus on employment diversification, the effects of Environmental Tobacco Smoke (ETS), establishing a regulatory framework for tobacco control, addressing the risk-taking behavior associated with tobacco consumption, the implications of global trade liberalization for tobacco control, and the higher risk borne by women smokers.<sup>219</sup> The combined information-gathering efforts of these agencies allow the United Nations to be an active participant in the FCTC and other international tobacco control programs.

The active participation of these agencies has not been limited to the information-gathering tasks originally assigned to them. Since the first meeting of the Task Force, several participating agencies have come together to extend the reach of the Task Force's themes into working programs. For instance, the Food and Agriculture Organization, World Health Organization, World Bank, the United States Department of Agriculture, and the International Development Research Centre of Canada have established a research program to study the effects of government tobacco policies on the tobacco market.<sup>220</sup> The project will

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diversification issues for developing countries), International Civil Aviation Organization (recommending bans on smoking on all international flights), International Development Research Center (economic and social factors affecting tobacco production and consumption), International Labour Organization (job diversification and health issues for tobacco workers), International Monetary Fund (coordinating higher tobacco excise taxes), Joint United Nations Program on HIV/AIDS (risk taking behavior), United Nations Educational, Scientific and Cultural Organization (preventive education against tobacco use), the World Bank (funding tobacco control programs), United Nations Children's Fund (health and development rights of children), United Nations Development Programme and United Nations Development Group (developing country teams to implement the programs), United Nations Environment Program (environmental impact issues of tobacco production and use as well as crop diversification), United Nations Office for Drug Control and Crime Prevention (treaty implementation), United Nations Population Fund (tobacco and reproductive health issues), United States Department of Agriculture (economic and social factors affecting tobacco production and consumption), and the World Intellectual Property Organization (trademark implications). *Id.* at 4-8.

219. First Report, *supra* note 213, at 11-12.

220. United Nations Ad Hoc Interagency Task Force on Tobacco Control, *Report of the Second Session*, at 4, available at <http://tobacco.who.int/page.cfm?pid=50> (last

focus on how policy changes influence production, employment, household income and food security.<sup>221</sup>

Primarily, the work of the Task Force and the United Nations is limited to research and information gathering. Although the UN is looking towards the eventual formation of a tobacco control policy, regulatory work is currently being left to the World Health Organization in light of the health issues driving tobacco control. While one might be surprised to find that the United Nations as a body is not the primary composer of what may eventually become international law, the division of labor in this circumstance is actually quite logical. The World Health Organization as the health expert is forming policy that will best address the health issues, while the United Nations and other international agencies with expertise and trade are examining the potential effects of this health policy. Each group is able to effectively use their expertise because of their limited duties, ensuring that all sides of the tobacco issue are well examined. The hope is, of course, that this combined and divided expertise will result in well-thought out and successful tobacco control measures.

#### IV. Where Do We Go From Here?

The problem with most regulation of tobacco products is that the focus tends to be on new smokers. The efforts of the World Health Organization with respect to the establishment of tobacco dependence programs begins to put its finger on this problem by addressing the consumption of current smokers. While certainly bans on advertising and youth marketing generally are essential to preventing increases in new smokers, television and radio ads are not the only place that teenagers and other young people are exposed to cigarettes. Parents, teachers, and friends are a source of information for youths, and when they see their parents smoking despite the risks they assume it must be okay. Local and international bodies need to address this source through educational and dependence programs to reduce the tobacco consumption of current smokers in addition to placing limitations on tobacco companies. If any government can make it easier for smokers to quit, since the difficulty in quitting is a major concern for smokers, then a great deal of the future problem is alleviated as well.

The World Health Organization also identifies a second problem in the field of tobacco regulation—the balance between economics and health. From the beginning, we noted the dependence of tobacco farmers and small governments on the highly lucrative production of tobacco

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visited Mar. 26, 2002).

221. *Id.*

leaf. Through much of the state-level regulation, little attention has been directed at finding a way to reduce this secondary type of tobacco dependence. Alternate crops and even alternate businesses need to be identified to ensure that these individuals have no need to continue to produce tobacco leaf. The health and finance balancing needs to be shifted away from identifying the means to continue tobacco production specifically to more general financial concerns. Striking a balance between health and finance within the tobacco debate does not mean governments need to allow the continuation of tobacco production. It merely means that if such is disallowed farmers need to have an alternate means of income comparable to the income created by tobacco production, making tobacco a less desirable crop.

In a way, the tobacco issue can be viewed as one of supply and demand. Government bodies addressing tobacco regulation need to attack it from both points. On the one hand, regulation should seek to reduce the demand for tobacco through education of citizens about the effects of consumption and treatment for dependence. On the other, governments need also to find ways to reduce the supply of tobacco products by identifying and providing alternate products to garner the revenues essential to the continued success of the government and the individuals involved. As the regulation of tobacco moves forward, these issues will be the key to reducing tobacco consumption and thus tobacco deaths.

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