

FÉDÉRATION EUROPÉENNE DES TRANSFORMATEURS DE TABAC

FETRATAB (GEIE)

30/08/2000

**Submission of FETRATAB
To the WHO
On a
FRAMEWORK CONVENTION ON TOBACCO CONTROL**

INTRODUCTION: FETRATAB - STRUCTURE AND PURPOSE

FETRATAB was created in 1994 and groups a large majority of tobacco processors in Europe, including the national associations of processors of the four most important european tobacco producing countries :

- In Italy : Associazione Professionale di Trasformatori di Tabacchi Italiani (A.P.T.I.)
- In Greece : Federation of Industries of Transformation of Greek Tobacco
- In Spain : Asociacion Nacional Española de Empresas de Transformacion de Tabaco
- In France : Union des Coopératives Agricoles de Producteurs de Tabac (UCAPT) and SEITA (Altadis Group).

The purpose of FETRATAB is to uphold and defend the professional interests and activities of the European tobacco processing and trading companies within the framework of the Common Organization for the Market (C.O.M.) and to work for the survival of the tobacco production, processing and trade in Europe.

The President of FETRATAB is M. A. MATOSSIAN.

COMMENTS FROM FETRATAB ON THE FCTC

This memorandum covers two separate aspects of the proposed Framework Convention on tobacco control : the general legal, institutional, regulatory and ethical aspects and those relating to the substance of the measures envisaged by the WHO.

I. GENERAL ASPECTS

FETRATAB accepts that tobacco consumption is associated with a risk for the health of the smoker, calling both for wide distribution of information and appropriate regulation. The WHO is qualified to make recommendations on this and to encourage new measures at the national level within the framework of reasonable regulation which takes into account all the interests and all the political, economic, social and cultural concerns associated with tobacco at national level.

In proposing the study, negotiations and implementation of a Framework Convention on the anti-smoking campaign, the WHO intends to establish a set of rules on activities associated with a particular product, tobacco, which the Signatories to the Convention would undertake to apply after implementation in their national legislation.

There are doubts whether the proposed convention and related protocols exceed the authority and legal powers of WHO. It appears that WHO is intending to assume supranational powers towards countries that have not accepted the Convention in full, even after negotiation. By doing so, it would add an additional layer of "supranational" regulation, in conflict with the political autonomy and fundamental interests of the Members States, which would see their internal jurisdiction and legal powers reduced or even overruled, despite the fact that these States have already appropriate and necessary means of applying their own policies for regulation of activities associated with tobacco.

The adoption of a Framework Convention accompanied by specific measures in protocols could lead also to other conflicts, particularly with other international agreements, as indicated and illustrated in the rest of this document.

Finally, the procedure announced and the motivations explained to some degree by the WHO call into question both the relations between an International Organisation and its Members States and those between societies and the individuals of which they consist. Reasonable tobacco consumption must remain an individual informed choice, without prejudice to public health concerns. Any joint action even concerning public health, must leave scope for individual decisions and take into account other considerations, both individual and national or international, of employment, environment and resources.

II. EXAMINATION OF PROPOSED MEASURES

Given the experience obtained and the efforts already undertaken by the tobacco industry in Europe, it is appropriate to make a distinction between measures which are often already established and applied, where common ground with the WHO exists and can be developed or improved, and those where differences in views are apparent, which should be dealt with in an open, transparent and non-confrontational climate in order to find appropriate solutions.

II. A. MEASURES ALREADY APPLIED

- **Preventing smoking among young people**: Societies around the world are unanimous in wanting to prevent young people smoking by making it hard for them to obtain tobacco products, by specific campaigns or by banning their sale to minors.

- **Information to all**, both smokers and non-smokers, on the risks associated with the use of tobacco. In Europe, the awareness about those risks among smokers and non-smokers is already extremely high. However, once full information is given to consumers, their decision to smoke or not to smoke should be respected by all, including regulatory bodies.
- **Exposure to tobacco smoke**: As with any freedom, that of the smoker must be limited by that of others. Whatever the view on possible health effects of passive smoking is, the interest of non-smokers (especially children), who want to live in a tobacco-free environment, must be respected as must be the right of those who want to smoke. Practical solutions can be found providing satisfactory air quality and co-existence for both non-smokers and smokers.
In those instances, where legal bans and restrictions do not apply, we encourage practical solutions to minimize unwanted tobacco smoke exposure by means of proper ventilation, the establishment of smoking and non-smoking sections in restaurants, pubs, cafés and in the working premises. There are a number of ways of doing this that can be explored, including campaigns of information, workplace layout or other programmes that already exist in part.

II. B. OTHER MEASURES

- **Taxation**: The structure and level of **duty** in general and on tobacco in particular, which represents an important source of revenue for the countries, are a matter for sovereign States. In fixing the rates, they take into account the needs of the countries, their ability to administer the duties and obtain the revenue, the regional environment and local factors and objectives in general. Governments are aware that excessive tax levels can be counter-productive, leading to unwanted and uncontrollable consequences. A general policy of excessive increases in tobacco duty could give a great boost to smuggling, as the present situation in Europe shows.
- **Smuggling**: FETRATAB draws attention to the risk that a measure such as increasing the price by increasing duty, which appears simple and practical, may actually have the opposite effect from the one intended. Strong supranational regulation may also be a source of conflict with Members States and with existing provisions at international level. Contraband cigarettes affect the legal market and damage the reputation and the image of legal brands.
- **Advertising** of tobacco products is heavily regulated and restricted in some countries or even already entirely banned in a number of European countries. Sales promotion of these products is generally subject to

similarly severe legal restrictions. In some countries, voluntary codes complement existing legal restrictions with particular emphasis on the prevention of marketing activities to minors.

Banning all advertising or excessively restricting certain types of communication with adult consumers is not a reasonable solution. Experience in countries with total bans shows that such bans have little if any impact on the level of tobacco consumption. The sale of tobacco products is legal and as such the industry should be allowed to advertise and to be able to compete and communicate.

- **Packaging, labelling, ingredients:** New binding international rules related to the use of trademarks, packaging design or descriptive terms may interfere with rules already established by other international treaties such as WTO (Trips agreement and TBT agreement).
- **Elimination of grants for tobacco farming:** In recommending this measure, the WHO is ignoring the economic, social and political costs faced by a number of developed and developing countries and tens of millions of people. Here again, there is great potential for conflict, such as with the European Union, where the Commission has clearly stated its intention to maintain subsidies for tobacco cultivation in Europe under the Common Agricultural Policy, as confirmed in the 2000 agenda, and with the WTO on the basis of the future negotiations on agriculture.

Final remarks:

FETRATAB repeat its willingness to address not only the areas where consensus is possible on the aims, but is also willing to contribute in areas where such a consensus is not obvious at this stage of the process. However, there will remain a conflict with the long-term objective of the Convention to eliminate smoking in societies around the world. This objective would deny the right of informed adult individuals to decide for themselves how they want to live and which risk they are willing to assume.

The fact that the sector most impacted by the proposed convention is raising its concerns and trying to defend its interests is a legitimate effort, which should be considered normal in a democratic process. Provided there is a serious consultation possible in an open transparent process, there should be no room for allegations of undermining the work of WHO. FETRATAB hopes that the promoters of the Convention are truly interested in a real dialogue. This is essential, because many of the issues to be addressed in the protocols are of highly technical nature, where the expertise of the sector is required to find workable solutions.