

# SMOKESCREEN FOR SMUGGLING

Tobacco Industry attempts to derail the  
Illicit Trade Protocol



# ABOUT US



Corporate Accountability International (formerly Infact) is a membership organization that protects people by waging and winning campaigns challenging irresponsible and dangerous corporate actions around the world. For more than 30 years, Corporate Accountability International and its members have secured major victories that protect people and save lives. Corporate Accountability International is an NGO in official relations with the World Health Organization (WHO) and a founding member of the Network for Accountability of Tobacco Transnationals (NATT).

## NATT

The Network for Accountability of Tobacco Transnationals (NATT) consists of more than 100 consumer, human rights, environmental, faith based and corporate accountability NGOs in 50 countries. NATT was formed in the spring of 1999 to ensure a strong, unified voice for a Framework Convention on Tobacco Control (FCTC) that will:

- Institute effective controls over tobacco transnationals that are spreading tobacco addiction, disease and death; and
- Contribute to the establishment of broad global standards that hold corporations accountable for policies, practices and products that endanger human health and the environment.

Corporate Accountability International is a member of the Framework Convention Alliance (FCA), which is made up of more than 350 organizations from more than 100 countries working on the development, ratification and implementation of the FCTC. See FCA resources at [www.fctc.org](http://www.fctc.org).

*Corporate Accountability International is a 501(c)(3) non-profit organization. Contributions are tax-deductible as provided by law.*

# Executive Summary

In 2005, the first global public health and corporate accountability treaty took effect to turn back the tide of the world's largest preventable cause of death – tobacco. Today, 168 countries have ratified the global tobacco treaty, known formally as the World Health Organization Framework Convention on Tobacco Control (FCTC).

In 2008, Parties unanimously adopted strong guidelines for Article 5.3 of the FCTC that safeguard against the tobacco industry's fundamental conflict of interest with public health. These guidelines are key to the success of the treaty's implementation and enforcement. Today, Big Tobacco remains bent on brushing these guidelines aside and undermining the world community's efforts to protect public health. The tobacco industry's latest efforts focus on weakening the global effort to curb the illicit trade of tobacco.

## Illicit Trade Protocol and the FCTC

In March 2010, Parties to the FCTC embark on the fourth and final round of drafting and negotiating the first protocol to the treaty, the Illicit Trade Protocol. The protocol builds on Article 15 of the FCTC and recognizes that the elimination of all forms of illicit trade in tobacco products is essential to effective tobacco control. Transnational tobacco corporations are escalating their efforts to undermine the protocol. With the aid of powerful trade associations and close allies in top-level government positions, Philip Morris International (PMI), British American Tobacco (BAT), and Japan Tobacco International (JTI) are coordinating a formidable challenge to the world's first public health treaty.

The final round of negotiations will determine whether governments seeking to protect global public health over the profits of the tobacco industry manage to overcome the efforts of the tobacco transnationals.

Tobacco transnational corporations have benefited from – and even been complicit in – illicit trade in tobacco. Illicit trade opens new markets for brands like PMI's Marlboro, BAT's Dunhill, and JTI's Mild Seven, and addicts new customers with lower-priced tobacco products that have evaded taxes. Despite efforts by the industry to position itself as a partner in eliminating illicit trade, case studies of BAT internal documents show that the corporation had a role in tobacco smuggling in both China and former Soviet states.<sup>1,2</sup>

Given the tobacco industry's historic complicity in illicit trade and the ongoing danger of tobacco industry interference across all provisions of the FCTC, this protocol must be consistent with FCTC Article 5.3 and its implementation guidelines. According to the first principle of these guidelines, “[t]here is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.”<sup>3</sup> To uphold Parties' obligations in the FCTC, this protocol should prioritize health over trade, protect health policy from tobacco industry interference, and hold tobacco transnationals accountable for the harms they cause.

The tobacco industry's latest tactics to undermine the FCTC and the Illicit Trade Protocol are: developing close ties with governments, securing representation on government delegations to the negotiations, and using duty-free trade associations to lobby against key provisions.

<sup>1</sup> J. Collin, E. Legresley, R. MacKenzie, S. Lawrence, & K. Lee, “Complicity in contraband: British American Tobacco and cigarette smuggling in Asia,” *Tobacco Control*, 13 (2004).

<sup>2</sup> Campaign for Tobacco-Free Kids, Publications, “Illicit Tobacco Trade: Illegal Profit and Public Peril,” Campaign for Tobacco-Free Kids, October 2008, [http://tobaccofreecenter.org/files/pdfs/en/ILL\\_overview\\_en.pdf](http://tobaccofreecenter.org/files/pdfs/en/ILL_overview_en.pdf) (accessed 22 February 2010).

<sup>3</sup> World Health Organization Framework Convention on Tobacco Control, *Guidelines for Implementation: Article 5.3; Article 8; Article 11; Article 13*, 2009, p.5, [http://whqlibdoc.who.int/publications/2009/9789241598224\\_eng.pdf](http://whqlibdoc.who.int/publications/2009/9789241598224_eng.pdf) (accessed 4 March 2010).

This paper examines the presence of the three largest tobacco transnationals and their trade associations at the third round of negotiations on the Illicit Trade Protocol (INB3) in 2009. It also examines Big Tobacco's attempts to maintain a favorable business environment and secure continued profits, while threatening the development of the protocol and the integrity of the treaty. The final round of protocol negotiations will determine whether governments seeking to protect global public health over the profits of the tobacco industry manage to overcome the efforts of the tobacco transnationals.

## Parties Safeguard Negotiations

The third round of negotiations toward an Illicit Trade Protocol to the WHO FCTC (INB3), in Geneva in July 2009, was the first worldwide meeting of ratifying countries since the third Conference of the Parties in Durban, South Africa in November 2008.

Big money is at stake in these negotiations. According to a recent report, illicit cigarette trade amounts to 11.6% of the global market and costs governments \$40.5 billion annually in lost revenue.<sup>4</sup> A global system to track and trace tobacco products is a serious enterprise, with much to be gained or lost in its design and control. The tobacco industry has been complicit in tobacco smuggling, yet continues to partner with governments to combat illicit trade, despite Article 5.3 guidelines. Big Tobacco also continues to threaten the development of the Illicit Trade Protocol.



During the negotiations on the Illicit Trade Protocol, PMI continues to play a particularly aggressive role in order to get governments to ignore their obligations under the FCTC and make exceptions to these new rules. In the week leading into the INB3, PMI gave the Colombian government \$200 million to “address issues of mutual interest.” Yet according to the Article 5.3 guidelines, there is a fundamental conflict of interest between the tobacco industry and public health – which threatens to compromise Colombia’s commitment to the FCTC and derail its implementation of the treaty.

Tobacco transnational executives and lobbyists also turned out in force for the third round of negotiations in Geneva, apparently aiming to convince governments to ignore their obligations under the FCTC and make exceptions to the Article 5.3 guidelines.

At the Intercontinental Hotel up the road from the negotiations, PMI hosted closed-door meetings with government delegates to demonstrate a system it claims can track and trace tobacco products.<sup>5</sup> A PMI representative boasted that the corporation met 8,000 government employees in the preceding year – and 2,800 government agencies overall – to promote its system for tracking and tracing cigarette products.<sup>6</sup>

In the public gallery overlooking the main floor of the convention hall, 23 of the 28 people willing to identify themselves to a Corporate Accountability International representative were from the tobacco industry – including twelve from BAT, seven from JTI, one from PMI, one from Imperial Tobacco, one from the Tobacco Institute of South Africa, and one with the European Travel Retail Council, a trade association with close ties to the tobacco industry.<sup>7</sup> “Public” badges grant admission to the public gallery to watch the plenary

<sup>4</sup> L. Joossens, D. Merriman, H. Ross, M. Raw, “How eliminating the global illicit cigarette trade would increase tax revenue and save lives,” International Union Against Tuberculosis and Lung Disease, 2009, [http://tobaccofreecenter.org/files/pdfs/en/ILL\\_global\\_cig\\_trade\\_full\\_en.pdf](http://tobaccofreecenter.org/files/pdfs/en/ILL_global_cig_trade_full_en.pdf) (accessed 23 February 2010).

<sup>5</sup> Personal observation by Corporate Accountability International representative, Intercontinental Hotel, Geneva, Switzerland, 29-30 June 2009.

<sup>6</sup> Personal communication by PMI Vice President of Fiscal Affairs and International Trade Mr. Huub Savelkoul and a technical adviser with Corporate Accountability International staff, 30 June 2009.

<sup>7</sup> Personal communication between tobacco industry and travel retail trade association representatives and Corporate Accountability International staff, 30 June 2009.

## In the public gallery overlooking the main floor of the convention hall, 23 of the 28 people willing to identify themselves to a Corporate Accountability International representative were from the tobacco industry

to keep Big Tobacco lobbyists out of the FCTC process – a move made possible through the application of Article 5.3 and its guidelines.<sup>8</sup>

According to the FCTC Rules of Procedure, sessions of the Conference of the Parties and its subsidiary bodies “shall be held in public, unless the Conference of the Parties decides that they shall be restricted. This rule shall be implemented in the conformity with Article 5.3 of the Convention.”<sup>9</sup> Based on this rule, the Parties represented at INB3 decided to allow NGO observers to remain, but exclude the general public as a means to eliminate commercial and other vested interests of the tobacco industry.

PMI spokesperson Greg Prager condemned the decision to kick the tobacco industry out of the negotiations: “It sets a dangerous precedent for the United Nations in what should be a democratic and transparent process.”<sup>10</sup> However, this unprecedented decision by the FCTC Parties was democratic, and the transparency of the process remains intact through NGO participation and press access. By taking action to safeguard the protocol negotiations against the tobacco industry’s fundamental and irreconcilable conflict of interest, the FCTC Parties have indeed set a precedent – one that increases transparency, fosters democracy and ultimately saves millions of lives.

### Tobacco Industry on Government Delegations

There also is an inherent conflict of interest with tobacco industry representatives serving on government delegations for treaty-related meetings. For an industry known for its complicit role in smuggling, having tobacco industry representatives on delegations severely impairs progress on effective tactics for reducing illicit trade.

Treaty-related meetings should be free from such conflicts of interest; however, Japan, Vietnam and China all had representatives of the tobacco industry on their delegations during the third round of negotiations on the Illicit Trade Protocol. Japan Tobacco is the third largest tobacco transnational with a 50% stake by the Japanese government. Two individuals on Japan’s delegation are involved in managing the tobacco business. Vietnam Tobacco Association had two members on Vietnam’s delegation. China’s delegation included three representatives of the state-owned tobacco company (now in a joint venture with PMI).<sup>11</sup>

This was the first time Parties took action to keep Big Tobacco lobbyists out of the FCTC process – a move made possible through the application of Article 5.3 and its guidelines.

<sup>8</sup> Frank Jordans, “Cigarette companies kicked out of UN meeting,” *Newsday*, 2 July 2009, <http://www.newsday.com/business/nationworld/sns-ap-eu-switzerland-tobacco-smuggling,0,6559834.story> (accessed 2 July 2009).

<sup>9</sup> World Health Organization, *Rules of Procedure of the Framework Convention on Tobacco Control Conference of the Parties*, 2006, p. 8, [http://www.who.int/fctc/cop/rules\\_procedure/en/index.html](http://www.who.int/fctc/cop/rules_procedure/en/index.html), (accessed 25 September 2009).

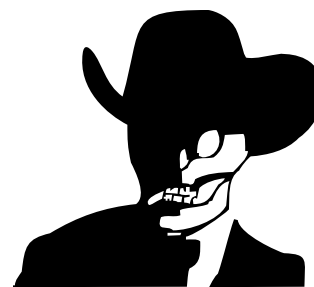
<sup>10</sup> Frank Jordans, “Cigarette companies kicked out of UN meeting,” *Newsday*, 2 July 2009, <http://www.newsday.com/business/nationworld/sns-ap-eu-switzerland-tobacco-smuggling,0,6559834.story> (accessed 2 July 2009).

<sup>11</sup> World Health Organization Framework Convention on Tobacco Control, *List of Participants*, Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products, Third Session, Geneva, Switzerland, 28 June – 5 July 2009, pp. 4, 8, 19, <http://apps.who.int/gb/fctc/PDF/it3/FCTC-COP-INB-IT-3-DIV1Rev2.pdf> (accessed 27 July 2009).

## Trade Associations Push Big Tobacco Agenda

The tobacco industry frames core provisions of the FCTC – including packaging and labeling requirements and tax increases – as primers for illicit trade. They spread propaganda that taxation causes smuggling and generic packaging promotes illicit trade, while hiding behind trade associations and front groups to dispute the connection between duty-free sales and tobacco smuggling.

The managing director of Philip Morris Philippines Manufacturing Inc. (PMPMI) says, “[i]f government is sensible, it won’t touch anything on taxes.”<sup>12</sup> BAT’s managing director for Malaysia concurs, claiming that, “Illicit trade will increase in line with higher taxes. Singapore has managed to keep illicit trade stable at 18% as it has not increased cigarette taxes in three years.”<sup>13</sup>



“[t]obacco products that are destined for duty-free sale, and are therefore produced, stored and transported free of the usual duties or taxes, are often diverted into illicit trade.”

are therefore produced, stored and transported free of the usual duties or taxes, are often diverted into illicit trade.”<sup>15</sup>

Parties have demonstrated that a ban on sales of duty-free tobacco is a key tactic for reducing illicit trade. During negotiations at INB3, the European Community stated that “for every 10 container loads of cigarettes marked for duty-free, nine would be diverted into illicit trade.”<sup>16</sup> In 1999, the European Community banned duty-free sales to individuals traveling in its borders and contraband related to duty-free declined.<sup>17</sup> Bulgaria banned duty-free sales at land borders with non-EU countries in 2008 and expanded the ban to cover sea and river borders with non-EU countries in January 2010.<sup>18</sup> A few weeks later, in February 2010, Romania’s Finance Minister issued an order banning the sale of alcoholic drinks and tobacco products in duty-free shops.<sup>19</sup>

Duty-free trade associations like the European Travel Retail Confederation, the International Association of Duty-free Stores and the Tax Free World Association have all been active in their lobbying efforts to undermine the effectiveness of the FCTC and Illicit Trade Protocol, arguing that a duty-free ban is irrelevant, ineffective and unfair.

<sup>12</sup> Chay Florentino Hofilena, “Cigarette Smuggling in RP more blatant now,” *News Break*, 27 May 2009, [http://newsbreak.com.ph/index.php?option=com\\_content&task=view&id=6190&Itemid=88889066](http://newsbreak.com.ph/index.php?option=com_content&task=view&id=6190&Itemid=88889066) (accessed 2 June 2009).

<sup>13</sup> Adeline Paul Raj, “BAT hopes to maintain RM4b revenue,” *Business Times (Malaysia)*, 21 April 2009.

<sup>14</sup> Evan Blecher, “A mountain or a molehill: is the illicit trade in cigarettes undermining tobacco control policy in South Africa?” 2007, [http://fctc.org/dmdocuments/INB3\\_report\\_illicit\\_trade\\_in\\_South\\_Africa.pdf](http://fctc.org/dmdocuments/INB3_report_illicit_trade_in_South_Africa.pdf) (accessed 17 February 2010).

<sup>15</sup> Expert review on legal ramifications of a possible ban on duty-free sales of tobacco products. FCTC/COP/INB-IT/3/INF.DOC./3 Available at: [http://apps.who.int/gb/fctc/PDF/it3/FCTC\\_COP\\_INB\\_IT3\\_ID3-en.pdf](http://apps.who.int/gb/fctc/PDF/it3/FCTC_COP_INB_IT3_ID3-en.pdf). Accessed 17 February 2010.

<sup>16</sup> Framework Convention Alliance Bulletin, Issue 95, 5 July 2009, <http://fctc.org/dmdocuments/Bulletin%20Issue%2095%20Sunday.pdf> (accessed 22 February 2010).

<sup>17</sup> Framework Convention Alliance Bulletin, Issue 95, 5 July 2009, <http://fctc.org/dmdocuments/Bulletin%20Issue%2095%20Sunday.pdf> (accessed 22 February 2010).

<sup>18</sup> “Bulgaria limits non-EU duty-free tobacco allowance,” *Novinite.com*, 22 January 2010, [http://www.novinite.com/view\\_news.php?id=112255](http://www.novinite.com/view_news.php?id=112255) (accessed 17 February 2010).

<sup>19</sup> “Romania to ban sale of alcoholic drinks, tobacco in duty-free shops within 45 days,” *MediaFAX*, 17 February 2010, <http://www.mediafax.ro/english/romania-to-ban-sale-of-alcoholic-drinks-tobacco-in-duty-free-shops-within-45-days-5526602/> (accessed 17 February 2010).

The Article 5.3 guidelines protect against interference not only by the tobacco industry, but also by organizations and individuals that work to further its interests.<sup>20</sup> Transnational tobacco corporations oppose bans on duty-free sales and have used their connections with duty-free trade associations as a front to weaken the FCTC protocol and the findings that duty-free sales of tobacco lead to increased smuggling.

## Big Tobacco & the European Travel Retail Confederation (ETRC)

The European Travel Retail Confederation (ETRC) proactively represents the interests of the tax-free, duty-free and travel retail industry, including transnational tobacco corporations. The ETRC was established as the International Duty-free Confederation in 1988, and from 2000-2004 was known as the International Travel Retail Confederation (ITRC).<sup>21</sup>

...for every 10 container loads of cigarettes marked for duty-free, nine would be diverted into illicit trade.

Representatives from the UK Travel Retail Forum and Tax Free World Association (TFWA) serve on the ETRC Supervisory Board. British American Tobacco is a member of both trade groups; Philip Morris Duty-free and Japan Tobacco International are members of TFWA.<sup>22</sup>

TFWA has 20 members with tobacco interests, including BAT, JT International, and Philip Morris Travel Retail Singapore. TFWA has said that it is “committed to promoting the interests of all of its members in matters relating to the development of the industry.”<sup>23</sup> TFWA was a strong opponent of the decision of the FCTC Parties to invoke Article 5.3 and restrict the participation of the tobacco industry and its trade associations. TFWA stated: “the duty-free and travel retail tobacco industry was thus excluded from a debate which may determine its very future.”<sup>24</sup>

Keith Spinks, a former representative for Rothmans Tobacco, is the current Secretary General of the ETRC. Spinks has been a visible figure throughout the FCTC negotiations.<sup>25</sup> In 2002 Spinks said, “we must now enhance our efforts with governments to maintain the support of those countries opposed to the proposal to restrict or ban duty-free tobacco sales. We must also increase political activity with those countries that have not considered the issue fully but in many instances, have merely allowed their health ministries and tobacco activists to make policy decisions without considering the implications and consequences.”<sup>26</sup> Philip Morris Duty Free was a member of ITRC in 2002.

British American Tobacco is a member of both trade groups; Philip Morris Duty Free and Japan Tobacco International are members of TFWA.

<sup>20</sup> World Health Organization Framework Convention on Tobacco Control, *Guidelines for Implementation: Article 5.3; Article 8; Article 11; Article 13*, 2009, p.5, [http://whqlibdoc.who.int/publications/2009/9789241598224\\_eng.pdf](http://whqlibdoc.who.int/publications/2009/9789241598224_eng.pdf) (accessed 4 March 2010).

<sup>21</sup> About Us, “History: 1992 and all that,” European Travel Retail Council, <http://www.etr.org/about-us/history.php> (accessed 12 February 2010).

<sup>22</sup> About Us, “ETRC Supervisory Board,” European Travel Retail Council, <http://www.etr.org/about-us/supervisory-board.php> (accessed 11 February 2010).

<sup>23</sup> “TFWA fires back at FCA criticism as duty-free threat rises,” *The Moodie Report*, 9 July 2009, [http://www.moodiereport.com/document.php?c\\_id=1185&doc\\_id=21203&over18=1](http://www.moodiereport.com/document.php?c_id=1185&doc_id=21203&over18=1) (accessed 12 February 2010).

<sup>24</sup> Tax Free World Association, “TFWA Clarifies Position on Tobacco Negotiations,” Press Release, 7 July 2009, [http://www.tfwa.com/duty\\_free/fileadmin/user\\_upload/090707.pdf](http://www.tfwa.com/duty_free/fileadmin/user_upload/090707.pdf) (accessed 12 February 2010).

<sup>25</sup> Corporate Accountability International, Publications, “Treaty Trespassers,” Corporate Accountability International, February 2003, [http://www.stopcorporateabuse.org/sites/default/files/Treaty\\_Trespassers.pdf](http://www.stopcorporateabuse.org/sites/default/files/Treaty_Trespassers.pdf) (accessed 12 February 2010).

<sup>26</sup> *ibid*

In 2009, following INB3, ETRC released its analysis of the meeting and concluded that “intense lobbying is necessary in advance of INB4 in order to build a critical mass of supportive countries that will oppose a ban.”<sup>27</sup> According to media reports, Spinks “emphasized that the EU and major countries have now taken a formal position that there is no place for duty-free in the Illicit Trade Protocol.”<sup>28</sup>

## Big Tobacco & International Association of Airport Duty-free Stores

Like other trade associations, the International Association of Airport Duty Free Stores (IAADFS) had a number of representatives in attendance throughout the negotiations of the FCTC. IAADFS has 32 members representing tobacco interests, including British American Tobacco, Imperial Tobacco Asia, Imperial Tobacco Canada, JT International Mexico, and Philip Morris Duty Free. Philip Morris Duty Free is also a key sponsor of the trade group’s 2010 Duty Free Show of the Americas.<sup>29</sup>

In October 2002, Keith Spinks of ETRC and Jon Kent of IAADFS presented a workshop together on the future of duty-free tobacco and were described as “the key drivers in the lobbying process.” The workshop was held the week prior to and the week of the fifth round of negotiations on the FCTC.<sup>30</sup> In 2005, the year the treaty entered into force as international law, IAADFS once again joined ETRC to present another joint workshop, this time focused on how the industry must prepare to respond, especially to action restricting duty-free sales. IAADFS was recognized at this event as playing a “major role during the industry campaign to influence the original negotiations on the WHO’s FCTC.”

The duty-free industry continues to facilitate a concerted strategy with Big Tobacco to challenge the success of the WHO FCTC and, more recently, undermine the negotiations around the Illicit Trade Protocol.

Jon Kent of IAADFS was present during INB3 for the Illicit Trade Protocol in Geneva in 2009.<sup>31</sup> According to one report, IAADFS has a focused lobbying strategy to influence the negotiations and is “visiting Brussels and Geneva in the coming weeks to meet country representatives and delegates and have been contacting members and duty-free operators globally to help raise awareness and fight the unreasonable proposals.”

IAADFS Executive Director Michael Payne said, “We have been working closely with Airports Council International, European Travel Retail Council and other organizations for many months to help ensure that the duty-free industry is not unfairly singled out and unduly restricted by potential WHO actions. The board is committed to doing whatever we can to address this potential threat to the industry.”<sup>32</sup>

---

<sup>27</sup> European Travel Retail Council, “WHO FCTC negotiations on a protocol on the illicit trade in tobacco products: Report on the third round of inter-governmental negotiations (INB3) and planning for the next round, INB4, in March 2010,” 31 July 2009.

<sup>28</sup> “ETRC says the future is ours to lose,” *TREND-News.com*, 17 November 2009.

<sup>29</sup> Homepage, “IAADFS thanks the 2010 show sponsors for their generous support,” International Association of Airport Duty Free Stores, <http://www.iaadfs.org/i4a/pages/index.cfm?pageid=1>, (accessed 17 February 2010).

<sup>30</sup> Corporate Accountability International, Publications, “Treaty Trespassers,” Corporate Accountability International, February 2003, [http://www.stopcorporateabuse.org/sites/default/files/Treaty\\_Trespassers.pdf](http://www.stopcorporateabuse.org/sites/default/files/Treaty_Trespassers.pdf) (accessed 12 February 2010).

<sup>31</sup> “Tough week in WHO talks,” *TREND-News.com*, 30 June 2009, <http://www.trend-news.com/default.asp?newsid=6500> (accessed 12 February 2010).

<sup>32</sup> “IAADFS reports ‘excellent progress’ on Orlando show,” *DFNOnline.com*, 16 October 2009, <http://www.dfnonline.com/article/IAADFS-reports-excellent-progress-on-Orlando-show-1859168.html> (accessed 12 February 2010).



## Recommendations: Protecting the Protocol

In the decision to launch the negotiations on an Illicit Trade Protocol, the Conference of the Parties reaffirmed, “the importance of Article 5.3 of the WHO FCTC, which requires the parties to act to protect their public health policies from commercial and other vested interests of the tobacco industry in accordance with national law.”<sup>33</sup>

The Revised Chairperson’s text for a protocol on illicit trade in tobacco products (FCTC /COP/INB-IT/3/5 Rev.1) incorporates the Parties’ concern about tobacco industry interference in the Preamble and Article 4 (General obligations). Echoing the FCTC, the draft Preamble, “[e]mphasiz[es] the need to be alert to any efforts by the tobacco industry to undermine or subvert strategies to combat illicit trade in tobacco products and the need to be informed of activities of the tobacco industry that have a negative impact on strategies to combat illicit trade in tobacco products.” Article 4 reiterates the obligations established by Article 5 of the FCTC, including Article 5.3.<sup>34</sup>

To overcome tobacco industry interference, the final text of the protocol must:

- *Reinforce the Preamble to the FCTC, giving priority to the right to protect public health;*
- *Require tobacco corporations to assume responsibility for their supply chains;*
- *Provide strong and dissuasive sanctions for corporations that are complicit in illicit tobacco trade, including financial disincentives, criminal and civil liability; and*
- *Prevent government collaboration with the tobacco industry, such as accepting corporate donations to customs authorities or entering into unenforceable agreements.*

---

<sup>33</sup> World Health Organization Framework Convention on Tobacco Control, *Decisions*, Conference of the Parties to the WHO Framework Convention on Tobacco Control, Second Session, Bangkok, Thailand, 20 September 2007, Document FCTC/COP/2/DIV/9, p. 30, [http://apps.who.int/gb/fctc/PDF/cop2/FCTC\\_COP2\\_DIV9-en.pdf](http://apps.who.int/gb/fctc/PDF/cop2/FCTC_COP2_DIV9-en.pdf) (accessed 2 March 2010).

<sup>34</sup> World Health Organization Framework Convention on Tobacco Control, *Revised chairperson’s text for a protocol on illicit trade in tobacco profits, Inter-governmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products Third session*, Geneva, Switzerland, 28 June – 5 July 2009, Document FCTC/COP/INB-IT/3/5 Rev.1, 5 July 2009, [http://apps.who.int/gb/fctc/PDF/it3/FCTC\\_COP\\_INB-IT3\\_5Rev1-en.pdf](http://apps.who.int/gb/fctc/PDF/it3/FCTC_COP_INB-IT3_5Rev1-en.pdf) (accessed 23 February 2010).



Corporate Accountability International • 10 Milk Street, Suite 610 • Boston, MA 02108

[www.StopCorporateAbuse.org](http://www.StopCorporateAbuse.org)