Initial Comments
On the Proposed Framework Convention on Tobacco Control
Submitted by
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Reemtsma

For almost a century, the name Reemtsma has been inseparably linked with the world of tobacco. Founded as a small quality cigarette factory in Erfurt, Germany, Reemtsma has become a successful and international manufacturer of proprietary goods, best known for its international brands WEST, DAVIDOFF and R1. To date, Reemtsma has major production facilities in Germany, Central and Eastern Europe. Our wide range of brands enables us to meet the different wishes of consumers in countries in which we operate. The company sold 137.2 billion cigarettes in 1999 and has about 12,000 employees.

It has been standing policy of our company to recognise and respond to concerns of governments and public health authorities regarding the use of tobacco products. To make it clear: We are not selling smoking but offer high quality brands to consumers, and we state expressively that these products entail health risks. For more than 500 years tobacco has had its supporters and its opponents. Tobacco specific issues have been and continue to be subject to substantial regulation in almost all markets we operate in. Therefore, we strongly believe that a permanent dialogue and co-operation on our part with governments and other stakeholders with a vested interest is necessary. We have adopted unambiguous corporate positions on issues of mutual concern to the company, national governments and public health authorities such as youth protection, advertising and marketing, consumer information, public smoking and smuggling of tobacco products. We take this opportunity to reaffirm our commitment to play a constructive role in efforts to address and resolve these concerns with sovereign governments of WHO member states.
WHO

Reemtsma recognizes that WHO as the World’s specialized Health Agency is charged with working towards the best health achievable for all. We support the legitimate functions of WHO which include providing information, counsel and assistance in the field of health; the eradication of diseases; assisting governments in strengthening health services and promoting technical co-operation. We acknowledge the achievements of the World Health Organization in its worldwide fight against transboundary diseases such as smallpox, yaws, poliomyelitis as well as measles and its accomplishments in the reduction of mortality, subsequent increase in life expectancy, delivery of essential drugs and introduction of environmental sanitation measures.

We understand that the WHO addresses tobacco use given the risks attached, provided this is done within the framework of a sound decision making and public health policy formation. The efforts of the WHO in this regard should be directed first and foremost at the consumer rather than the industry - notwithstanding our responsibilities as a legal manufacturer of a legal product.

Initial Comments on the Proposed Framework Convention on Tobacco Control

Reemtsma welcomes the opportunity to share initial comments on the proposed Framework Convention on Tobacco Control, hereafter referred to as FCTC, which is to be adopted by the WHO member states by May 2003.

The WHO calls for an international agreement on the grounds that tobacco use is “a problem that cuts across national boundaries, cultures, societies and socio-economic strata”. Generally regarded, international agreements address problems, shared by many countries, which cannot effectively be dealt with by individual governments. Issues such as climate protection or the elimination of trade barriers are examples in this regard. However, this cannot be said for tobacco products. Numerous of the proposed convention objectives such as bans or restrictions on advertising, sponsoring and promotion, pack design, labelling, public smoking as well as taxation are already effectively dealt with by many WHO member states. The reasons as to why these issues have been and should continue to be addressed on a national level are evident:

- Firstly, Member States have the necessary legal powers to regulate tobacco specific issues such as production, advertising, sales and consumption of tobacco products and make use of them – not least in accordance with the principle of subsidiarity, for which there is increasing recognition. Any attempts to regulate these issues on an international level may infringe on WHO member states sovereignty. This applies in particular to the area of taxation. We believe that the level and structure of tobacco taxes should be decided by sovereign governments only according to their fiscal requirements. We are also convinced that efforts to harmonize tobacco taxes on an international level, as called for in the FCTC
discussion drafts, are misguided. Harmonization will not lead to global price harmonisation because the costs of production and exchange rates differ considerably from market to market. Last not least, attempts to regulate issues such as advertising on an international level can also restrict constitutionally protected basic rights such as the freedom of commercial speech.

- Secondly, experience shows that effective health policies are best achieved on member state level, because they are custom tailored to specific national health requirements and consumer habits. New binding international rules related to the use of trademarks, packaging design or descriptive terms may interfere with rules established by international treaties such as WTO (Trips Agreement) and with existing and proven national regulation.

Against this background we believe that the proposed convention is not necessary.

Nevertheless, we see scope for action on issues addressed in the Convention drafts such as youth protection, consumer information, public smoking and smuggling where the WHO and Reemtsma have a common interest to develop joint solutions by means of a constructive and unprejudiced co-operation.

**Issues of Mutual Concern**

**Youth Smoking Prevention**

We share the concerns of parents as well as other stakeholders such as national governments, education authorities and the WHO about youth smoking and adopt an unambiguous position on this issue: minors should not smoke and should not be encouraged to do so in any manner. In her Opening Remarks for the 11th Global Conference on Tobacco or Health in Chicago on August 6 of this year, Director-General Brundtland demanded evidence from tobacco companies to prove that they take actions to discourage minors from smoking. Reemtsma’s response to youth smoking is clear cut and transparent: we have worked together and will continue to do so with governments, retail associations and other national stakeholders on this issue and support youth smoking prevention programs in Germany, the Czech Republic, Hungary, Poland, Russia and the Ukraine, just to name a few. These programs focus on education, promotion of public awareness and youth access prevention which we believe to be the key elements of any efforts designed to discourage young people from starting to smoke. We would welcome a co-operation with the WHO on this issue as well.

**Consumer Information**

It is our policy to provide consumers with essential information on our products. This applies to health risks and specific product characteristics. We make it clear that our products entail health risks which adults should know about in order to make an informed choice. We place health warnings on all our products and comply with legislation in all markets. The health warnings on our products are conspicuously placed, clearly defined in size and unambiguous in their messages to the consumer. In particular, we defer to the judgement of government
health authorities as to what health messages are best suited to serve public interest. Where
governments request additional information about product ingredients we are willing to
respond as long as trade secrets and intellectual property rights are protected and a fair,
professional and serious public debate with interested groups, including the WHO, is
guaranteed.

Public Smoking

We acknowledge that the exposure to tobacco smoke can be unpleasant, especially for non-
smokers. In those instances where legal bans or restrictions do not apply we encourage
practical solutions to minimize unwanted tobacco smoke by means of proper ventilation, the
establishment of smoking and non-smoking sections in restaurants, pubs and cafes and
separate work areas for smokers and non-smokers, while still providing adult smokers with
pleasant and comfortable places to smoke. Experience shows that conflicts between smokers
and non-smokers can be avoided by means of courtesy and mutual respect.

Smuggling

We welcome and support efforts on a national and international level to combat smuggling, as
contraband cigarettes affect our market shares and damage the reputation and profitability of
our brands – especially where low quality counterfeit products are involved. However,
improving international co-operation in the fight against contraband is not in the jurisdiction
of the WHO but a matter for law enforcement authorities. Reemtsma is committed to do its
part to stem the flow of tobacco contraband and co-operates with customs authorities such as
the German Customs Criminal Office and other institutions on a national and supranational
level.

To sum it up, in trying to achieve reasonable solutions to complex problems such as youth
smoking, consumer information, public smoking and smuggling of tobacco products we are
convinced that there is common ground between the WHO, Reemtsma and governments of
countries in which we operate. We pay close attention to public concerns and recognise
society’s demand for practical measures designed to ensure that minors do not smoke, adults
who choose to smoke are informed of the risks and non-smokers do not have to suffer from
unwanted exposure to tobacco smoke. Without limiting our rightly expected contribution, we
feel as a responsible company to have the obligation to show our limits and underline the need
for a fair burden sharing between all parties involved: parents, representatives from
educational and scientific institutions and governments should work jointly with the industry
on issues raised in the FCTC. This cannot be achieved by the WHO on its own.
Concluding Remarks

We appreciate this opportunity to present initial comments on the proposed Convention and hope that this is only a first step in direction of a more thorough and constructive engagement between WHO, Reemtsma and other stakeholders with a vested interest, for which we see room.

Hamburg, August 24, 2000