

World Health Organization Framework Convention on Tobacco Control

- 3.1 It is proposed that Australia ratify the *WHO Framework Convention on Tobacco Control* (FCTC of the Convention) which was established to address the growing global ‘tobacco epidemic’. As identified in Article 3 of the Convention, its objective is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. Further, the Convention will provide a framework for tobacco control measures to be implemented by Parties at the national, regional and international level in order to reduce the prevalence of tobacco use and exposure to tobacco smoke.

Background

- 3.2 The WHO estimates that tobacco use kills 4.9 million people each year,¹ and that current levels of tobacco use will kill 10 million people annually by 2030.²
- 3.3 The National Interest Analysis (NIA) states that in Australia, the current smoking prevalence rate is approximately 20 per cent or

1 World Health Organization, ‘WHO Framework Convention on Tobacco Control now signed by 100 countries’, <http://www.who.int/mediacentre/releases/2004/pr21/en/print.html>, viewed on 31/03/04

2 National Interest Analysis (NIA), para. 6.

3.6 million people aged 14 and over.³ Furthermore, tobacco use continues to be identified as the single greatest behavioural cause of death and disease. The Cancer Council Australia and the Heart Foundation advised the Committee that tobacco kills over 19,000 Australians each year, and in 1998-99 cost the community over \$21 billion.⁴

- 3.4 The Committee is aware of the importance of the Convention as the first international public health treaty.⁵ Mr Klaus Klaucke from the Department of Health and Ageing advised the Committee that 'it is the first time that the WHO has exercised its powers to develop a global public health convention'.⁶

Obligations

- 3.5 The NIA states that Australia will acquire a range of obligations under the Convention which aim to support measures that reduce the supply and demand for tobacco and promote the exchange between Parties of tobacco related research and surveillance information.⁷ The key obligations of the Convention, as identified in the NIA, include:
- provisions to establish or reinforce and finance a national coordinating mechanism for tobacco control, and the protection of public health policies from commercial and other vested interests of the tobacco industry (Article 5)
 - price and tax measures to reduce the demand for tobacco (Article 6)
 - non-price measures to reduce the demand for tobacco and to coordinate their implementation through international bodies (Article 7)

3 NIA, para. 6.

4 The Cancer Council Australia and Heart Foundation, *Submission*, p. 3. The submission is supported and endorsed by the following organisations: Action on Smoking and Health; Australian Consumers Association; Clinical Oncological Society of Australia; Quit SA; Quit Victoria; The Australian Council on Smoking and Health; The Pharmacy Guild of Australia; Thoracic Society of Australia and New Zealand; Public Health Association of Australia; VicHealth Centre for Tobacco Control; Western Australian Clinical Oncology Group.

5 The Cancer Council Australia and Heart Foundation, *Submission*, p. 2.

6 Mr Klaus Klaucke, *Transcript of Evidence*, 10 May 2004, p. 12.

7 NIA, para. 8.

- measures providing protection from exposure to tobacco smoke (Article 8)
- regulation of the contents and emissions of tobacco products (Article 9)
- regulation of tobacco product disclosures (Article 10)
- measures concerning the packaging and labelling of tobacco products (Article 11)
- a comprehensive ban on tobacco advertising, promotion and sponsorship (Article 13)
- measures concerning the illicit trade in tobacco products (Article 15)
- measures prohibiting the sales of tobacco products to minors (Article 16)
- implementation of and cooperation in relation to research, surveillance and exchange of information (Article 20).⁸

3.6 In addition, Parties to the Convention would become a member of the Convention's Conference of Parties. Pursuant to Article 23 the Conference will regularly review the implementation of the Convention and make decisions to promote its effective implementation.⁹

3.7 Article 2 encourages Parties to implement measures beyond those required by the Convention and any future protocols to it. The NIA states that such measures would be subject to normal domestic decision making processes.¹⁰

3.8 The Committee understands that the obligations Australia would adopt under the Convention are consistent with existing policy frameworks, international agreements and Commonwealth, State and Territory legislation.¹¹

8 NIA, paras 9-19.

9 NIA, para. 20.

10 NIA, para. 20.

11 NIA, para. 8 and Mr Klaus Klaucke, *Transcript of Evidence*, 10 May 2004, p. 12.

Benefits and importance of the Convention

- 3.9 The Cancer Council Australia and the Heart Foundation strongly support ratification of the FCTC:

ratification of the FCTC is clearly in Australia's national interest, both in terms of its potential effect on public health within Australia, and on the leadership role Australia has played, and can continue to play in tobacco control, internationally, and in our region in particular.¹²

- 3.10 The Cancer Council Australia and the Heart Foundation recognise the benefits of ratification for Australia to be:

- strong international cooperation and regulatory measures in other countries, are required to reinforce Australia's tobacco control measures, as Australia's capacity to achieve its domestic tobacco objectives can be compromised by weaker measures overseas
- to provide the Commonwealth with additional powers to legislate and regulate tobacco and the tobacco industry
- to provide a valuable resource for the sharing of information between parties
- to enable Australia to become a member of the Conference of Parties and take part in its deliberations.¹³

Effects of tobacco advertising bans

- 3.11 The Committee was interested to gain a greater understanding in the relationship between advertising restrictions and tobacco consumption. The Department of Health and Ageing advised the Committee that in 1999, the World Bank reported:

that since 1972, most high-income countries have introduced stronger restrictions on tobacco advertising across more media and on various forms of sponsorship. A recent study of 22 high-income countries based on data from 1970 - 1992 concluded that comprehensive bans on cigarette advertising and promotion can reduce smoking, but more limited partial bans have little or no effect. This has been reflected in our

12 The Cancer Council Australia and Heart Foundation, *Submission*, p. 2.

13 The Cancer Council Australia and Heart Foundation, *Submission*, p. 4, and NIA - Consultations Attachment 1, p. 2.

experience in Australia where there has been a continuous drop in prevalence since introduction of the ban in 1992, reflecting the combined effect of various tobacco control measures, including the advertising bans.¹⁴

- 3.12 The Committee was interested in the Department's following observation that 'the consensus of public health experts is that comprehensive bans on tobacco advertising, as part of a comprehensive tobacco control program, reduce the consumption of cigarettes' amongst youth.¹⁵

Australia's leadership role

- 3.13 Australia is recognised as a world leader in its domestic efforts to reduce smoking and protect non-smokers from exposure to tobacco smoke, however, tobacco use continues to be a public health problem.¹⁶ Nevertheless tobacco use is a more significant problem in other parts of the world. The Committee noted that the prevalence of smoking is particularly high in the Asia-Pacific region, as identified in The Cancer Council Australia and Heart Foundation submission.¹⁷

- 3.14 The Cancer Council Australia and Heart Foundation state that as a Party to the Convention, Australia would be able to share substantial regulatory, educational, scientific, legal and research experience and expertise that would be of benefit to other States.¹⁸ Mr Klaucke advised that:

Any requests for assistance from developing countries on the issue will continue to be prioritised within the existing foreign aid structure, as they are now.¹⁹

- 3.15 The Committee is aware Australia played a constructive and leading role in the negotiation of the FCTC. The Cancer Council Australia and Heart Foundation submission considers:

The nature of its [Australia's] participation throughout the negotiations indicated strong support for the FCTC, and a desire to see the development of a robust treaty that reflected

14 Department of Health and Ageing, *Submission*, p. 1.

15 Department of Health and Ageing, *Submission*, p. 1.

16 NIA, para. 6. See also The Cancer Council Australia and Heart Foundation, *Submission*, p. 3.

17 The Cancer Council Australia and Heart Foundation, *Submission*, p. 3.

18 The Cancer Council Australia and Heart Foundation, *Submission*, p. 5.

19 Mr Klaus Klaucke, *Transcript of Evidence*, 10 May 2004, p. 12.

the international evidence and experience regarding effective tobacco control measures.²⁰

- 3.16 The Committee is aware that Australia's ratification of the Convention has the potential to 'encourage the uptake of the kinds of best practice policies that we have within Australia' and provide other countries with the impetus to ratify.²¹

Consultation

- 3.17 The Committee understands that throughout the negotiations for the Convention, the Australian Government consulted extensively with State and Territory Governments, peak health NGOs, and tobacco industry and retail groups.²²
- 3.18 State and Territory Government and peak health NGOs expressed support for the Convention during the consultation process.
- 3.19 During the negotiation process, the Department of Health and Ageing received four submissions from the tobacco industry.²³ The NIA states that industry supported the notion of the Convention but expressed reservations about some articles.²⁴ For example, British American Tobacco Australia and Imperial Tobacco Australia Limited considered some of the Convention's proposals:

go beyond what is reasonable in the context of attempting to regulate tobacco in areas such as – implementing excessive price and tax measures that reduce the demand of tobacco, the justification and high level of regulation regarding exposure to second-hand smoke, ingredient disclosures on tobacco products, size and placement of health warnings on cigarette packages, a manufacturer's right to communicate information about their brand to adult smokers, their trademark rights and inappropriate liability and compensation proposals.²⁵

20 The Cancer Council Australia and Heart Foundation, *Submission*, p. 2.

21 Mr Klaus Klaucke, *Transcript of Evidence*, 10 May 2004, p. 17.

22 NIA – Consultations Attachment 1 and The Cancer Council Australia and Heart Foundation, *Submission*, pp. 2-3.

23 NIA – Consultations Attachment 1, p. 2.

24 NIA, para. 24.

25 NIA – Consultations Attachment 1, p. 2.

3.20 Mr Klaucke explained that some of these concerns could:

relate to what they consider to be appropriate to include in an international convention on this matter. I believe they do have concerns about other countries adopting, for example, the kinds of restrictions on advertising that are provided for in the convention and that operate within Australia.²⁶

Implementation and costs

3.21 No new legislation or administrative action would be required to give effect to the Convention, as Australia already has comprehensive tobacco control policies.²⁷

3.22 According to the NIA there will be no financial implications for Commonwealth or State and Territory Governments, business or industry associated with Australia becoming a Party to the Convention. However, there may be minor costs to the Commonwealth Government associated with participating in future Conference of Parties in Geneva. The Committee understands that these costs will be met within existing departmental funds.²⁸

Entry into force

3.23 The Convention will enter into force on the 90th day following the deposit of the 40th instrument of ratification, acceptance, approval, formal confirmation or accession.²⁹ As at 3 August 2004 there were 168 Signatories and 25 Parties to the Convention.³⁰

3.24 Australia signed the Convention on 5 December 2003.³¹ Under Article 36, the Convention will enter into force for Australia on the 90th day following the deposit of an instrument of ratification,

26 Mr Klaus Klaucke, *Transcript of Evidence*, 10 May 2004, p. 14.

27 NIA, para. 21.

28 NIA, para. 22.

29 NIA, para. 4.

30 World Health Organization, Tobacco Free Initiative (TFI), 'Updated status of the WHO Framework Convention on Tobacco Control', http://www.who.int/tobacco/areas/framework/signing_ceremony/countrylist/en/ (viewed on 03/08/04).

31 NIA, para. 3.

acceptance, approval, or accession with the Depositary (the Secretary-General of the United Nations).³²

Conclusion and recommendation

- 3.25 The Committee agrees with The Cancer Council Australia and Heart Foundation that the Convention is in Australia's national interest. The FCTC will have a positive effect on public health within Australia, and enhance Australia's leadership role in relation to tobacco control internationally.

Recommendation 2

The Committee supports the *WHO Framework Convention on Tobacco Control* and recommends that binding treaty action be taken.

Dr Andrew Southcott MP
Committee Chairman

32 NIA, para. 3 and Article 36.