

# COUNCIL *on* FOREIGN RELATIONS

## *POLICY INNOVATION MEMORANDUM NO. 7*

*Date:* Thursday, August 18, 2011  
*From:* Thomas J. Bollyky  
*Re:* Forging a New Trade Policy on Tobacco

Tobacco is reemerging as a polarizing issue in U.S. trade policy. New trade agreement negotiations, the first launched by the Obama administration, and an upcoming UN summit on noncommunicable diseases (NCDs) are forcing the White House to choose between the tobacco debate's partisans.

The United States need not exclude tobacco from its eight-country trade talks, known as the Trans-Pacific Partnership (TPP), or harm U.S. economic interests in order to promote tobacco control. U.S. negotiators should pursue a four-part strategy in the TPP that reduces tobacco agricultural subsidies; promotes coordinated, stringent tobacco product regulation; includes an explicit health exception for tobacco control measures; and excludes Vietnam, a lower-income country involved in the TPP talks, from tobacco tariff reductions. There is strong U.S. precedent for each element of this strategy. If implemented, this strategy will achieve the long elusive appropriate balance between U.S. mandates on trade and its obligations to promote global health and standing abroad.

### *A BRIEF, RECENT HISTORY OF U.S. TRADE POLICY ON TOBACCO*

Throughout the 1980s and 1990s, U.S. trade policy on tobacco was controversial. The United States used bilateral trade measures to pry open emerging Asian economies to imported cigarettes. The entry of multinational tobacco companies sharply increased tobacco use in these countries, which were unprepared for intensive tobacco marketing, particularly to women and youth.

A public outcry followed. In 1997, Congress attached an amendment to its appropriations for the Departments of Commerce, Justice, and State, known as the Doggett Amendment, which barred personnel from those agencies from promoting tobacco abroad. President William J. Clinton extended that prohibition to all U.S. executive branch agencies with a 2001 executive order. Both the Doggett Amendment and 2001 executive order remain in force.

In the intervening decade, U.S. trade policy on tobacco has receded as a public issue, but remained largely unchanged. While the United States cracks down on tobacco products at home, it continues to help expand their markets abroad.

Nearly every trade and investment agreement that the United States has negotiated over the last decade reduces tobacco tariffs and improves the protection of tobacco-related investments overseas.

Tobacco companies are aggressively exploiting trade and investment agreements to expand their market in low- and middle-income countries. Lower tariffs reduce the price of imported cigarettes in countries without good taxation systems to compensate. Multinational tobacco companies use dispute resolution provisions in trade and investment agreements to block tobacco marketing and labeling regulations far more modest than those in the United States. Young women, who have historically smoked less than men in most parts of the developing world, are a major target of industry marketing campaigns. Girls now smoke at the same rate as boys in more than 60 percent of countries surveyed by the World Health Organization (WHO) and the U.S. Centers for Disease Control.

### *TPP AND TOBACCO*

The Obama administration launched its TPP negotiations in late 2009. These talks involve eight other trading partners, including one lower-income country—Vietnam. The TPP members have set a goal of reaching the outlines of an agreement by the Asia-Pacific Economic Community (APEC) Leaders' meeting in Honolulu in November.

The battle lines on tobacco are drawn. Last month, Representative Linda Sanchez (D-CA) circulated a letter among her House colleagues demanding that the Office of the U.S. Trade Representative (USTR) exclude tobacco entirely from the TPP trade talks. Philip Morris asked U.S. trade officials to use these TPP talks to eliminate tobacco tariffs and block the use of large health warning labels on cigarette packs. The U.S. Chamber of Commerce and other international business groups have supported the tobacco industry, calling on USTR to oppose a new plain cigarette-packaging requirement in Australia, another TPP country.

It is unclear how U.S. officials will proceed, but the stakes are high. With the poor U.S. economy and the 2012 presidential election looming, the Obama administration is looking to the TPP talks to improve its trade credentials and standing among the business community. With the global health community focused on the UN summit and the global epidemic of NCDs, the United States will be subject to heightened scrutiny for its decisions on tobacco, a leading risk factor for cancers, cardiovascular disease, chronic respiratory illnesses, and nearly all NCDs. The position that the White House adopts on tobacco will set the precedent for future U.S. trade agreements.

A decision to exclude tobacco entirely will incite active TPP opposition from the tobacco industry and perhaps some international business groups. U.S. trade officials are obliged by law to stimulate U.S. economic growth and maintain and enlarge foreign markets for U.S. agricultural and manufacturing products. Tobacco is a legal product and the United States is its largest exporter.

A decision to seek tobacco tariff reductions and block effective cigarette labeling will undermine U.S. credibility on global health in the UN NCD summit in September. Tobacco is different from alcohol, fast food, and other leading risk factors for NCDs. As former WHO director-general Gro Harlem Brundtland famously said, tobacco is the only consumer product that, when used as directed, kills. There are 1.2 billion smokers worldwide, roughly one-third of the world's adult population. Seven hundred million children—approximately 40 percent of all children—are exposed to second-hand tobacco smoke at home. How can the United States promote further trade in tobacco products when they already cause more deaths annually than HIV/AIDS, malaria, and tuberculosis combined?

## THE WAY FORWARD

The United States need not exclude tobacco from the TPP talks to promote tobacco control. U.S. negotiators should adopt the following four-part strategy to balance U.S. trade interests with tobacco control priorities.

1. *Reduce Subsidies.* U.S. negotiators should seek reduced agricultural subsidies for tobacco, which would level the playing field for U.S. tobacco producers and help diminish foreign production. The United States phased out its own tobacco quota and price support programs in 2004 with a \$9.6 billion buyout to producers.
2. *Harmonize Regulations.* The United States, which now has strict tobacco labeling and content restrictions, should use the TPP Agreement as a vehicle to coordinate with TPP partners on adopting the same high standards. Common standards and labeling requirements promote trade and effective tobacco regulation and reduce the likelihood of smuggling and trade disputes.
3. *Make health exceptions for tobacco control explicit.* The United States should seek to explicitly identify tobacco control measures as among the general exceptions to the TPP Agreement. This exception would limit the ability of tobacco companies to abuse TPP dispute resolution to block effective advertising and labeling measures.
4. *Exclude Vietnam from tobacco tariff reductions.* Entry of multinational tobacco companies and marketing tactics into Vietnam would be disastrous. Vietnam has joined the WHO Framework Convention on Tobacco Control, but is still implementing its requirements. Cigarette taxes in Vietnam are much lower than the WHO recommends. Its labeling requirements do not yet apply to imported products. A state-owned tobacco company dominates local sales, so there is little incentive for advertising. Forty-six percent of Vietnamese men smoke, but less than two percent of Vietnamese women.

There is ample U.S. precedent for each of these actions. Trade talks routinely seek lower agricultural subsidies. U.S. trade agreements are designed to promote regulatory harmonization. U.S. trade agreements frequently include exceptions for essential security, taxation, environmental measures to safeguard plant and human health, and conservation measures. The United States has excluded agricultural commodities from tariff reductions in past free trade agreements (FTAs) due to political sensitivities. U.S. FTAs with Australia, South Korea, and Jordan exclude sugar, rice, and tobacco, respectively. The United States has also adopted differential trade policies toward developing countries for public health reasons. The United States has, for instance, long excluded developing countries from its trade efforts on pharmaceutical pricing.

This strategy also does not require policymakers to choose between U.S. jobs and global health. The United States currently exports significant volumes of high-quality tobacco leaf and premium cigarettes to Japan, Europe, and affluent Middle Eastern countries, but almost nothing to cost-sensitive developing-country markets like Vietnam. If U.S. tobacco companies have legitimate complaints of discriminatory treatment, the United States can still seek redress in WTO dispute resolution.

## CONCLUSION

The Obama administration has a tremendous opportunity to adopt a new approach on tobacco that better balances U.S. mandates on trade with its obligations to promote global health and U.S. standing abroad. In recent years, Washington has shown leadership and courage in protecting its citizens from the perils of tobacco. It's past time that the United States adopt policies that support its trading partners' efforts to do the same.

**Thomas J. Bollyky** is senior fellow for global health, economics, and development at the Council on Foreign Relations.

The Council on Foreign Relations (CFR) is an independent, nonpartisan membership organization, think tank, and publisher dedicated to being a resource for its members, government officials, business executives, journalists, educators and students, civic and religious leaders, and other interested citizens in order to help them better understand the world and the foreign policy choices facing the United States and other countries.

The Council on Foreign Relations takes no institutional positions on policy issues and has no affiliation with the U.S. government. All views expressed in its publications and on its website are the sole responsibility of the author or authors.

Policy Innovation Memoranda target critical global problems where new, creative thinking is needed. Written for policymakers and opinion leaders, the memos aim to shape the foreign policy debate through rigorous analysis and specific recommendations.

For further information about CFR or this paper, please write to the Council on Foreign Relations, 58 East 68th Street, New York, NY 10065, or call Communications at 212.434.9888. Visit CFR's website, [www.cfr.org](http://www.cfr.org).

Copyright © 2011 by the Council on Foreign Relations®, Inc.  
All rights reserved.  
Printed in the United States of America.

This paper may not be reproduced in whole or in part, in any form beyond the reproduction permitted by Sections 107 and 108 of the U.S. Copyright Law Act (17 U.S.C. Sections 107 and 108) and excerpts by reviewers for the public press, without express written permission from the Council on Foreign Relations.