



MEDIA INFORMATION

For immediate release

Shutting Out Public from WHO Meetings ‘Highly Questionable,’ According to International Law Expert

Geneva, October 2, 2014 – JTI (Japan Tobacco International) today published an Opinion from leading international law expert Sir Franklin Berman QC¹, about the WHO’s lack of transparency in tobacco-related meetings. The report was commissioned after the public, including the media, was prevented from observing the fifth session of the Conference of the Parties (COP5) to the WHO Framework Convention on Tobacco Control (FCTC).

In his Opinion, Sir Franklin reviewed the history and practice of WHO FCTC’s COP. He confirmed that by excluding the public, COP breaches its own Rules of Procedure, and that Article 5.3² cannot be used as a justification for exclusion at the Conference.

Article 5.3 aims to protect policy decision-making from undue influence, but is often misrepresented or used as an excuse to shut out the tobacco industry. At COP5, approximately 200 tobacco control lobbyists were registered as observers or attended as official delegates, whereas only 30 places were made available to the entire public (media, business, academics, etc.) to observe proceedings. The public was nevertheless excluded from the Conference.

Sir Franklin has reviewed the decisions to exclude the public from FCTC meetings. He concluded that the procedures under which the decisions were taken were ‘highly questionable’ and fall far short of what constitutes sound administrative practice and the rule of law, as

¹ Sir Franklin Berman QC is in independent practice as a barrister and international arbitrator. He has extensive experience of international diplomacy and the workings of international organizations deriving from his 35 years in the British diplomatic service, from which he retired as Legal Advisor to the Foreign & Commonwealth Office in 1999. He sits regularly as an independent arbitrator in State-to-State disputes and cases between investors and States, and has been a Judge ad hoc on the International Court of Justice. He was the Chairman of the International Law Association’s Committee on the Accountability of International Organisations, which reported in 2004.

² Article 5.3 of the FCTC states: “In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”

recognized in the 'Recommended Rules and Practices' of the International Law Association (ILA)³.

"Businesses like ours bring expertise to the table and should be able to contribute to the development of policies that concern our industry," says Michiel Reerink, Global Regulatory Strategy Vice President. "We clearly raised our concerns regarding exclusion in a letter to the WHO on 20 June 2014, which included concrete proposals to improve transparency. Unfortunately, we have yet to receive a reply. Any moves to shut out the public again during the COP6 proceedings in Moscow would show a worrying lack of integrity at the heart of the COP process, not to mention serve as another demonstration of the WHO FCTC 'breaking its own rules'."

Provisional agenda items for COP6 include (a) the implementation of Article 5.3 of the FCTC; (b) participation of the members of the public in the sessions of the COP and its subsidiary bodies, and (c) possible amendment to the Rules of Procedure of COP⁴. The presence of these items on the agenda provides a unique opportunity for the WHO and COP to make significant improvements to the transparency and inclusivity of the COP process.

Read the full Opinion by Sir Franklin Berman on [jti.com](http://www.jti.com).

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JTI, a member of the Japan Tobacco Group of Companies, is a leading international tobacco manufacturer. It markets world-renowned brands such as Camel, Winston and Mevius (Mild Seven). Other global brands include Benson & Hedges, Silk Cut, Sobranie, Glamour and LD. With headquarters in Geneva, Switzerland, and about 27,000 employees worldwide, JTI has operations in more than 120 countries. Its core revenue in the fiscal year ended December 31, 2013, was USD 12.3 billion. For more information, visit www.jti.com.

³ The Recommended Rules and Practices for international organizations constitute the most comprehensive treatment of the general rules of international law that govern the operation of international organizations. Its starting point is that the conferment on an international organization of authority and power brings with it, as a matter of principle, the duty to account for its exercise, and that this duty ensures to the benefit of all entities, including private parties, whose interests may be affected by the organization's activity. The International Law Association (ILA) Report is accessible at: <http://www.ila-hq.org/en/committees/index.cfm/cid/9>

⁴ http://www.who.int/fctc/cop/sessions/COP6_1_Provisional_Agenda_EN.pdf