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ONE HUNDRED SEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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November 19, 2001

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INDEPENDENT

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

On August 2, 2001, I wrote to protest efforts by your Administration to undermine international negotiations on the Framework Convention on Tobacco Control. As I explained in my letter, minutes from the second negotiating session in Geneva showed that your negotiators sought to weaken treaty provisions related to tobacco advertising, cigarette labeling, tobacco taxes, secondhand smoke, and other vital issues.

I have now received additional disturbing information about the role of the United States at the second negotiating session on the Framework Convention. This information reveals that your negotiating team repeatedly promoted positions that were specifically requested by Philip Morris, the largest U.S. tobacco company and one of your major campaign contributors.

The next negotiating session commences on November 22, 2001. I urge you to reconsider your positions at this session. Continued support of the tobacco industry will imperil public health worldwide. Health experts estimate that if current trends in developing nations continue, tobacco will kill over ten million people a year by 2030 – more than tuberculosis and malaria combined. A strong Framework Convention is needed to reduce this toll of death and disease.

This letter will explain my concerns in detail. In brief, the documents that I have received show that on March 15, 2001, Philip Morris requested that your Administration work to delete eleven provisions from the draft Framework Convention. The documents then indicate that at the second negotiating session six weeks later in Geneva, your negotiators supported ten of the eleven deletions urged by Philip Morris.

The specific deletions sought by Philip Morris and supported by your negotiators would dramatically undermine the effectiveness of the Framework Convention. For example:

- **Tobacco exports.** A draft provision of the treaty would require tobacco companies to abide by the laws of their home countries when producing exports for the developing

world. Delegates from other regions, including the European Union, wanted this provision kept or even strengthened. Philip Morris, however, sought to eliminate it from the Framework Convention altogether. Your negotiators proposed an amendment to delete the provision.

- **Tobacco taxes.** At the first negotiating session in October 2000, a U.S. delegate argued that “all tobacco products should be taxed.” On March 15, 2001, Philip Morris wrote your Administration opposing “burdensome” taxes. On May 1, 2001, your negotiators proposed an amendment to make all tobacco taxes voluntary under the Framework Convention.
- **“Light” and “low-tar” cigarettes.** Based on the findings of health experts that terms such as “light” and “low-tar” are based on flawed machine-based testing of cigarettes, the draft treaty proposed restricting the use of these terms. Philip Morris objected, and your negotiators proposed an amendment to delete the provision.
- **Advertisements.** In order to identify specific efforts by tobacco companies to sell to children, the draft treaty would require companies to disclose to the public all expenditures related to advertising and promotion. After Philip Morris registered a strong objection, your negotiators proposed an amendment requiring disclosure only of “aggregate” expenses.
- **Tobacco regulation.** Language in the draft treaty would authorize the World Health Organization to develop standards for the “testing and measuring, designing, manufacturing and processing” of tobacco products. Philip Morris objected to mandatory standards. Your negotiators then offered language that undermined the proposal by requiring all specific standards to be established by individual governments.
- **Duty-free sales.** Duty-free sales of cigarettes and other tobacco products make smuggling easier and allow travelers access to tobacco products at low prices. While the draft treaty would eliminate duty-free sales, Philip Morris and the duty-free industry asked to preserve them. Your negotiators proposed an amendment to preserve duty-free sales.

The documents raise very troubling questions. According to the nonpartisan Center for Responsive Politics, Philip Morris and other tobacco companies have been among your most generous supporters, contributing over \$7 million to you and other Republicans during the last election cycle. Philip Morris itself contributed \$100,000 to your inaugural activities and has already sent over \$800,000 to the Republican Party since the election. The company gave \$57,764 to the Republican party just one week prior to the start of the second negotiating session. When your negotiators take actions that Philip Morris and other tobacco companies support – as they did repeatedly in Geneva – it creates the unavoidable appearance that the goal of U.S. tobacco policy is to accommodate the interests of your tobacco industry supporters, not to advance public health worldwide.

Under your leadership, the United States is asking the rest of the world for support in fighting

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terrorism. I wholeheartedly support these efforts. At the same time, however, I believe that it is important that the United States cooperates with the rest of the world on other important issues. We are not cooperating with our allies on global warming because we refused to join the recently completed negotiations on the Kyoto Protocol.<sup>1</sup> We are not cooperating with our allies in combating the spread of biological weapons because we continue to oppose international efforts to require mandatory inspections of potential biological weapons facilities.<sup>2</sup> Unless you direct your negotiators to change course, we will also fail to cooperate with our allies in reducing the worldwide use of tobacco products.

The next round of negotiations on the Framework Convention on Tobacco Control start in just several days. I urge you to revise your instructions to your negotiating team and to support the strongest possible international agreement. In addition, I urge you to direct White House staff and federal departments and agencies to comply fully with congressional requests for information.

## **I. SIMILARITIES BETWEEN THE POSITIONS OF PHILIP MORRIS AND THE ADMINISTRATION**

According to documents I obtained from the Department of Health and Human Services (HHS), Philip Morris submitted a list of comments on the draft Framework Convention to your Administration on March 15, 2001. The similarities between these comments and the actual amendments offered by the U.S. delegation just six weeks later in Geneva are striking.

My staff has identified eleven specific instances where Philip Morris recommended deleting provisions of the draft text. In ten of the eleven instances, your negotiators proposed or prepared amendments advocating exactly what Philip Morris urged.

### **A. Tobacco Exports**

Section E.3 of the draft treaty would require countries to “prohibit the export of tobacco products that do not conform to the exporting country’s own domestic standards.”<sup>3</sup> This reasonable provision would stop U.S. manufacturers from selling cigarettes without warning labels in developing countries. The delegate from the European community, whose member nations do apply domestic rules

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<sup>1</sup>*160 Nations Agree to Warming Pact*, Washington Post (Nov. 11, 2001).

<sup>2</sup>*U.S. Seeks Changes in Germ War Pact*, New York Times (Nov. 1, 2001).

<sup>3</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair’s Text of a Framework Convention on Tobacco Control*, 4 (2000).

to exports, argued that the provision could be made stronger by ensuring that domestic standards act as a floor, not a ceiling, for what is required for exports.<sup>4</sup>

Philip Morris, however, objected to Section E.3, stating, "We believe that Member States should delete this provision."<sup>5</sup> The company's rationale was that rather than place appropriate warning labels on cigarette packs and comply with other domestic requirements, tobacco companies would "move their manufacturing operations to another location, with resulting dislocation of jobs."<sup>6</sup>

Your negotiators adopted the Philip Morris position. On May 3 in Geneva, your negotiators proposed an amendment to delete the provision opposed by Philip Morris.<sup>7</sup>

## **B. Tobacco Taxes**

Another important provision of the draft treaty calls for mandatory tobacco taxes.<sup>8</sup> The inclusion of such a provision is hardly surprising, as taxes are one of the best proven methods of reducing youth access to tobacco.<sup>9</sup> In fact, tobacco taxes have been associated with saving tens of thousands of lives.<sup>10</sup> During the first negotiating session in October 2000, the U.S. delegation strongly

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<sup>4</sup>Delegate Rajala (European Community), *Working Group 2: Provisional Summary Record of the Third Meeting, International Conference Centre, Geneva, Thursday, 3 May 2001, at 19:35, 11* (June 14, 2001).

<sup>5</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 9 (March 15, 2001).

<sup>6</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 9 (March 15, 2001)

<sup>7</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Third Meeting of Working Group 2, Thursday, May 3, 2001, 16* (May 5, 2001).

<sup>8</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair's Text of a Framework Convention on Tobacco Control*, 3 (2000).

<sup>9</sup>Paula Lantz et al. *Investing in Youth Tobacco Control: A Review of Smoking Prevention and Control Strategies*, *Tobacco Control*, 47-63 (March 2000).

<sup>10</sup>Caroline Fichtenberg, Stanton Glantz, *Association of the California Tobacco Control Program with Declines in Cigarette Consumption and Mortality from Heart Disease*, *New England Journal of Medicine*, 1772-7 (Dec. 14, 2000).

supported mandatory tobacco taxes, with one U.S. representative stating that “all tobacco products must be taxed.”<sup>11</sup>

Philip Morris objected to the draft treaty provision on tobacco taxes, arguing that “[b]urdensome levels of taxation should not be used to attempt to make adults stop smoking.”<sup>12</sup> Your negotiators subsequently reversed the clear position of the U.S. delegation from the first negotiating session. They proposed an amendment during the second session to make all tobacco taxes optional under the Framework Convention.<sup>13</sup>

### C. “Light” and “Low Tar” Cigarettes

The draft treaty would halt the misleading use of such terms as “light” and “low tar” in cigarette labeling and advertisements.<sup>14</sup> As the Institute of Medicine recently noted, these terms are based on results from a deeply flawed machine-based testing of cigarettes.<sup>15</sup> Dozens of studies have shown that smokers inhale deeper, smoke more, and generally obtain far more nicotine and tar than the machine yields would suggest.<sup>16</sup> For this reason, both the European Community<sup>17</sup> and Canada<sup>18</sup> have taken

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<sup>11</sup>Delegate Novotny (United States), *Intergovernment Negotiating Body on the WHO Framework Convention on Tobacco Control, First Session, Geneva, 16-21 October 2000*, 114 (April 9, 2001).

<sup>12</sup>Philip Morris, *Philip Morris International and Philip Morris USA’s Comments on the World Health Organization’s Framework Convention on Tobacco Control*, 10 (March 15, 2001).

<sup>13</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the First Meeting of Working Group 2, Tuesday 1 May 2001*, 12 (May 1, 2001).

<sup>14</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair’s Text of a Framework Convention on Tobacco Control*, 4 (2000).

<sup>15</sup>Institute of Medicine, *Clearing the Smoke: Assessing the Science Base for Tobacco Harm Reduction* (2001).

<sup>16</sup>See, e.g., Mirjana V. Djordjevic, Steven D. Stellman, and Edith Zang, *Doses of Nicotine and Lung Carcinogens Delivered to Cigarette Smokers*, *Journal of the National Cancer Institute*, 106-111 (Jan. 19, 2000).

<sup>17</sup>European Parliament and the Council of the European Union, *Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the Approximation of the Laws, Regulations and Administrative Provisions of the Member States Concerning the Manufacture,*

steps this summer to bar the use of these terms.

Philip Morris lobbied your Administration to eliminate this provision from the draft treaty. The company wrote, "We believe adult smokers should be able to choose from a wide range of brands whose tar and nicotine yields are measured by a standardized test method."<sup>19</sup>

As in the other instances, your negotiators adopted the Philip Morris position. On May 1, your negotiators proposed an amendment to delete all mention of "light" and "low tar" from the draft Framework Convention.<sup>20</sup>

#### **D. Tobacco Advertising**

The draft treaty would require companies to disclose all expenditures related to advertising and promotion.<sup>21</sup> By pinpointing exactly where the industry is putting its marketing resources, such a move would expose efforts by tobacco companies to induce children to use tobacco products. This oversight is essential because the industry has recently been found to be marketing to children in developing nations,<sup>22</sup> as well as in the United States.<sup>23</sup>

According to Philip Morris, however, the disclosure provisions would reveal "competitively

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*Presentation and Sale of Tobacco Products, Official Journal of the European Communities, 26-34 (July 18, 2001).*

<sup>18</sup>Francis Higgins, *Canada to Ban "Light" and "Mild" Tobacco Labels*, Reuters (Aug. 13, 2001).

<sup>19</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 15 (March 15, 2001).

<sup>20</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Second Meeting of Working Group 1, Tuesday, 1 May 2001*, 4 (May 1, 2001).

<sup>21</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair's Text of a Framework Convention on Tobacco Control*, 5 (2000).

<sup>22</sup>*Big Tobacco Is Accused of Crossing an Age Line*, New York Times, (Aug. 24, 2001).

<sup>23</sup>Charles King and Michael Siegel, *The Master Settlement Agreement with the Tobacco Industry and Cigarette Advertising in Magazines*, New England Journal of Medicine, 504-511 (Aug. 16, 2001).

sensitive information to the public” and deserved to be deleted entirely from the Framework Convention.<sup>24</sup> Your delegation then proposed reporting of aggregate advertising numbers alone, effectively ending any potential for real monitoring.<sup>25</sup>

#### **E. Tobacco Product Regulation**

For far too long, tobacco companies have escaped effective regulation to reduce the harm and death caused by cigarettes and other tobacco products. The draft treaty proposed to authorize the creation of international standards, developed under the auspices of the World Health Organization, on such issues as “testing and measuring, designing, manufacturing and processing” of tobacco products.<sup>26</sup> These international standards might resemble Codex Alimentarius standards set by the Food and Agriculture Organization and World Health Organization of the United Nations, which establish minimum international standards for levels of pesticides on foods.

Philip Morris opposed the idea that mandatory “performance standards” could be imposed on their products. According to the company, such standards would “unreasonably limit brand choices for adult smokers.”<sup>27</sup>

In Geneva, your representatives again promoted a position consistent with the wishes of Philip Morris. Your negotiators advocated deleting the list of specific standards from the treaty.<sup>28</sup> Your delegation then prepared language to allow only for cooperation among individual countries in setting

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<sup>24</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 21 (March 15, 2001).

<sup>25</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Third Meeting of Working Group 1, Wednesday, 2 May 2001*, 16 (May 4, 2001).

<sup>26</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair's Text of a Framework Convention on Tobacco Control*, 3 (2000).

<sup>27</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 14 (March 15, 2001).

<sup>28</sup>Delegate Green (United States), *Working Group 1: Provisional Summary Record of the First Meeting, International Conference Centre, Geneva, Monday 30 April 2001, at 15:00*, 13 (June 13, 2001).

“general” standards, leaving the specifics of any regulatory requirements to individual countries.<sup>29</sup> This amendment would block the mandatory standards feared most by Philip Morris.

**F. Duty-Free Sales**

Duty-free sales of cigarettes and other tobacco products make smuggling easier by creating a loophole in import laws. They also allow travelers access to tobacco products at low prices. A provision in the draft Framework Convention would ban these sales.<sup>30</sup>

The duty-free industry and Philip Morris objected to the provision. Philip Morris supported the creation of a “carefully regulated, monitored and enforced duty-free system,” which might draw resources from other necessary aspects of tobacco control.<sup>31</sup> Your negotiators subsequently proposed eliminating the provision to bar duty-free sales from the draft treaty.<sup>32</sup>

**G. Other Provisions**

Philip Morris objected to controls on cross-national advertising, which occurs when a manufacturer uses a country with permissive advertising laws as a launching pad to circumvent a neighboring country’s more restrictive laws.<sup>33</sup> The U.S. delegation agreed.<sup>34</sup> The U.S. delegation and Philip Morris also agreed on deleting provisions relating to the harmonization of tobacco prices,<sup>35</sup> and

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<sup>29</sup>U.S. Department of Health and Human Service, *Chair's Text of a Framework Convention on Tobacco Control. Second Intergovernmental Negotiating Body*, 5 (May 2001).

<sup>30</sup>Intergovernmental Negotiating Body of the WHO Framework Convention on Tobacco Control, *Chair's Text of a Framework Convention on Tobacco Control*, 3 (2000).

<sup>31</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 10 (March 15, 2001).

<sup>32</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the First Meeting of Working Group 2, Tuesday 1 May 2001*, 12 (May 1, 2001).

<sup>33</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 22 (March 15, 2001).

<sup>34</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Third Meeting of Working Group 1, Wednesday, 2 May 2001*, 16 (May 4, 2001).

<sup>35</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 10 (March 15, 2001).

restrictions on advertising that create a misleading impression of tobacco products.<sup>36</sup>

Your delegation even proposed deleting a provision to require pictures or pictograms as warnings on product packages,<sup>37</sup> again in accordance with Philip Morris's wishes.<sup>38</sup>

In one case, Philip Morris proposed a deletion to the draft Framework Convention that was not fully embraced by your Administration. Philip Morris urged that the treaty strike any mention of liability for "the harm [tobacco] products cause to the public health."<sup>39</sup> Your delegation took a slightly different tack, preserving language leaving liability issues entirely up to individual countries. Your negotiators did, however, object to provisions that might allow foreign consumers to sue U.S. tobacco companies in the United States for poorly labeled or defective products. The U.S. representative opposed the notion that "other countries or parties could have standing to sue in the United States judicial system to enforce requirements that applied to products sold only in other countries."<sup>40</sup> Such a statement was entirely consistent with the goals of Philip Morris.

## II. THE NEED FOR CONGRESSIONAL OVERSIGHT

The issues raised in this letter and my earlier August 2 letter clearly warrant additional investigation. They indicate that U.S. policy regarding the Framework Convention has shifted

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United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the First Meeting of Working Group 2*, Tuesday 1 May 2001, 12 (May 1, 2001).

<sup>36</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 21 (March 15, 2001).

United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Third Meeting of Working Group 1*, Wednesday, 2 May 2001, 16 (May 4, 2001).

<sup>37</sup>United States, *WHO Framework Convention on Tobacco Control: Textual Proposals Made in the Second Meeting of Working Group 1*, Tuesday, 1 May 2001, 4 (May 1, 2001).

<sup>38</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 17 (March 15, 2001).

<sup>39</sup>Philip Morris, *Philip Morris International and Philip Morris USA's Comments on the World Health Organization's Framework Convention on Tobacco Control*, 27 (March 15, 2001).

<sup>40</sup>Delegate Novotny (United States), *Provisional Summary Record of the Second Meeting, International Conference Centre, Geneva, Tuesday 1 May 2001, at 19:40*, 3 (June 13, 2001).

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dramatically since your election to accommodate the interests of the tobacco industry. This shift is particularly suspect given the extensive financial support that you have received from the tobacco industry. As noted above, the tobacco industry is one of your most loyal supporters. The industry gave you and other Republicans over \$7 million in campaign contributions during the last election cycle.<sup>41</sup> Since your election, Philip Morris alone has given over \$800,000 more to Republicans.<sup>42</sup> Philip Morris also contributed \$100,000 to your inauguration.<sup>43</sup>

Unfortunately, your Administration has not cooperated with my requests for information. For example, I wrote to Margaret La Montagne, the head of the Domestic Policy Council, on August 2 to seek basic information about White House contacts with the tobacco industry. The reply from White House Counsel Alberto R. Gonzales was not forthcoming.

HHS and the State Department have also failed to cooperate fully by refusing to provide copies of the negotiating guidance for the U.S. delegation to the Framework Convention, as well as copies of documents relating to the formulation of the U.S. position. In addition, they have refused to disclose the subject matters discussed during the contacts with tobacco industry representatives and allies. According to HHS and the State Department, the negotiating guidance and documents related to its preparation cannot be disclosed because they relate to internal deliberations and may affect future negotiating sessions.

I recognize that HHS and the State Department have a genuine concern about disclosing internal government deliberations. But in this case, those concerns must give way to needs of congressional oversight. This is an issue that arose repeatedly during the Clinton Administration. As the precedent from those years establish, internal deliberative documents must be turned over to Congress where there are allegations that U.S. policy may have been influenced by campaign contributors. The internal deliberative documents that the Clinton Administration provided to Congress included internal memoranda and drafts of decision documents,<sup>44</sup> internal White House e-mails,<sup>45</sup> and

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<sup>41</sup>Center for Responsive Politics, <http://www.opensecrets.org/industries/indus.asp?Ind=A02> (Sept. 10, 2001).

<sup>42</sup>Center for Responsive Politics, <http://www.opensecrets.org> (Nov. 13, 2001).

<sup>43</sup>Center for Responsive Politics, <http://www.opensecrets.org/2000elect/other/bush/inaugural.asp> (Sept. 10, 2001).

<sup>44</sup>The investigation of the Hudson dog track matter by the Government Reform Committee provides a good example of disclosure of internal deliberative documents. In this instance, the Committee was investigating allegations that a decision by the Administration to deny an application by

confidential communications between White House lawyers and officials.<sup>46</sup>

Chairman Dan Burton recently wrote Attorney General Ashcroft about Congress' right to internal deliberative materials from the Administration. According to Mr. Burton:

The legal right of Congress to review declination memoranda, or other internal deliberative Justice Department materials . . . cannot be seriously disputed. The Committee spent a great deal of time reviewing applicable legal precedent. . . . The relevant cases made it clear that absent a valid claim of executive privilege, Congress has a right to obtain these materials, a right which has been exercised frequently over the years.<sup>47</sup>

Mr. Burton's letter then discusses numerous instances when the Clinton Administration provided internal deliberative materials from the Justice Department to Congress. According to Mr. Burton, "the Committee obtained these records from Attorney General Reno, who was widely recognized as one of the most recalcitrant Attorneys General in recent memory."<sup>48</sup> Mr. Burton wrote that a refusal by Attorney General Ashcroft to provide internal deliberative documents would "stake[]

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an Indian tribe for a dog track in Hudson, Wisconsin, was influenced by campaign contributions from a competing tribe. During the investigation, the Clinton Administration produced schedules of all meetings with outside parties, internal Administration memoranda discussing the issue, and even preliminary drafts of the final decision.

<sup>45</sup>During a Government Reform Committee investigation, the Clinton Administration spent over \$12 million to reconstruct internal White House e-mails for Committee review. In the end, thousands of pages of White House e-mails were provided to the Committee, including e-mails between the Vice-President and his staff. Many of the subjects covered by these e-mails related to allegations of improper influence by campaign contributors.

<sup>46</sup>For example, during its investigations into campaign finance matters and the White House e-mail system, the Government Reform Committee received notes taken by White House lawyers reflecting attorney-client and work product communications. *See* untitled handwritten notes (EOP 055620-055635) and Letter from Lanny Breuer, Special Counsel to the President, to John Rowley, Chief Counsel, Government Reform and Oversight Committee (June 18, 1997); Letter from Dimitri J. Nionakis, Associate Counsel to the President, to James Wilson, Chief Counsel, Government Reform Committee (April 28, 2000); and Letter from Beth Nolan, Counsel to the President, to Rep. Dan Burton (May 2, 2000).

<sup>47</sup>Letter from Chairman Dan Burton to Attorney General John Ashcroft (Aug. 29, 2001).

<sup>48</sup>Letter from Chairman Dan Burton to Attorney General John Ashcroft (Aug. 29, 2001).

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out a position that is even more restrictive than Attorney General Reno's.<sup>49</sup>

Mr. Burton's letter addresses access to an extraordinarily sensitive category of internal deliberative materials: internal Justice Department memoranda discussing whether to initiate criminal prosecutions against U.S. citizens. Regardless of the merits of Congress' entitlement to these prosecutorial materials, it is clear that Congress is entitled to other internal deliberative materials that are less sensitive, such as the tobacco-related documents that I have requested.

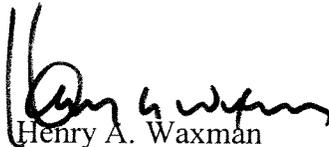
### III. CONCLUSION

As in my previous letter, I once again urge you to intervene personally in this matter. U.S. tobacco companies are among the leading exporters of tobacco products in the world. As a nation, we have a moral responsibility to reduce the global epidemic of nicotine addiction, disease, and death. The United States should be the leader in the international effort to fight tobacco use – not the principal obstacle to a strong international treaty.

I also urge you to direct the White House and other federal departments and agencies to cooperate fully with my requests for information. Congress and the American public deserve a full explanation for why your negotiators have attempted to undermine the Framework Convention on Tobacco Control.

Thank you for your prompt attention to this matter.

Sincerely,



Henry A. Waxman  
Ranking Minority Member

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<sup>49</sup>Letter from Chairman Dan Burton to Attorney General John Ashcroft (Aug. 29, 2001).