

[REDACTED]

From: [REDACTED] ASH
Sent: 12 March 2012 17:23
To: [REDACTED] FCO
Cc: [REDACTED]
Subject: RE: Breaches of UK guidelines
Attachments: letHague120312.pdf; letPanama_Holloway_Feb2012.pdf

Importance: High

Dear [REDACTED]

I have now been provided with a copy of the letter from the Ambassador to the Business Minister dated 8th February 2012, copied to the Finance Minister, the President's office, the Health Minister, Customs Minister and the Head of Police. The Ambassador specifically mentions BAT in the letter, and is very clear that it is lobbying the government on behalf of BAT saying that BAT is 'one of the most important British companies located in Panama' going on to criticise the increase in tobacco taxes which he says has only benefitted the illegal market. He goes on to ask for a meeting to discuss this further and to offer to set up a commission to develop measures to reduce the illicit trade in tobacco 'hand in hand with the legal industry'.

This is clearly in contravention of the guidelines which say that posts should not in any way be associated with the promotion of the tobacco industry.

I look forward to hearing from you.

Best wishes.

[REDACTED]
Chief Executive
Action on Smoking & Health
144-145 Shoreditch High Street
London E1 6JE

e-mail: [REDACTED]

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T: [REDACTED]

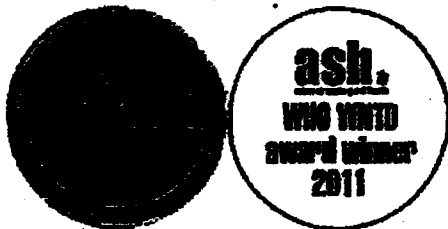
M: [REDACTED]

F: [REDACTED]

W: <http://www.ash.org.uk>

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From: [REDACTED] ASH
Sent: 12 March 2012 14:03
To: [REDACTED] FCO
Cc: [REDACTED]
Subject: Breaches of UK guidelines

Reducing affordability through taxation is widely recognised, notably by the World Bank as well as the WHO, as the most effective means of reducing smoking uptake and encouraging quitting and is recognised as such in Article 6 of the WHO FCTC. Indeed your Cabinet colleague, then Chancellor, the Rt Hon Kenneth Clarke introduced an annual tax escalator above inflation in the 1993 budget stating that "the approach we are adopting in Britain is the most effective way to reduce smoking". The tobacco industry, in this country and all round the world consistently lobbies against tax increases arguing that they will lead to increased smuggling and reduced revenues. The evidence from the UK does not support tobacco industry arguments. Increasing tobacco taxes year on year has been UK government policy for many years and our tobacco taxes are now amongst the highest in the world accompanied by falling smoking rates and a reduction in smuggling. A tough anti-smuggling strategy has led to significant reductions in tobacco smuggling year on year since 2000, delivering net annual revenue benefits of £1.7 billion.

In line with FCO guidelines and our obligations under the FCTC the UK should be supporting other Parties and providing them with technical assistance to achieve what we've achieved, not urging them to keep tobacco taxes down.

I look forward to your response.

Yours Sincerely



Chief Executive, ASH



cc Rt Hon Andrew Lansley MP CBE
Rt Hon George Osborne MP

Rt Hon William Hague MP
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

12 March 2012

Dear Foreign Secretary

Guidelines on engagement with the Tobacco Industry

Since 1999 the FCO has had guidelines in force that, "Posts should not *inter alia* be associated in any way with the promotion of the tobacco industry", stressing "the Government's wish to encourage and support the efforts of other countries to strengthen their own tobacco control strategies." Furthermore the Government also has clear legal obligations as a Party to the WHO Framework Convention on Tobacco Control (FCTC), when it comes to tobacco lobbying: "In setting and implementing their 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." In the Tobacco Plan, published in March 2011, your Government committed to live up to these obligations.

I was shocked therefore to be informed that Michael John Holloway, British Ambassador to Panama, has been lobbying the Panamanian government on behalf of British American Tobacco against a tobacco tax increase in Panama, raising fears that this would lead to increased smuggling writing letters to various Panamanian government ministries to this effect. I urgently seek your reassurance that the Ambassador will be asked to confirm whether this is in fact the case and, if so, reminded of the guidelines, required to withdraw his letters and to apologise to the Panamanian government. I also seek your reassurance that all embassies will be reminded of the FCO guidelines prohibiting promotion of the tobacco industry and of the UK's obligations as a party to the WHO FCTC, and provided with the guidelines to Article 5.3 of the FCTC, available from the WHO FCTC website.

Tobacco kills 5 million people a year worldwide, half of whom are from low income countries. By 2020 this will have risen to 10 million, 70% of whom will be from low income countries. Tobacco use itself exacerbates poverty all round the world. For example, a study in Bangladesh found that the typical poor smoker could easily add over 500 calories to the diet of the family with his or her daily tobacco expenditure. An estimated 10.5 million malnourished people could have an adequate diet if money on tobacco were spent on food instead - the lives of 350 children could be saved each day. The tobacco industry is a global industry. Faced with increased regulation and greater awareness of the health risks of smoking in Europe and North America, the tobacco multinationals are stepping up their activities in developing countries in search of new markets.

Reducing affordability through taxation is widely recognised, notably by the World Bank as well as the WHO, as the most effective means of reducing smoking uptake and encouraging quitting and is recognised as such in Article 6 of the WHO FCTC. Indeed your Cabinet colleague, then Chancellor, the Rt Hon Kenneth Clarke introduced an annual tax escalator above inflation in the 1993 budget stating that *"the approach we are adopting in Britain is the most effective way to reduce smoking"*. The tobacco industry, in this country and all round the world consistently lobbies against tax increases arguing that they will lead to increased smuggling and reduced revenues. The evidence from the UK does not support tobacco industry arguments. Increasing tobacco taxes year on year has been UK government policy for many years and our tobacco taxes are now amongst the highest in the world accompanied by falling smoking rates and a reduction in smuggling. A tough anti-smuggling strategy has led to significant reductions in tobacco smuggling year on year since 2000, delivering net annual revenue benefits of £1.7 billion.

In line with FCO guidelines and our obligations under the FCTC the UK should be supporting other Parties and providing them with technical assistance to achieve what we've achieved, not urging them to keep tobacco taxes down.

I look forward to your response.

Yours sincerely



Chief Executive, ASH

cc Rt Hon Andrew Lansley MP CBE
Rt Hon George Osborne MP



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[REDACTED]
Chief Executive
Action on Smoking and Health (ASH)
First Floor, 144-145 Shoreditch High Street
London E1 6JE

By email: [REDACTED]

26 March 2012

Dear [REDACTED]

Thank you for your letter of 12 March to the Foreign Secretary regarding guidelines on engagement with the tobacco industry and Panama. I am responding as the appropriate official within the Foreign and Commonwealth Office.

The Government is committed to protecting public health policies from the vested and commercial interests of the tobacco industry, both at home and overseas, in line with our obligations under the WHO Framework Convention on Tobacco Control. As you note, guidelines issued to our overseas Posts in 1999 are clear that *"Posts should not inter alia be associated in any way with the promotion of the tobacco industry"*. We agree with you that making tobacco less affordable through taxation is a highly effective way of reducing tobacco consumption, and we support the efforts of overseas governments to implement such policies. Nevertheless, we also recognise that high taxation policies are undermined if cheap, illicit tobacco is easily available.

In his letter to the Minister of Trade and Commerce, our Ambassador in Panama did not propose that the Government of Panama reduce taxes on legal tobacco, as you suggest. He was also not seeking to promote tobacco use, as he makes explicit in the fourth paragraph. Instead, the letter expressed his concern about the growing presence of contraband tobacco in Panama, and sought a meeting with government officials to discuss what steps might be taken to reduce its flow. This was part of our efforts to offer UK official expertise on reducing the availability of illicit tobacco, and would not include assistance from tobacco companies. Successfully curtailing the contraband market would also support the effectiveness of Panama's tobacco taxation policies, by forcing many smokers to choose between expensive, legal cigarettes and giving up smoking altogether.

The 1999 guidelines also state that Posts may *"...offer support and advice to assist UK tobacco companies through the provision of trade, investment and political information..."* and *"...continue to offer assistance to UK tobacco companies in other ways, such as in resolving business problems – customs or port clearance, smuggling, trademark violations etc. – that are potentially discriminatory"*. The Ambassador was therefore acting fully in accordance with these guidelines by writing to the Government of Panama in this manner.

This Government is committed to supporting British business overseas, and we will continue to do so, in line with the boundaries set out on issues such as tobacco.

I hope that this reassures you of our support for public health policies in Panama that will reduce smoking rates. The Ambassador would be more than happy to discuss his approach with you, if you would find that helpful. I would be happy to facilitate this.

Yours sincerely,

[REDACTED]

[REDACTED]
Head of Mexico, Central America and Cuba Team
Americas Directorate

Dear [REDACTED]

Please find attached a letter in response to yours of 12 March to the Foreign Secretary. A hard copy will follow shortly.

Best,

[REDACTED] Head of Mexico, Central America, and Cuba Team | CCMD | Americas Directorate
WH2.327 | Foreign and Commonwealth Office | King Charles Street | London SW1A 2AH [REDACTED]

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[REDACTED]

[REDACTED]



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[REDACTED]

Sent: 11 May 2012 10:58
Subject: FW: UNCLASSIFIED: Response to letter of 12 March re Panama
Attachments: ASHletFCO120416.pdf

From: [REDACTED] *ASH*
Sent: 16 April 2012 09:47
To: [REDACTED] (Restricted) *FCO*
Cc: [REDACTED]
(Restricted); [REDACTED]
Subject: RE: UNCLASSIFIED: Response to letter of 12 March re Panama

Dear [REDACTED]

Sorry to take so long to respond but I have been away at the negotiations for the Illicit Trade Protocol to the WHO FCTC in Geneva at which the UK was represented by HMRC. Attached is an electronic copy of my response, a hard copy will follow shortly.

As you will see from my response I am keen to speak to the Ambassador on this issue and would be grateful if you could put me in touch.

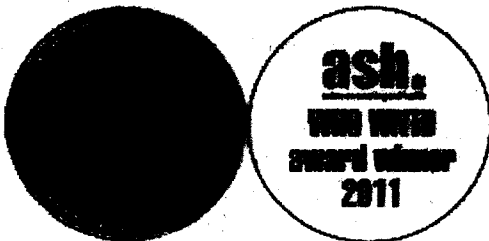
I am concerned that the FCO guidelines clearly need updating if they lead Embassies and Ambassadors to believe that offering assistance of this kind to tobacco companies is appropriate and I would be grateful if you could confirm that this is underway and that you will involve DH and the Global Health Team in Geneva in this work. I would also be grateful if you could give ASH the opportunity to comment on the revised guidelines before they are finalized.

Best wishes.

[REDACTED]
Chief Executive
Action on Smoking & Health
144-145 Shoreditch High Street
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W: <http://www.ash.org.uk>
office location: <http://uk2.multimap.com/map/browse.cgi?pc=E16JE>

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From: [REDACTED] *FCO*
Sent: 26 March 2012 09:53
To: [REDACTED] *ASH*
Subject: UNCLASSIFIED: Response to letter of 12 March re Panama

[REDACTED]
Head of Mexico, Central America and Cuba Team
Foreign and Commonwealth Office
King Charles Street
London SW1A 2AH

16 April 2012

Dear [REDACTED]

Response to your letter of 26 March 2012 on engagement with the Tobacco Industry and Panama

Thank you for your response to my letter of 12 March to the Foreign Secretary. I am pleased that you confirm the Government's commitment to protecting public health policies from the commercial and vested interests of the tobacco industry both at home and overseas and would very much like to take up the offer from the Ambassador to discuss his approach as soon as possible.

Your response does not, however, satisfactorily answer my concerns and set out below are my answers to each of the key points you made in your letter. I will make these points to the Ambassador to Panama in discussion, but I think it is also crucial that all points are required to take these points into consideration as they decide on what is and is not appropriate behaviour. Your letter reaffirms the UK's commitment to fulfilling our obligations under the WHO FCTC but your more detailed response refers only to the 1999 FCO guidance to posts. You must be aware that this guidance was issued prior to UK ratification of the FCTC and needs updating in recognition of the WHO FCTC and the Article 5.3 guidelines which the UK have endorsed.

Indeed I have recently returned from Geneva where the negotiations on the Illicit Trade Protocol to the WHO Framework Convention on Tobacco Control were successfully concluded, ensuring that the protocol will be presented for adoption to the Conference of the Parties in November 2012. These negotiations involved 165 Parties including the UK and Panama and the Parties were adamant that the appropriate response to the illicit trade is strong intergovernmental action not collaboration with the tobacco industry. Article 5.3 of the FCTC and the need to protect policies from commercial and other vested interests of the tobacco industry was specifically acknowledged in the preamble to the draft Protocol as agreed by the Parties.

1. The Ambassador in Panama did not propose that the Government of Panama reduce taxes on legal tobacco.

The letter certainly contains caveats at the top stating that the intention is not to promote the use of cigarettes. However, the Ambassador goes on to say that he considers that the excessive increase

in tobacco taxes on the consumption of tobacco products in the last few years is of benefit only to the illegal market as the legal market has decreased while the number of smokers remains constant. Indirectly, if not directly, this is a plea for the government not to further increase tobacco taxes.

2. *The Ambassador sought a meeting with government officials to discuss what steps might be taken to reduce the illicit trade while not offering assistance from tobacco companies.*

The translation I received of the letter clearly states that the Ambassador wants to discuss the possible formation of a commission working hand in hand with the Panamanian government and the legal industry to develop actions to reduce the illicit trade in tobacco. The legal industry by definition is the tobacco companies. If any British Ambassador wishes to offer help to governments to tackle the illicit trade this should not be in collaboration with the tobacco industry but with HM Revenue and Customs, the lead UK government body in this area, and I have copied HMRC in to this letter. HMRC has a highly effective anti-smuggling strategy and providing such support would be in line with our commitments under Article 22 of the WHO FCTC.

3. *The Ambassador was acting fully in accordance with the FCO guidelines which state that posts may "continue to offer assistance to UK tobacco companies in other ways, such as resolving business problems – customs or port clearance, smuggling, trademark violations etc. – that are potentially discriminatory."*

If the Ambassador was acting fully in accordance with the FCO guidelines then it is clear that the guidelines are no longer fit for purpose as they are not consistent with our obligations under the WHO FCTC and in particular Article 5.3 and its guidelines. I would be grateful if you could confirm that you are, or will shortly be, updating the guidelines. This is essential to ensure that the guidelines are revised in line with our commitment and our legal obligation to protect public health policies from the commercial and vested interests of the tobacco industry both at home and overseas. I would urge you to involve both [REDACTED] at the FCO Global Health Team in Geneva and the Department of Health which is the lead department on the FCTC in the revision and ASH would also appreciate the opportunity to comment on revised guidelines before they are finalised.

I look forward to your response.

Best wishes

[REDACTED]
[REDACTED]
[REDACTED]
Chief Executive, ASH
[REDACTED]

cc [REDACTED] Department of Health; [REDACTED] Department of Health; [REDACTED] Global Health UK Mission to Geneva; [REDACTED] HMRC; [REDACTED] HMRC.