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Anna White
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P.O. Box 19405
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February 23, 2007

Dear Ms. White:

I am writing in response to your letter to Louis Camilleri, Chairman and CEO of Altria Group Inc, the parent company of Philip Morris International. I welcome this opportunity to explain PMI's views to you and the 100 organizations that are represented by the Global Partnerships for Tobacco Control.

Let me first address what I believe to be a misunderstanding of PMI's intentions and positions. PMI is committed to working with regulators and the public health community to obtain tobacco regulation based on the principle of harm reduction. This commitment reflects our view that regulation is the most effective way to articulate and enforce rules for the tobacco industry and provide assurance to governments, the public health community, and consumers that the manufacture, marketing, sale and use of tobacco products take place within a prescribed public health-based framework to reduce harm. It is a global commitment and applies to all of the countries in which we do business. PMI's expansion into markets where we do not yet have a significant presence, therefore, will not, as you suggest, "exacerbate" the harm caused by tobacco products. To the contrary, in many emerging markets, we have been a leading supporter of regulation, seeking legislative action which otherwise might not take place. Comprehensive regulation is in the public interest, but it will also benefit us, as we believe we can compete successfully within a clear regulatory framework that is enforced against all tobacco companies and all tobacco products.

While I understand the scepticism with which you and many others in the public health community regard us, that scepticism and mistrust are undermining a historic opportunity to obtain meaningful, cohesive and comprehensive regulation across the globe. As the UN and others have recognized, despite the health effects of tobacco use and the best intentioned public health measures, many people will continue to use tobacco products. If tobacco use will continue into the future -- and it will whether or not PMI and other multinational companies remain in the business -- regulators and the public health community can achieve far more working with a company like ours than by rejecting our views out of hand or making demands of us that will not result in a fully regulated tobacco industry and are likely to raise unintended consequences that are neither good for public health nor for the legitimate tobacco industry.

I hope you will agree that it is time for us to work together in those areas where we share common views --- and I believe there are many. We should put the mistrust of the past behind us and move forward in a transparent and collaborative way to achieve real solutions in a very complex global environment.

I have provided, as you requested, a response to the "list of demands" you raised in your letter to Mr. Camilleri. I also invite you to meet with me, in a place and a time convenient to you, to discuss these or any other matters you have concerning PMI and its support of regulations.

1. Adhering to the provisions of the FCTC, including by ending all advertising and marketing of tobacco products, and ending the use of misleading and deceptive terms such as "mild" "light" and "low."

You have asked that PMI voluntarily adhere to all of the provisions of the FCTC, and specifically that we agree to cease advertising our products and stop using descriptors such as "lights" and "mild." We cannot agree to that. Any action by PMI alone would not achieve public health goals and would place us at a competitive disadvantage, which is inconsistent with our obligations to our shareholders and our employees. Further, as the public health community (including the WHO on its website) has repeatedly stated, voluntary measures are not effective substitutes for legislation. The most effective and appropriate approach for us is to support the implementation and enforcement of expansive and cohesive legislation, including regulation of marketing and the use of descriptors.

We are doing that. We are advocating wide-ranging regulations that cover, among other things, product-based requirements, marketing restrictions, health warnings, sales to minors, illicit trade, education on the serious health effects of tobacco use, and fiscal (tax and price) measures. In many respects, the areas of regulation we support mirror the core demand and supply reduction provisions of the FCTC. In fact, there are only a few specific recommendations in the FCTC with which we disagree, including a total ban on marketing (Article 13), a total ban on public smoking (Article 8), a ban on the sale of duty free cigarettes (Article 6), and the use of litigation against the tobacco industry (Article 19).

On the issue of marketing, we strongly believe that we, and other tobacco companies, should be permitted to communicate directly to adult smokers but within well-defined rules. The ability to communicate to adult smokers about our brands is fundamental to fair and vigorous competition. We will not therefore agree to either unilaterally stop advertising or to support total advertising bans. That said, we have actively supported and will continue to support restrictions on tobacco product advertising, including total bans on outdoor advertising and in print, television and radio. We also agree with FCTC Article 13 (4)(b) that tobacco advertising should be required to bear health warnings. In fact, we voluntarily apply warnings in countries which do not require them.

On the use of descriptors, such as "lights," (discussed in FCTC Article 12), our position is that the use of these terms should be permitted -- but regulated -- requiring manufacturers to provide consumers with information, as we have provided on our

internet site and through other means including pack inserts, explaining that these terms do not mean that one brand is safer than another. Where descriptors are banned, we also believe that regulators should ban the printing of tar, nicotine and CO yields on packs and in advertisements.¹

There are other provisions of the FCTC which you have not raised which we support. For example, we firmly believe that regulation of the product (Articles 9 and 10 of the Treaty) is an important component of tobacco control. Another example of where we agree with the FCTC is Article 6's recommendation that governments incorporate fiscal (tax and price) measures in their tobacco control policies. Although we do not support excessive tax increases, we strongly support the FCTC's view that fiscal policy is an important element of comprehensive tobacco regulation. Consistent with the views of WHO, the World Bank and other public health groups, fiscal policy must take into account a wide range of factors, including the tax structure in place and unintended consequences of excessive tax increases.² Importantly, any tax policy which encourages a shift in demand to lower taxed, and therefore, lower priced tobacco products that are equally or more harmful would not support legitimate public health policy objectives.³

¹ In most countries where descriptors are banned, tar, nicotine and CO yields are still required to be printed on pack, including the European Union, which banned descriptors while at the same time increasing the size of ISO-measured tar, nicotine, and CO yields on cigarette packs. Prohibiting descriptors, but at the same requiring (or increasing the size of) the ISO yield numbers on packs is inconsistent. You may not be aware that PMI supports WHO's recommendation to supplement the current ISO test method, measuring for tar, nicotine, and CO yields, with the more intensive Health Canada method. The WHO's proposal would provide governments with two sets of yield numbers based on the current ISO method and the more intensive Health Canada method, which would better illustrate the wide variability in the delivery of tar, nicotine and carbon monoxide, depending upon how an individual smokes a cigarette. Of course, any consumer information about these ranges would need to be provided in a manner that is clear and conveys the limitations of machine-based measurements.

² WHO has said that in considering tax levels governments must consider "all factors relevant to its particular situation. The purchasing power of local consumers, rates and tax structure in neighbouring countries, the ability of tax and customs authorities to enforce compliance, the need for revenue and the need to tackle the growing burden of tobacco-related illnesses are important considerations." *WHO, Building Blocks for Tobacco Control at 190 (2004)*. Similarly, the International Monetary Fund has stated, "Ultimately, tobacco excise tax rates must reflect the purchasing power of the local consumers, rates in neighboring countries, and, above all, the ability and willingness of the tax authority to enforce compliance." *World Bank, Curbing the Epidemic: Governments and the Economics of Tobacco Control (1999) ("World Bank 1999 Report")*. Appendix A: *Tobacco Taxation: A View From The International Monetary Fund*.

On fiscal policy, we have suggested that governments should consider, among other things, (1) regular and reasonable tax increases indexed to inflation and growth in real income for tax systems with a specific tax component, (2) fully specific tax systems, (3) a minimum excise tax for all tobacco products where tax systems are *ad valorem* or mixed, (4) a minimum benchmark reference price for all tobacco products, (5) equalization of excise tax rates across all tobacco products, including roll-your-own, (6) strong controls and enforcement to prevent an influx of illicit tobacco products, and (7) enforceable restrictions on cross border sales and duty free sales (as opposed to a ban on duty free products).

³ For example, fine-cut or "roll-your-own" tobacco is taxed at far lower rates than manufactured cigarettes in many countries. (The average EU total tax on roll-your-own tobacco is 44% of the average total tax on cigarettes.) With lower tax rates, hand-rolled cigarettes are significantly cheaper than manufactured cigarettes, and, as a result, the market share of RYO products has increased dramatically. In this regard, WHO's European Region stated that "Research has shown that some

We also agree with Article 11 that health warnings must be mandatory on all packaging sold to consumers, and we do not dispute the right of governments to require us to set aside a substantial part of our consumer packaging for health warnings. In fact, in countries where health warnings are not required, we place them on packaging voluntarily in the official language or languages of the country. For example, many countries in Africa do not require health warnings on packaging, and we have voluntarily placed warnings on our packaging in those countries, where we use the country's official language such as French, Portuguese, or English. Beginning production this year, our voluntary warnings in these African countries will be 30% of the front and back panels of our cigarette packs.

Although we have not opposed and will not oppose legislation in line with the FCTC's requirements for warning sizes, we must retain enough of our packaging to display trademarks and trade dress to permit our consumers to distinguish one brand of tobacco product from another. The ability to use our trademarks and pack designs to differentiate brands is a critical part of our ability to compete. Finally on warnings, we do not oppose graphic health warnings that depict the health effects of smoking, although we think that textual warnings are sufficient.⁴

We support other core principles in the Treaty some of which I address below in response to your other demands.

cigarette consumers react to price increases by shifting consumption to cheaper tobacco products. To achieve a reduction in overall tobacco consumption, taxes would have to be raised at the same time and in a comparable amount for all tobacco products." *Taxation of Tobacco Products in the WHO European Region: Practices and Challenges* at 6 (2004) ("WHO EU Region Report").

Moreover, tax is an incentive and therefore an important factor in regard to illicit trade in tobacco products. As excise taxes and other costs increase, smokers may seek lower-priced cigarettes from a variety of alternative venues and channels, including cheaper products sold on the black market. The World Bank has stated: "Differences in price between countries or states will clearly increase the incentives to smuggle cigarettes. However, the determinants of smuggling appear to be more than price alone." *World Bank, Curbing the Epidemic: Governments and the Economics of Tobacco Control, chapter 5* (1999). That is why when fiscal measures are adopted that will increase the price of cigarettes, such as increasing taxes, it is critical that governments implement appropriate policies to effectively counter illicit trade in tobacco products.

The impact on demand for counterfeit brands, a growing problem, is particularly important. While all tobacco products cause diseases, counterfeit products can pose unexpected dangers. According to the U.K. Customs and Excise authority, "A fake cigarette lights up a whole new set of risks for the smoker." HM Customs and Excise, "Counterfeit Cigarettes 2004" brochure, p. 12; see also Stephens, W.E., Calder, A., Newton, J., 2005. Source and health implications of high toxic metal concentrations in illicit tobacco products. *Environmental Science & Technology* 39(2): 479-88 ("Three carcinogens - arsenic, cadmium, and lead - were typically three to six times as abundant in the cigarettes of counterfeit brands as in those of the eight legal brands they mimicked.").

⁴ Although too detailed for this letter, we have stated that laws addressing health warnings should be very specific as to placement, colours of the text and background, and rotation requirements (we agree that several warnings are appropriate and should be rotated); and we have stressed the need for appropriate implementation periods to make changes required for health warnings, as were provided in the European Union.

2. Not lobby or work – directly or indirectly through sponsored organizations or otherwise – on any national or sub-national legislative proposals to ratify the FCTC and/or implement the terms of the FCTC.

PMI will not block efforts to ratify the FCTC. As noted above, we support the FCTC process, albeit not all of the Treaty's provisions, and view the Treaty as an important catalyst to drive regulation of the manufacture, marketing, sale and use of tobacco products. In Brazil, as one example, we expressed our support for ratification, when the public health community faced opposition from tobacco growers.

However, we will continue to exercise our right to communicate our views to governments on the implementation of regulation, whether based on the FCTC or not. As discussed above, we will support measures that are based on the principle of harm reduction. We strongly believe that our participation can help regulators by ensuring that regulations are cohesive, comprehensive, and -- importantly -- enforced, applying to all tobacco products and all tobacco companies. We will not, however, support measures that deprive us of our ability to compete or to manufacture and sell products that are acceptable to adult consumers, which would be tantamount to prohibition with the attendant unintended consequences, such as driving smokers to cheaper and unregulated tobacco products.⁵

As we engage with regulators, we will emphasize four guidelines.

First, regulations must apply to all tobacco products sold in the country, including domestically manufactured products, imported products and products sold from foreign sources directly to domestic consumers (via the internet, for example).

Second, consistent with WHO's views, regulations must apply equally to manufactured cigarettes and other tobacco products, such as roll-your-own tobacco. Unfortunately, regulation of many popular forms of tobacco products is inconsistent with regulatory requirements for manufactured cigarettes. For example, today Belgium requires graphic health warnings on cigarette packages, but not on roll-your-own tobacco, which accounts for almost 50% of the country's total tobacco market.

Third, regulations must be comprehensive, and viewed holistically – not adopted piecemeal. To support this principle, we agree with the FCTC's call for "a national coordinating mechanism or focal points for tobacco control" (Article 5(2)(a)). Today, many countries regulate tobacco products through different governmental authorities,

⁵ For example, we would not support a product performance standard that is technically impossible to meet or that makes products unacceptable to consumers which in either case would have the same effect as prohibition. This is consistent with legislation recently introduced in the U.S. Congress to give U.S. Food and Drug Administration authority to regulate tobacco products. The legislation explicitly recognizes the need to take into account unintended consequences of regulation. See Family Smoking Prevention and Tobacco Control Act, introduced in the 110th Congress 1st Session, § 907(b)(1)(E) (regulator "shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand...").

many of which have different objectives. Ideally, the authority to regulate tobacco products should be placed in a single regulatory agency. This would facilitate a holistic approach to tobacco regulation, avoiding inconsistent policies. That agency should coordinate closely with relevant government authorities, including ministries of health, finance and agriculture. If a single agency is not possible, governments should ensure that all branches of the government with authority over tobacco products coordinate all policy matters related to tobacco.

Fourth, and especially important for many international markets, regulators must have the necessary powers and resources to enforce regulations and must enforce them equally and vigilantly against all industry participants.⁶

3. Not lobby or work – directly or indirectly through sponsored organizations or otherwise – against legislation or regulation requiring 100 percent smoke free places.

We do not oppose regulations that would require 100 percent smoke free places in many areas. In fact, we have stated on our website that “the conclusions of public health authorities on secondhand smoke warrant public health measures that regulate smoking in public places” and that “outright bans are appropriate in many places.” For example, smoking should be prohibited completely in schools, playgrounds and other facilities for youth. Smoking should also be prohibited where general public services are provided such as public transportation vehicles, supermarkets, public spaces in indoor shopping centres, cinemas, banks, post offices, etc.

We believe, however, that for private business owners, particularly in the hospitality sector (e.g., bars, cafés, discos and other entertainment establishments), the law should grant flexibility to permit smoking in certain circumstances. We believe that it would be appropriate to permit smoking in bars and nightclubs, for example, in physically separated areas, or in workplaces in fully separated smoking lounges or individual offices. In all cases where smoking is permitted, governments should mandate signage communicating the public health community’s conclusions that exposure to secondhand smoke causes diseases in non-smokers.

4. Not invoke provisions of any trade or investment agreement, or urge governments to invoke such provisions, to challenge any tobacco control-related law or regulation.

PMI does not intend to use free trade principles to block reasonable tobacco control measures, such as advertising restrictions. But it is not possible to make a blanket commitment that would apply to *any* tobacco control measure. Importantly, a distinction needs to be made between discriminatory regulations and those which are applied evenly to all companies. If a country imposed restrictions on international companies, while not imposing the same restrictions on domestic companies,

⁶ On the issue of funding, we have stated that without appropriate funding, implementation and enforcement of regulations will be difficult, if not impossible. Among options we have proposed to secure necessary funding are (1) earmarking of tobacco excise taxes, (2) specific per unit fees, (3) licensing fees, and (4) user fees. Importantly, measures to generate funding should be applied equally to all participants in the tobacco industry, including manufacturers of roll-your-own and other tobacco products.

invoking trade or investment agreements would be appropriate. For example, if a country decided to ban descriptors for our brands, but permit their use for local brands, we would consider whether such a ban violated a free trade agreement. On the other hand, if a country adopted a descriptor ban for all products, whether domestic or international, we would not use a trade agreement to challenge the ban. Similarly, we would consider whether a regulation that effectively prevented our ability to compete violated trade or investment agreements.

5. Extend the European tobacco smuggling agreement to include every country in which [PMI] operates.

Preventing the smuggling and counterfeiting of cigarettes must be a top government priority. As the FCTC states, "the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control." (Article 15, Section 1.)

PMI's Agreement with the European Commission and its Member States has been a great success, particularly in the area of cooperation to improve prevention of illicit trade. As the European Commission recently stated, "This cooperation to date has exceeded all expectations and sets an example of what industry and law enforcement can do when they work together in pursuit of a common goal".⁷ However, the PMI-EC agreement focuses on the European Union, recognizing the unique ability of the Commission and the Member States to address the illegal trade in cigarettes both within and outside of the EU, as well as the significance of the EU region to PMI's global business.

That said, in response to your request, we fully support the implementation of many of the Agreement's mechanisms in other countries, including tracking, tracing, labelling and record-keeping requirements, which we think could be best implemented through strict licensing systems. We agree that manufacturers should implement state of the art monitoring systems of their sales and distribution practices; and we agree that where appropriately confirmed, manufacturers should stop supplying vendors who are shown to be knowingly engaged in illicit trade. While the best approach is for all these structures to be adopted through legislation, we are also working with governments around the world on specific agreements to address the illegal trade in cigarettes.⁸

⁷ IP/06/735 (Brussels, 6 June 2006) Anti-Contraband and Anti-Counterfeit Agreement between PMI and the European Community and Member States."

⁸ We have entered into agreements with 14 countries, including China, Senegal, Switzerland, Thailand, and Turkey, and are in the process of reaching agreements with another 13 countries.

6. Fully disclose all political contributions, lobby costs and charitable/educational donations in every country in which [PMI] operates.

PMI and its affiliates make limited political contributions. In fact, last year we made political contributions in only two countries: Australia and Germany. Information about those contributions is disclosed to the public as required under local law, but we would be willing to disclose them on our internet site. Many charitable organizations to which we make contributions are listed on our website.⁹ For 2005, we listed over 60 organizations that received charitable contributions from PMI or one of its affiliates, in a diverse group of countries that included Germany, Italy, Spain, Brazil, Costa Rica, Russia, Japan, Vietnam, Malawi, Singapore and Thailand. We intend to provide similar information on our website for our 2006 contributions. As we state on our website, our contributions in 2006 focused on human needs and social services, hunger, domestic violence, arts and culture, and disaster relief. We also gave grants to programmes that address critical issues in the communities where we buy our tobacco.

7. Fully disclose all advertising and marketing expenditures – as [PMUSA] is now required to do in the United States – in every country in which [PMI] operates.

Marketing spending is an inherently competitive issue. We do not oppose government requirements to disclose marketing expenditures as long as the information is provided and used in a manner that protects information that is confidential. We believe that governments should establish clear rules for providing this information. For example, if governments ask for the disclosure of marketing expenditures, they should request it in aggregated form directly from each manufacturer, as suggested in Article 13 of the FCTC.

8. End all sponsorships of “youth smoking prevention programs.”

Clearly, youth smoking is a problem across the globe, and PMI firmly believes that kids should not smoke and that preventing youth smoking should be a vital and central component of comprehensive tobacco regulation. Governments should enact and actively enforce laws that make it a crime to sell or provide cigarettes to minors. They can also provide for effective educational programs that ensure that children understand the serious health effects of smoking. Educators, family and teachers play an important role as well, talking to children about the damaging health effects of smoking and making sure that kids don't get access to tobacco products.

While the issue of youth smoking must be addressed by governments, regulators, parents, teachers and society in general, PMI believes it has a role to play in addressing the issue of youth smoking and that its programs are appropriate and responsible. Over the years, we have taken steps to support youth smoking prevention, from funding educational programs to supporting strict minimum age regulations to implementing access control programs with our retailers. We will continue to take action in this area. PMI's principal voluntary programs in the area of

⁹ http://www.philipmorrisinternational.com/PMINTL/pages/eng/community/Who_we_fund.asp.

youth smoking prevention are focused on preventing youth access to tobacco products.

Today, PMI actively promotes minimum age laws around the globe and communicates with governments the need to strictly enforce them. Many countries in the world do not have minimum age laws and, where such laws exist, they are often not adequately enforced – a fact that is recognized in Article 16 of the FCTC.¹⁰ We are also working with retailers to educate them about the law, their responsibilities, and how to best prevent sales to minors. Our access prevention programs include providing retailers with signage indicating that sale to minors is prohibited – which is also suggested by Article 16 of the FCTC. In addition to these retail access initiatives, PMI has provided financial support to the ongoing efforts of teachers, community groups, youth specialists and health ministries for educational programs aimed at preventing youth smoking.

9. Refrain from directly or indirectly placing tobacco products or promoting depictions of smoking in movies or other media produced anywhere in the world.

PMI does not pay, directly or indirectly, for product placement (e.g., payment to have its brands or any tobacco products used in movies). This has been PMI's policy for many years, and we support legislation that would prohibit any tobacco company from doing so. In fact, we frequently reject requests from film producers to use our brands in their films. Ultimately, however, the depiction of smoking in films, including the use of our brands and any tobacco products, is one that must be decided by governments and the entertainment industry. But we encourage the motion picture industry to exercise restraint, and, at the very least, not to use tobacco products or depict smoking in youth rated films.

* * * *

I hope these responses to your requests clarify PMI's positions. While we cannot agree to all of the demands you have presented, let me assure you that PMI is committed to the principles laid out in this letter and to working with all interested stakeholders to resolve the complex issues surrounding tobacco use around the world. As I said, I would be pleased to meet with you to discuss these or any other related matters at your convenience.

Sincerely,



Even Hurwitz
Senior Vice President, Corporate Affairs
Philip Morris International

¹⁰ We also support many of the other provisions in Article 16, including the prohibition of the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors, and measures to ensure that vending machines are not accessible to minors.