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Tobacco Control and the World Trade Organization: Mapping Member States' Positions after the Framework Convention on Tobacco Control

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Forthcoming in *Tobacco Control*

Keywords: Global health; Globalisation; Low/Middle income country; Packaging and Labelling; Tobacco industry

ABSTRACT

Objective To note the frequency of discussions and disputes about tobacco control measures at the World Trade Organization (WTO) before and after the coming into force of the Framework Convention on Tobacco Control (FCTC). To review trends or patterns in the positions taken by members of the WTO with respect to tobacco control measures. To discuss possible explanations for these observed trends/patterns.

Methods We gathered data on tobacco related disputes in the WTO since its establishment in 1995 and its forerunner, the General Agreement on Tariffs and Trade (GATT), prior- and post-FCTC. We also looked at debates on tobacco control measures within the WTO more broadly. To this end, we classified and coded the positions of WTO member states during discussions on tobacco control and the FCTC, from 1995 until 2013, within the Technical Barriers to Trade (TBT) Committee and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council.

Results There is a growing interest within the WTO for tobacco related issues and opposition to tobacco control measures is moving away from high-income countries towards low(er) income countries.

Conclusion The growing prominence of tobacco issues in the WTO can be attributed at least in part to the fact that during the last decade tobacco firms have been marginalised from the domestic policy-making process in many countries, which has forced them to look for other ways and forums to influence decision-making. Furthermore, the finding that almost all recent opposition within the WTO to stronger tobacco regulations came from developing countries is consistent with a relative shift of transnational tobacco companies' lobbying efforts from developed to developing countries.

INTRODUCTION

Trade issues have long been recognised as important for tobacco control[1-3], and there have been a number of tobacco-related disputes within the WTO. The Framework Convention on Tobacco Control (FCTC) was adopted by the World Health Assembly in May 2003 and entered into force on 27th February 2005[4]. The FCTC sets out obligations and provides clear guidance for its 180 States Parties on a series of (mainly demand side) tobacco control measures. However, following a number of disagreements over the inclusion of a possible clause in the FCTC giving it precedence over World Trade Organisation (WTO) or other trade law in the event of a conflict, a compromise was reached during FCTC negotiations whereby no explicit reference was made to the relationship between tobacco control and international trade law[5]. The first paragraph of the preamble states that the Parties to the FCTC are "determined to give priority to their right to protect public health"[4]. Article 2.2 of the FCTC may give it priority over treaties concluded subsequent to it, and customary international law may give the FCTC priority over treaties concluded earlier than it, but doubt remains as to the likely outcomes of disputes involving a conflict between trade and health concerns[6]. An important dispute concerning tobacco products is currently under way within the WTO, where a number of countries have complained about the adoption of plain packaging requirements by Australia[7-8].

In this article, we review the positions taken by members of the WTO on tobacco control measures in the post-FCTC period, not just in formal disputes but also in discussions within relevant WTO forums, notably the Technical Barriers to Trade (TBT) Committee and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council, in order to identify trends and patterns.

METHODS

Data gathering was carried out in the following steps. We first identified formal GATT (1947-1995) and WTO (1995-2013) disputes, prior- and post-FCTC, by searching the relevant WTO Dispute Settlement Body (DSB) data bases at https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm, under the subject categories of "cigarettes" and "tobacco" (see Table 1 for an overview).

[Table 1 here]

In a next step we classified and coded the positions of each WTO Member State during discussions on tobacco control and the FCTC from 1995 until 2013. We focused specifically on the two key WTO bodies where tobacco control measures are discussed. First, the TBT Committee, which looks at whether technical regulations, standards, and conformity assessment procedures introduced by a country are discriminatory and/or create (unnecessary) obstacles to trade. A typical TBT issue related to trade in tobacco products is whether regulations on plain packaging create unnecessary hurdles to trade and are more trade-restrictive than 'necessary' to fulfil the legitimate objective of protecting the health of a country's citizens. Second, the TRIPS Council, which deals with all kinds of issues related to the protection of intellectual property rights in the multilateral trading system, including trademarks, patents and copyright provisions. A key example of a TRIPS concern in the field of tobacco control is how far the introduction of plain packaging places unjustifiable hindrances on the usage of tobacco-related trademarks.

Both the TBT Committee and the TRIPS Council were established in 1995; hence our focus on the 1995-2013 period. To gather data on the TBT Committee, we searched the "specific

trade concerns" section in the TBT database on the WTO website (tbtims.wto.org). Interventions by countries which are in opposition to specific measures are recorded in this database. Interventions which are in favour of or in defence of those measures are not recorded as a "specific trade concern, but this information is recorded in the minutes of the TBT Committee and available elsewhere at the WTO website (http://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm). We found that issues related to tobacco and/or cigarettes were not raised in the TBT Committee until 1997 (Thai ingredient disclosure) and then not again until 2007 (tracking system, not health related). For the TRIPS Council we consulted http://www.wto.org/english/tratop_e/trips_e/trips_e.htm#issues and found that Tobacco control measures were first raised within the Council in 2011 (Plain packaging).

Based on this information, we coded Member States positions as follows: a) "opposed" where the minutes reflected a position in opposition to a tobacco control measure (TRIPS), or if they were identified as having a specific trade concern in the TBT database; b) "supported" where the minutes reflected a position in support (TRIPS and TBT); and c) "other" if the position articulated in the minute was neither clearly supportive nor not supportive (see Table 2 for examples of texts indicating the three positions). Moreover, in order to compare the number of members concerned about TBT issues related to tobacco with the number of members concerned about all other issues, we searched the TBT section at the WTO website at https://www.wto.org/english/tratop_e/tbt_e/tbt_work_docs_e.htm.

Finally, we gathered the following additional data on WTO Member States: FCTC membership (at http://www.who.int/fctc/signatories_parties/en) and World Bank developmental status (at http://data.worldbank.org/about/country-and-lending-groups). Regarding the latter, the World Bank distinguishes between Low-income (LI) economies (with a Gross National Income

(GNI) per capita of $1,045 or less); Lower-middle-income (LMI) economies (GNI per capita between $1,046 and $4,125); Upper-middle-income (UMI) economies (GNI per capita between $4,126 and $12,745); and, finally, High-income (HI) economies (with a GNI per capita of $12,746 or more). We follow this categorization throughout this paper, although at times we group the LI, LMI and UMI economies together and refer to them as 'developing countries,' while HI economies may sometimes be referred to as 'developed countries.'

[Table 2 here]

RESULTS

Our data show, first of all, that tobacco control is a much debated topic within the WTO. Of the 15 most discussed issues within the TBT Committee between 1995 and 2013 – as measured by the number of WTO member countries that raised concerns about the particular issue during this period – six issues were related to tobacco control (see Table 3). Moreover, tobacco control policies have also been the subject of some high profile formal WTO dispute settlement cases (see Table 1 for an overview). Overall, there have been eleven WTO disputes about tobacco and/or cigarettes, of which ten were launched after the signing of the FCTC in 2003, while there were three disputes during the GATT-era. The most prominent and heavily debated WTO dispute settlement cases relating to tobacco are without doubt the five cases brought in 2012 and 2013 by Cuba, Dominican Republic, Honduras, Indonesia and Ukraine against Australia's plain packaging rules. Note that in May 2015, Ukraine asked for its dispute proceedings with Australia to be suspended "with a view to finding a mutually agreed solution"[9].

Another interesting finding is that the importance of tobacco related issues within the WTO is a relatively recent phenomenon. The data on the issues with the greatest number of WTO members raising concerns at the TBT Committee shows that all debates on tobacco control policies took place since 2011 (see Table 3), while more than half of all the formal dispute settlement complaints launched in the entire GATT/WTO history involving tobacco were launched in the period since 2010 (Table 1).

A third noteworthy observation, based on our data, is that almost all recent opposition within the WTO against the strengthening of tobacco regulations came from developing countries. This is true for the formal WTO dispute settlement cases, as well as for the debates in the TBT committee. Table 1 reveals that all recent dispute settlement cases, against countries introducing (stronger) tobacco control policies, were indeed brought by upper-middle-income (UMI) countries like Cuba and the Dominican Republic or lower-middle-income (LMI) countries such as Honduras, Indonesia, the Philippines and Ukraine. Figure 1, illustrates that opposition in the TBT Committee and TRIPS Council on tobacco control related issues also came predominantly from developing countries. Most active in this regard were the same UMI and LMI countries that launched the aforementioned WTO disputes, complemented by UMI countries like Chile, Colombia, Ecuador, Mexico and Turkey, as well as the LMI countries Nicaragua, Nigeria and Zambia. Some low-income (LI) countries were also very active: Kenya, Malawi and in particular Zambia. Taken together, developing countries opposed tobacco control polices three times more often than developed countries, while they hardly ever spoke out in favour of strong tobacco policies (see Figure 1). Among developed countries, such support for strong tobacco control policies within the TBT Committee and TRIPS Council was more common. As Figure 1 shows, high-income (HI) countries frequently supported tougher tobacco

regulations, while they only occasionally raised opposition towards such measures. In fact, developed countries supported tobacco control policies twice as often as they opposed them.

[Table 3 here]

[Figure 1 here]

What is more, if one looks at the frequency with which countries raise concerns about tobacco related issues in the TBT committee and compares this to their interventions on all other issues within the committee, as we do in Figure 2, another striking difference between developed and developing countries becomes apparent. On average 23% of all oppositional interventions by developing countries in the TBT committee are related to tobacco control. This percentage gets higher the lower the income of the country in question: 13% for UMI countries, 23% for LMI countries and 31% for LI countries (see Figure 2). For some LI countries this percentage is even as high as 100% (i.e. Burundi, Kenya, Malawi, Mozambique, Tanzania and Uganda). The same counts for some LMI countries such as Honduras, Nicaragua, Nigeria and the UMI country Macedonia. The number of tobacco-related concerns raised as a percentage of all TBT interventions by developed countries, however , is negligible (i.e. 2%). For instance, just 3 out of 196 (2%) concerns raised in the TBT committee by the EU, and 2 out of 169 (1%) by the US, were related to tobacco control. Most other developed countries (e.g. Australia, Canada, New Zealand, Norway and South Korea) never raised concerns about tobacco control policies at all.

[Figure 2 here]

DISCUSSION

As shown above, tobacco control debates play a prominent role in the context of the WTO and have become particularly important in recent years. How can we explain this 'sudden' prominence of tobacco issues in the WTO? Part of the explanation may lie with the fact that – partly catalysed by the FCTC – there has been a clear rise in the number of tobacco control measures being adopted worldwide, which in turn has generated increasing debate between pro- and anti-tobacco control forces in different political and institutional settings, including the WTO. Yet, this is only part of the story. To understand the surge in tobacco control issues raised at the WTO we also have to take into account that during the last decade or so tobacco firms have been marginalised from the domestic policy-making process in many (particularly high income) countries, which has forced them to look for other (more indirect) ways and forums to influence decision-making. Given the transnational nature of the tobacco industry and the internationalisation of policy-making, transnational tobacco companies (TTCs) have ample opportunities to find alternative venues to further their corporate interests. A particularly suitable venue in this regard is the WTO. Whilst the WTO offers several ways for firms to influence policy-making, they cannot initiate disputes with governments directly, as they can under the investor-state dispute settlement (ISDS) mechanisms of bilateral investment treaties (BITs) and preferential trade agreements (PTAs). Philip Morris is already pursuing disputes against the Australian and Uruguayan governments under the ISDS clauses of two separate BITs[10,11]. Nevertheless, research has shown that firms play a key role in convincing governments to file complaints at the WTO's Dispute Settlement Body or instigating governments to raise issues at the various WTO committees[12-14].

In the past, most objections against tobacco control policies in the WTO or via GATT came from developed countries as a result of lobbying by TTCs. The high profile GATT case brought by the US on behalf of American tobacco companies against Thailand in 1989 is a case in point[15] (see Table 1). However, as shown above, over time WTO related action against tobacco control moved from high income countries towards low(er) income countries. This is particularly surprising given that developing countries generally are under-represented in the WTO disputes process, with up to 80% of all disputes initiated by high income countries[16-19]. The poorest countries in the WTO system have previously been described as 'almost completely disengaged from enforcement of their market access rights through formal dispute litigation'[20].

How can we account for the shift to developing countries in anti-tobacco control actions in the WTO? One possibility is that TTCs have shifted their lobbying efforts from developed to developing countries. This is likely given that, as mentioned before, TTCs increasingly face ever-tougher tobacco control policies in developed countries and have even been excluded from policy-making processes in a number of high-income countries. Whilst they retain influence in the latter and continue to lobby there, their legitimacy has been damaged by a growing awareness of past deception[21] and of the health risks of smoking, leading in some cases to a loss of 'insider' status and restrictions on their access to policy-makers[22]. Furthermore, the promotion of tobacco interests via trade agreements has become increasingly contentious in high-income countries. As early as 1992, in reaction to the aggressive pursuance of tobacco interests in East Asia, the contradiction between increasingly strong domestic tobacco control measures and the promotion of tobacco exports abroad was considered by the US General Accounting Office[23, 24]. In 1997, the Doggett Amendment was passed by the US congress, barring personnel from the Departments of Commerce, Justice and State from promoting tobacco abroad, a provision

extended to all US executive branch agencies by President Clinton in 2001[24]. Whilst in practice the US has continued to act to liberalise tobacco markets[25], there has been renewed pressure to exclude tobacco from current trade negotiations such as that for the Trans-Pacific Partnership agreement [26, 27].

Whilst TTCs can and do continue to press their interests in high-income countries, in this context it is a rational strategy for them to turn to lower-income countries to represent their interests via an organisation like the WTO, where any member state can initiate a dispute or raise a concern. This is in line with other research on firm lobbying in the context of WTO dispute settlement. Typically, firms instigate their domestic government to file an official WTO complaint, or to take a stance within a committee, against a foreign country. However, increasingly firms also push foreign governments to stand up against their home country (or other third countries) in cases where they put in place trade restrictive measures. Research shows that firms pursuing such a strategy of transnational lobbying and foreign venue shopping in the context of WTO dispute settlement "are generally multinational firms sourcing from abroad or firms with foreign subsidiaries, that are confronted with an unresponsive home government and use the opportunities of the multiple venues available within the institutions of the multilateral trading system to try and obtain [favourable] policies"[13]. A key reason for a government to be unresponsive to the demands of a firm is if that firm "produces politically sensitive or controversial products (e.g. products with possible negative effects on people's health or the environment), which means that…politicians may see it as a political risk to give in to [the demands of the firm]"[13]. This logic would seem to apply to TTCs and their decision to shift their attention and lobbying from high-income to low(er)-income countries in trade matters. This is especially so since a relative lack of policy coherence between government departments in

low-income countries[28] may make it easier for companies to lobby there. In particular, a lack of coordination between health and trade ministries may mean that lobbyists need only convince relatively few officials in the trade ministry of their case, potentially resulting in a position at the WTO that does not necessarily represent the view of the government as a whole.

A further possible reason for the shift from high-income countries to lower-income countries opposing tobacco control could be that the countries in question are important tobacco exporters and hence may benefit economically from the lifting of trade barriers on tobacco products elsewhere. To be sure, some of the most vocal opponents of tobacco control policies in the WTO are indeed important tobacco producers and exporters. Indonesia for instance is the world's 4th most important tobacco producer and 12th on the list of most important tobacco exporters. Tobacco production and exports in/from some other active anti-tobacco control countries like the Philippines and Ukraine are also substantial. However, countries like the Dominican Republic, Ecuador and Guatemala – all actively opposing tobacco control policies – seem to have no clear and direct stake in WTO action against tobacco control, as their tobacco production and exports figures are negligible[29]. What is more, none of the countries that launched a WTO dispute settlement case against Australia's plain packaging rules (see Table 1) is actually exporting any substantial amount of tobacco products to Australia. In fact, export figures for most of these countries are close to zero. Only Indonesia exports some tobacco products to Australia, but still less than 1% of its total tobacco exports[30].

This lack of a clear pattern of economic interests among countries opposing tobacco control policies at the WTO lends support to the proposition that TTCs are exerting influence. Indeed, an explicit link between TTCs and countries initiating the WTO dispute with Australia is the payment of disputing countries' legal fees by the TTCs. Philip Morris International has

acknowledged that it is paying the law firm Sidley Austin to represent the Dominican Republic, whilst British American Tobacco (BAT) is paying the legal expenses of Ukraine and Honduras[31]. The Australian Health Secretary has further indicated that she believes that BAT lawyers have attended consultation meetings between the Australian government and the disputing governments[32]. The Ukrainian Prime Minister, Arseniy Yatseniuk, has reportedly stated that Ukraine initiated its (now suspended) dispute with Australia "at the request of the American Chamber of Commerce"[33]. WTO disputes might thus be seen as part of a broader strategy by TTCs which involves also disputes initiated directly by them under the provisions of BITs and through national legal systems.

A few final remarks are in order. First, despite the fact that our data clearly show that opposition within the WTO to tobacco control policies is moving away from high-income countries towards low(er)-income countries, not all developed countries are pro tobacco control. In fact, leadership and support for tobacco control in the TBT Committee or TRIPS Council comes from just a handful of high-income WTO members – in particular, Australia, Canada, New Zealand and Norway. So, on the side of developed countries, "the coalition of the willing" is not very extensive and economic and political heavyweights like the US, Japan and the EU are not actively backing tobacco control policies within the WTO context and sometimes even openly oppose such policies[34, 35]. However, it is important to mention in this regard that, within the WTO context, the European Commission represents the EU and individual EU member states do not express their own opinion. This means that the EU's position is usually a compromise between those member states in favour and those against stricter tobacco control policies. In other words, despite the fact that the EU as a whole may not be actively supporting -

or at times may even oppose - tobacco control policies within the WTO, individual EU countries may nevertheless be supportive of tobacco control initiatives.

Second, just as we do not suggest that all developed countries are in favour of tougher tobacco control polices, we also do not argue that all developing countries are against them. Some low(er) income countries in fact openly and consistently support tobacco control policies during debates within WTO committees. Most active in this regard are Brazil and Uruguay, which is in line with their broader policies to restrict tobacco use. Brazil has "for the past two decades…been at the forefront of global tobacco control initiatives"[36], while Uruguay's tobacco control strategy was labelled "world leading" by a recent report from the International Tobacco Control Policy Evaluation Project[37].

Third, we should mention three caveats to our findings. For one thing, our analysis is based on a limited number of cases during a rather short period of time. To be sure, we looked at discussions in the TBT Committee and TRIPS Council from 1995 until 2013 and GATT/WTO Disputes for the entire 1947-2103 period, yet tobacco related issues only became a frequently debated issue in the last few years, which in turn means that our conclusion that there is "a shift" from high income to low(er) income countries should be treated with some caution. Moreover, it is difficult to ascertain the extent of political influence of TTCs over low(er)-income countries using methods previously proven to be effective, such as analysis of internal company documents, since we lack access to such documents for the post-FCTC period. Finally, in our analysis we have treated all tobacco related issues and disputes as equally important in the sense that we simply coded all issues/disputes raised within the WTO as either 'being' or 'not being' about tobacco control. We acknowledge that this has limitations to the extent that such an

approach does not allow us to distinguish between those issues and disputes that are very relevant to tobacco control and those that are perhaps only partially relevant.

CONCLUSIONS

Our data demonstrate an increase in disputes and discussions at the WTO related to tobacco control in the post-FCTC period and a clear shift towards lower-income countries opposing tobacco control policies. The lack of a clear pattern of economic interests among the complaining parties in the important dispute with Australia, and the legal and financial assistance provided by TTCs to those parties, suggests that TTCs are exerting influence over trade policy. Whilst previous research using tobacco industry documents has revealed past TTC influence in some of the countries currently in dispute with Australia, including Honduras[38], Ukraine[39] and Indonesia[40], more research is needed to understand current forms of industry influence over trade policy.

WHAT THIS PAPER ADDS

- The number of WTO disputes involving tobacco control policies has increased in the post-FCTC period.
- Nearly all countries opposing tobacco control policies in the WTO in the post-FCTC period are low or middle income countries.
- TTCs have an incentive to influence the governments of low and middle income countries to oppose tobacco control via the WTO.

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Table 1 Tobacco and cigarette disputes in the GATT and the WTO

Year*	Complainant	Defendant	Issue raised by complainant	Dispute#
GATT disputes				
1979	United States	Japan	Japanese Restraints on Imports of Manufactured Tobacco from the United States	L/5140
1989	United States	Thailand	Restrictions on Importation of and Internal Taxes on Cigarettes	DS10/R
1993	Group of nine countries**	United States	Measures Affecting the Importation, Internal Sale and Use of Tobacco	DS44/R
WTO disputes				
2001	Chile	Peru	Taxes on Cigarettes	DS227
2003	Honduras	Dominican Republic	Measures Affecting the Importation of Cigarettes	DS300
2003	Honduras	Dominican Republic	Measures Affecting the Importation and Internal Sale of Cigarettes	DS302
2008	Philippines	Thailand	Customs and Fiscal Measures on Cigarettes from the Philippines	DS371
2010	Indonesia	United States	Measures Affecting the Production and Sale of Clove Cigarettes	DS406
2010	Ukraine	Armenia	Measures Affecting the Importation and Internal Sale of Cigarettes and Alcoholic Beverages	DS411
2012	Ukraine	Australia	Certain Measures Concerning Trademarks and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	DS434
2012	Honduras	Australia	Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	DS435
2012	Dominican Republic	Australia	Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	DS441
2013	Cuba	Australia	Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	DS458
2013	Indonesia	Australia	Certain Measures Concerning Trademarks, Geographical Indications and Other Plain Packaging Requirements Applicable to Tobacco Products and Packaging	DS467

* The year when a request for consultations from the complainant was received by the WTO.
** These countries were Argentina, Brazil, Canada, Chile, Colombia, El Salvador, Guatemala, Thailand and Zimbabwe.

Table 2 Examples of texts indicating positions of WTO Member States in TBT Committee and TRIPS Council

Opposed: *The representative of Zimbabwe said that, while her delegation appreciated New Zealand's efforts to protect the health of consumers, it shared the concerns expressed by the Dominican Republic and other delegations regarding tobacco plain packaging. The measures were inconsistent with the TRIPS Agreement and would impair Members' benefits.*
Supported: *The representative of Uruguay said his delegation wished to reiterate its position regarding the legitimacy of plain packaging measures for tobacco products under WTO rules. He said that public health protection was unquestionably part of state sovereign competence and each country could legislate in favour of the public good. New Zealand had undertaken to comply with its international obligations while adopting these measures it considered necessary to defend public health interests, and Uruguay was fully satisfied with the explanations and justifications that had been given by New Zealand in that respect. He said that Article 20 of the TRIPS Agreement provided that there should not be any undue complication of trademark use with specific requirements. In that respect New Zealand's application of measures intended to control tobacco consumption on its territory could not be considered as violating TRIPS as these measures were more than justified.*
Other: *The representative of Switzerland said that his delegation was supportive of public health measures, including in the area of anti-smoking. Such health measures, as any other government measures or national legislation, needed to be compatible with international obligations, including the substantive provisions of Part II of the TRIPS Agreement, as explicitly provided for public health measures by its Article 8.1. Accordingly, such measures had to be appropriate to reach the objective pursued, which meant that they had to be proportionate and effective. He said Switzerland encouraged New Zealand to take these principles duly into account in its legislative work for the new measures to ensure their compliance with the substantive TRIPS obligations.*

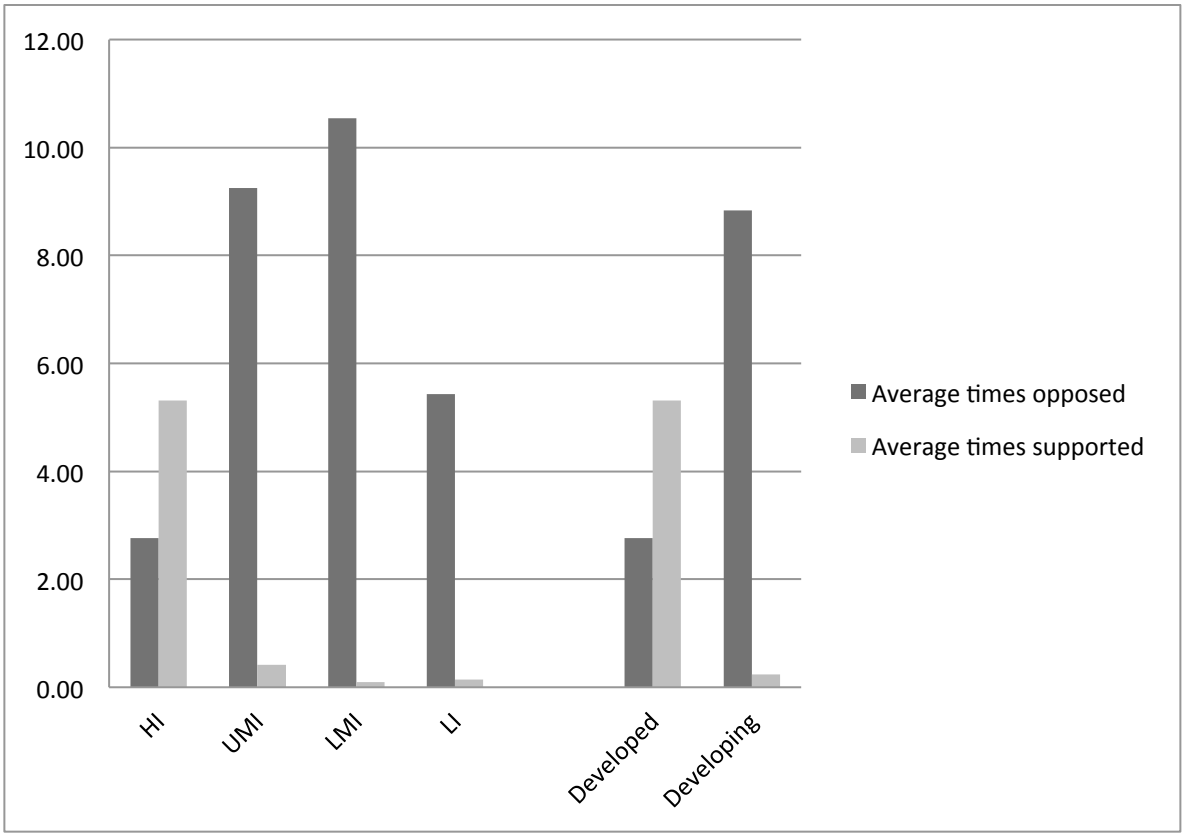
Source: Minutes #72 of TRIPS Council, March 2013

Table 3 Issues with greatest number of WTO members raising concerns at TBT Committee (1995-2013). Tobacco control issues indicated in bold.

Date*	Trade concern	Number of members raising concerns
Oct 2013	European Communities - Regulation on the Registration, Evaluation and Authorization of Chemicals (REACH)	34
Mar 2011	**Canada – Bill C-32 amendment to Tobacco Act**	**29**
Jun 2011	European Communities – Regulation on Classification, Labelling and Packaging of Substances and Mixtures (ATPs and CLP)	26
Jun 2012	**Brazil - Draft Resolution No. 112, 29 November 2010; maximum levels of tar, nicotine and carbon monoxide permitted on tobacco products and prohibition of additives**	**23**
Jun 2012	**Australia – Tobacco Plain Packaging Bill 2011**	**22**
Mar 2012	European Communities – Directive 2002/95/EC on the Restriction of the Use of certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) and Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE)	13
Nov 2012	European Communities – Regulation on Certain Wine Sector Products	13
Jun 2011	European Communities – Regulation on Certain Wine Sector Products	13
Oct 2013	**European Union - Tobacco products, nicotine containing products and herbal products for smoking. Packaging for retail sale of any of the aforementioned products**	**13**
Mar 2002	Belgium – Draft Law aiming at Promoting Socially Responsible Production	12
Oct 2013	Chile - Proposed amendment to the Food Health Regulations, Supreme Decree No. 977/96	12
Jul 2003	United States – Bioterrorism Act	10
Oct 2013	**New Zealand - Proposal to introduce plain packaging of tobacco products in New Zealand**	**10**
Mar 2012	Thailand – Health warnings for alcoholic beverages	9
Oct 2013	**Ireland - Proposal to introduce standardised/plain packaging of tobacco products in Ireland**	**9**

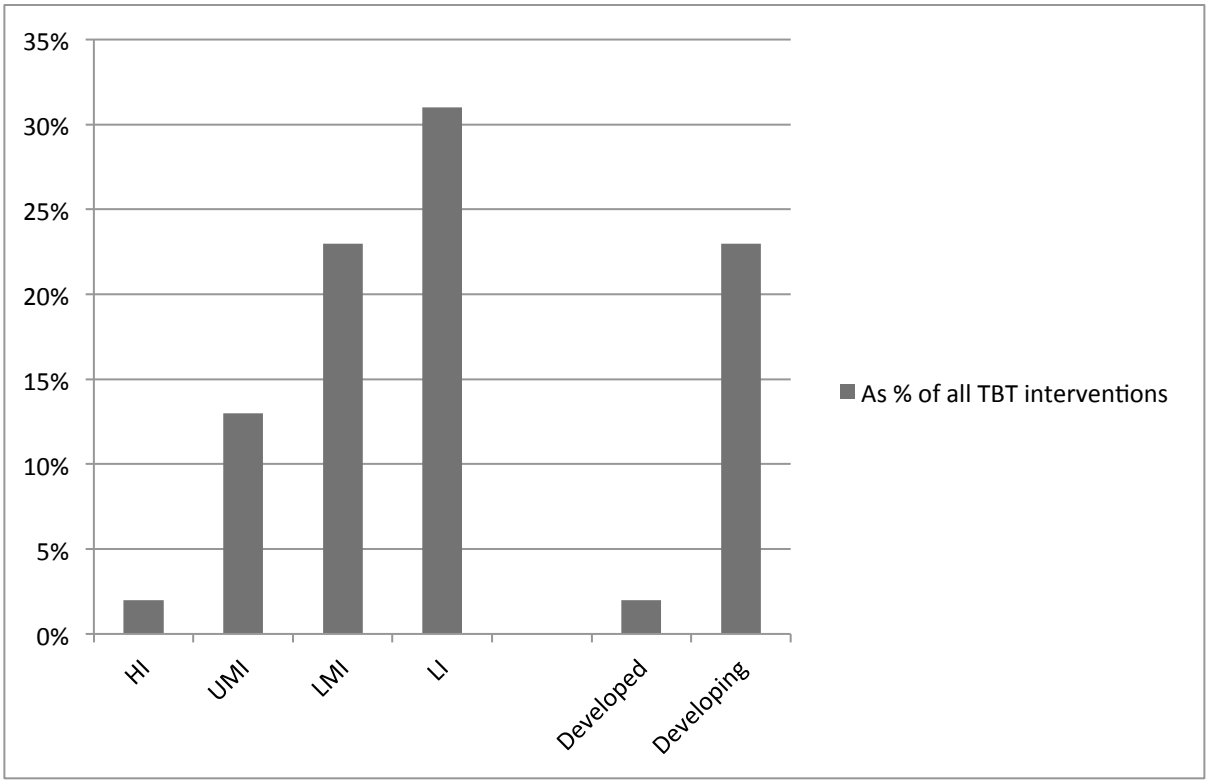
* The indicated date is when the issue was last raised.

Figure 1 Frequency of intervention in TBT Committee or Trips Council on tobacco control related issues by development status (1995-2013)



HI = High Income; UMI = Upper Middle Income; LMI = Lower Middle Income; LI = Low Income

Figure 2 Percentage of specific trade concerns at TBT Committee related to tobacco (among those ever speaking in favour or opposed to tobacco) by development status (1995-2013)



HI = High Income; UMI = Upper Middle Income; LMI = Lower Middle Income; LI = Low Income