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Cigarette Giants in Global Fight on Tighter Rules

By DUFF WILSON

As sales to developing nations become ever more important to giant tobacco companies, they are stepping up efforts around the world to fight tough restrictions on the marketing of cigarettes.

Companies like Philip Morris International and British American Tobacco are contesting limits on ads in Britain, bigger health warnings in South America and higher cigarette taxes in the Philippines and Mexico. They are also spending billions on lobbying and marketing campaigns in Africa and Asia, and in one case provided undisclosed financing for TV commercials in Australia.

The industry has ramped up its efforts in advance of a gathering in Uruguay this week of public health officials from 171 nations, who plan to shape guidelines to enforce a global anti-smoking treaty.

This year, Philip Morris International sued the government of Uruguay, saying its tobacco regulations were excessive. World Health Organization officials say the suit represents an effort by the industry to intimidate the country, as well as other nations attending the conference, that are considering strict marketing requirements for tobacco.

Uruguay's groundbreaking law mandates that health warnings cover 80 percent of cigarette packages. It also limits each brand, like Marlboro, to one package design, so that alternate designs don't mislead smokers into believing the products inside are less harmful.

The lawsuit against Uruguay, filed at a World Bank affiliate in Washington, seeks unspecified damages for lost profits.

"They're using litigation to threaten low- and middle-income countries," says Dr. Douglas Bettcher, head of the W.H.O.'s Tobacco Free Initiative. Uruguay's gross domestic product is half the size of the company's $66 billion in annual sales.

Peter Nixon, a vice president and spokesman for Philip Morris International, said the company was complying with every nation's marketing laws while selling a lawful product for adult consumers.

He said the company's lawsuits were intended to combat what it felt were "excessive" regulations, and to protect its trademark and commercial property rights.

Cigarette companies are aggressively recruiting new customers in developing nations, Dr. Bettcher said, to replace those who are quitting or dying in the United States and Europe, where smoking rates have fallen precipitously. Worldwide cigarette sales are rising 2 percent a year.

But the number of countries adopting tougher rules, as well as the global treaty, underscore the breadth of the battleground between tobacco and public health interests in legal and political arenas from Latin America to Africa to Asia.

The cigarette companies work together to fight some strict policies and go their separate ways on others. For instance, Philip Morris USA, a division of Altria Group, helped negotiate and supported the anti-smoking legislation passed by Congress last year and did not join a lawsuit filed by R. J. Reynolds, Lorillard and other tobacco companies against the Food and Drug Administration. So far, it is not protesting the agency's new rules, proposed last week, requiring graphic images with health warnings on cigarette packs.

But Philip Morris International, the separate company spun out of Altria in 2008 to expand the company's presence in foreign markets, has been especially aggressive in fighting new restrictions overseas.

It has not only sued Uruguay, but also Brazil, arguing that images the government wants to put on cigarette packages do not accurately depict the health effects of smoking and "vilify" tobacco companies. The pictures depict more grotesque health effects than the smaller labels recommended in the United States, including one showing a fetus with the warning that smoking can cause spontaneous abortion.

In Ireland and Norway, Philip Morris subsidiaries are suing over prohibitions on store displays.

In Australia, where the government announced a plan that would require cigarettes to be in plain brown or white packaging to make them less attractive to buyers, a Philip Morris official directed an opposition media campaign during the federal elections last summer, according to documents obtained by an Australian television program, and later obtained by The New York Times.

The $5 million campaign, purporting to come from small store owners, was also partly financed by British American and Imperial Tobacco. The Philip Morris official approved strategies, budgets, ad buys and media interviews, according to the documents.

Mr. Nixon, the spokesman, said Philip Morris made no secret of its financing of that effort. "We have helped them, not controlled them," he said.

Mr. Nixon said Philip Morris agreed that smoking was harmful and supported "reasonable" regulations where none exist.

"The packages definitely need health warnings, but they've got to be a reasonable size," he said. "We thought 50 percent was reasonable. Once you take it up to 80 percent, there's no space for trademarks to be shown. We thought that was going too far."

These days in courts around the world, the tobacco giants find themselves on the defensive far more than playing offense. The W.H.O. and its treaty encourage governments and individuals to take legal action against cigarette corporations, which have encountered growing numbers of lawsuits from smokers and health care systems in Brazil, Canada, Israel, Italy, Nigeria, Poland and Turkey.

But in other parts of the world, notably Indonesia, the fifth-largest cigarette market, which has little regulation, tobacco companies market their products in ways that are prohibited elsewhere. In Indonesia, cigarette ads run on TV and before movies; billboards dot the highways; companies appeal to children through concerts and sports events; cartoon characters adorn packages; and stores sell to children.

Officials in Indonesia say they depend on tobacco jobs, as well as revenue from excise taxes on cigarettes. Indonesia gets some $2.5 billion a year from Philip Morris International alone.

"In the U.S., they took down billboards, agreed not to sponsor music events, no longer use the Marlboro cowboy," said Matthew L. Myers, president of the Washington-based Campaign for Tobacco-Free Kids. "They now do all of those things overseas."

The world's second-biggest private cigarette maker, British American Tobacco, with $4.4 billion profits on $23 billion sales in the year ending June 30, is spending millions of dollars lobbying against anti-smoking health measures, like smoke-free air policies in the European Union.

A video on the company's Web site says some of the proven methods of reducing smoking — like taxes and display bans — encourage a black market in cigarettes and that, in turn, would finance drug, sex and weapons traffickers and terrorists.

The six-minute video, in which actors play gangsters, one with an Eastern European accent, concludes, "Only the criminals benefit."

The conference beginning on Monday in Punta del Este, Uruguay, will try to add specific terms to a public health treaty known as the Framework Convention on Tobacco Control, which since 2003 has been ratified by 171 nations. It would eventually oblige its parties to impose tighter controls on tobacco ingredients, packaging and marketing, expand cessation programs and smoke-free spaces and raise taxes — proven tactics against smoking.

President George W. Bush signed the treaty in 2004 but did not send it to the Senate, where a two-thirds vote is needed for ratification. President Obama hopes to submit it to the Senate next year, a White House spokesman said on Thursday.

One recommendation drawing fire from tobacco farmers would either restrict or prohibit the use of popular additives, like licorice and chocolate, to blended tobacco products that account for more than half of worldwide sales.

The International Tobacco Growers' Association says that could threaten the makers of burley tobacco, an air-cured leaf that has long been sweetened with additives, costing millions of farmers their jobs and devastating economies worldwide.

"We all know the real objective here is to eliminate tobacco consumption," says Roger Quarles, a Kentucky grower and president of the association.

Aubrey Belford contributed reporting.

This article has been revised to reflect the following correction:

Correction: November 21, 2010

An article last Sunday about legal tactics that big tobacco companies are using globally to fight tough restrictions on cigarette marketing described incorrectly the total of goods and services produced by Uruguay, whose regulations have been challenged in court by Philip Morris International. Uruguay's gross domestic product — not its gross domestic profit — is half the size of the tobacco company's $66 billion in annual sales.