World Trade and Health

TRADE POLICY, HEALTH, AND CORPORATE INFLUENCE: BRITISH AMERICAN TOBACCO AND CHINA'S ACCESSION TO THE WORLD TRADE ORGANIZATION

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Tobacco market liberalization can have a profound impact on health. This article analyzes internal documents of British American Tobacco (BAT), released as a result of litigation in the United States, in order to examine the company’s attempts to influence negotiations over China’s accession to the World Trade Organization. The documents demonstrate that BAT attempted to influence these negotiations through a range of mechanisms, including personal access of BAT employees and lobbyists to policymakers; employment of former civil servants from key U.K. government departments; use of organized business groups such as the Multinational Chairmen’s Group and the European Round Table; and participation and leadership in forums organized by Chatham House. These processes contributed to significant concessions on the liberalization of the tobacco market in China, although the failure to break the Chinese state monopoly over the manufacture and distribution of cigarettes has ensured that foreign tobacco companies’ share of the Chinese market has remained small. World Trade Organization accession has nevertheless led to a profound restructuring of the Chinese tobacco industry in anticipation of foreign competition, which may result in more market-based and internationally oriented Chinese tobacco firms.

Tobacco market liberalization can have a profound impact on health by increasing competition and stimulating an increase in tobacco consumption (1). Transnational tobacco companies (TTCs) have played a major role in forcing open previously closed markets, particularly in East Asia (2, 3). This article examines the role of the most transnational of the TTCs, British American Tobacco, in
influencing China’s accession to the World Trade Organization. China is the
danal of the largest tobacco market, with an estimated 350 million smokers (4),
representing one-third of global consumption. Historically, the market has
remained relatively closed due to political instability, legal restrictions on foreign
ownership and manufacturing, bureaucratic complexity, and economic under-
development. Success in opening this vast protected market to the competition of
TTCs would have a profound impact on the Chinese and global tobacco markets.

Since the late 1970s, TTCs have pursued three main strategies for increasing
their presence in China. The first has been to attempt to establish a presence within
the country through tobacco leaf development, licensed manufacturing agree-
ments, and ultimately joint or shared equity operations in China. This option
has been especially important while the Chinese government has maintained tight
quotas on the import and distribution of foreign cigarettes. British American
Tobacco’s (BAT) efforts to pursue this strategy, and an assessment of its effec-
tiveness, are discussed elsewhere (5). The second strategy has been through
complicity in the illicit cigarette trade, which has been a hugely profitable and
integral part of BAT operations in China over the past two decades (6).
The third strategy, and the focus of this article, has been through attempts to
facilitate trade liberalization. Chinese economic reforms, since the announcement
of the open-door policy in the late 1970s, have included a strong focus on
improved trade relations. By the mid-1980s, membership in the General Agree-
ment on Tariffs and Trade (GATT), the forerunner of the World Trade Organi-
zation (WTO), was recognized by Chinese leaders as essential to accessing
world markets. A prolonged process of negotiation ensued, spanning 15 years,
with China finally acceding to WTO membership in December 2001.

We analyze internal tobacco industry documents to explore how BAT
attempted to influence China’s accession to the WTO. Using these documents
to investigate the influence of TTCs on the WTO accession process allows us
not only to uncover their intentions, but to illustrate in some detail the mechanisms
by which they gained access to policymakers and attempted to influence
outcomes. Documents were obtained from the BAT Depository located in
Guildford, U.K., and from online searching (using key words) of the Legacy
Tobacco Documents Library. The provenance and limitations of these documents
are discussed elsewhere (7–13). Although some documents may be missing
or unavailable, the breadth of the documents, released only as a result of litigation
and often never intended to be seen by outsiders, allows candid insights
into corporate processes and corporate contacts with policymakers. Wherever

1 All tobacco documents released as a result of litigation are now available at
http://legacy.library.ucsf.edu. Although each document has a unique and permanent URL,
date of access has been included in the References, along with the web address, to comply
with common referencing conventions. Each page of these documents also has a unique
number ascribed to it, called the “Bates number,” also included in the References.
possible, the retrieved documents have been triangulated with other sources to enhance validity and provide contextualization.

An earlier short study of BAT’s tactics during China’s negotiations to join the WTO, also using industry documents, revealed regular contact between BAT and E.U. and U.S. officials (14), but that study lacked detailed analysis of the processes by which the company sought to influence negotiations. We show here that BAT not only saw China’s accession to the WTO as an opportunity to pry open a vast protected market, but also used a range of strategies and mechanisms to influence the negotiations. These included routine lobbying, privileged access to U.K., E.U., and U.S. officials, employment of former civil servants from key U.K. government departments, use of organized multinational business groups, and influence within more informal forums organized by Chatham House. Although BAT lobbied policymakers intensively, maintaining official support was sometimes hindered by the increasingly controversial nature of the tobacco industry and criticisms of the human rights record of the Chinese government. It is then that the company’s extensive informal links and privileged access to high-level decision-makers came effectively into play. Despite government policies in the United Kingdom and United States of ending official promotion of the tobacco industry abroad, a number of channels were used to ensure that BAT’s interests remained well represented in the negotiations throughout the 1990s. The accession of China to WTO membership in December 2001 was followed in 2003 by significant reductions in tariffs on imported cigarettes and a relaxation of retail licensing rules. While the complete liberalization of the Chinese tobacco market was not secured and TTCs’ access remains severely restricted, WTO accession has had a profound impact on the organization of the domestic industry.

We first explain the context of WTO negotiations and the tobacco industry in China, then analyze in detail BAT’s attempts to influence negotiations in China, Europe, and the United States. We conclude by examining the outcomes of these processes and responses by the Chinese industry.

AN OPEN BUT HEAVILY GUARDED DOOR:
TRADE AND TOBACCO IN CHINA

In global terms, the China National Tobacco Corporation (CNTC) is the largest tobacco concern in the world, producing 1,722 billion cigarettes in 2002 and contributing about 7.4 percent of government revenues (140 billion yuan) from profit and tax revenue (4). At the local and provincial levels, the tobacco industry contributed up to 25 percent of state profits and taxes. The cigarette manufacturing industry employed about half a million people, and 20 million farmers grew tobacco leaf (15).

This highly lucrative industry has long been protected from foreign interests. BAT established operations in China as early as 1902 (16), and China was an original member of the GATT when it was created in 1946, but the country
withdrew its membership in 1950 after the Communist government came to power. Over the next three decades, the economy remained largely closed to foreign interests. The tobacco industry was nationalized and foreign companies withdrew. Despite profound shifts toward a more open economic policy since the late 1970s, tobacco remained one of the last bastions of state ownership. Maintaining tight control was the CNTC, formed in 1982, and its administrative arm, the State Tobacco Monopoly Administration (STMA). Under state ownership, private investments in the sector were not permitted, nor were companies allowed to list on the burgeoning stock exchanges.

Foreign brands have thus been confined to a small share of the Chinese market. Legal cigarette and tobacco leaf imports were tightly controlled through high tariffs and a de facto quota operated through STMA’s control of the distribution system. Official sales of foreign cigarettes were also strictly limited to retailers holding a Special Tobacco Monopoly License. A large proportion of these sales were through licensed “Friendship” shops frequented mainly by foreign visitors. According to BAT, 3,000 of 217,000 tobacco outlets in China (1.4%) had licenses to sell foreign cigarettes (17). In January 1994, various changes to the tariff and tax structure effectively doubled the retail price of imported cigarettes (18).

Data for Chinese cigarette imports and the market share of foreign companies are difficult to obtain, and data sources can be inconsistent. According to a report by HSBC Securities (19), official cigarette imports fell sharply from a high of 17.96 billion sticks in 1996 to 3.25 billion in 1998. Table 1 shows data, obtained from the People’s Republic of China’s General Administration of

Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Total quantity (sticks), thousands</th>
<th>Value, US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>2,048,538</td>
<td>38,237,915</td>
</tr>
<tr>
<td>2001</td>
<td>1,786,393</td>
<td>33,226,550</td>
</tr>
<tr>
<td>2002</td>
<td>1,370,178</td>
<td>25,624,737</td>
</tr>
<tr>
<td>2003</td>
<td>1,878,330</td>
<td>38,086,020</td>
</tr>
<tr>
<td>2004</td>
<td>2,560,918</td>
<td>51,157,251</td>
</tr>
<tr>
<td>2005</td>
<td>2,679,595</td>
<td>51,854,641</td>
</tr>
<tr>
<td>2006</td>
<td>2,781,146</td>
<td>49,625,961</td>
</tr>
</tbody>
</table>

China is believed to have “possibly the largest cigarette smuggling problem in the world” (20), with the overwhelming majority of foreign brands imported illegally into China, estimated at between 60 and 100 billion cigarettes in 1998 (19). Thus, while official imports comprised less than 1 percent of the market from 1995 to 2000 (4), BAT estimated the actual size of the imported segment at 4.4 percent, with the company’s brands accounting for about 60 percent of this total imported segment in 1996 (21). Even with the illegal segment, however, foreign penetration of the Chinese tobacco market remained low.

China’s expression of interest in rejoining the GATT in 1986 offered the ideal opportunity for TTCs to challenge the monopoly that continued to exclude them. In 1986, a GATT working group was set up to consider China’s request to be reestablished as a member. Normal accession procedures called for bilateral negotiations between the prospective member state and existing members. These negotiations, in turn, fed into the working group. The Uruguay Round of the GATT began in 1987 and brought renewed hope that the Chinese government would make concessions in order to participate, given the country’s increasing dependence on international trade to fuel its economic development. The political clampdown in Tiananmen Square in June 1989 brought widespread criticism of the Chinese government and raised questions about the appropriateness of trade with the country, on human rights grounds. The European Union, for example, imposed a range of trade sanctions on China including a ban on visits by heads of state. The collapse of the Berlin Wall in 1989 brought additional pressures to link economic and political reform in China. These events slowed the GATT working party’s work somewhat, but it resumed pace from the early 1990s. Once terms were agreed, a draft protocol would be forwarded to the GATT Council, where approval required a two-thirds majority.

During the course of WTO accession negotiations, China reached agreement with 37 member states. The United States and European Union were clearly the most important of these, and it was here that BAT focused its efforts to exert influence. In 1993, a plan was developed to secure lobbyists in China, Europe, and the United States (22).

LOBBYING THE CHINESE
“AT THE HIGHEST LEVEL”

In January 1993, BAT’s Paul Bingham wrote to Paul Adams of the company’s Asia Pacific Business Unit identifying the need to “thoroughly research and understand the lobbying opportunities and dynamics within China . . . in order to prepare a lobby action plan late in 1993.” He wrote that “to influence the Chinese government will take time and will require continuous activity. A single shot will not achieve anything” (23). BAT appointed lobbyists to target “key decision-makers” and aimed “to establish and maintain relationships with the PRC
[People’s Republic of China] government at the highest level through visits by BAT directors to the PRC and meeting PRC officials in the UK/USA,” with the ultimate aim of reducing tariffs and establishing the right to set up joint ventures (22). This process began in April 1994, when Richard Duncan (BAT Hong Kong) asked Ernie Pepples, Chief Counsel at BAT’s U.S. subsidiary Brown & Williamson, to “roll out the red carpet” for a delegation to the United States of senior officials from CNTC’s China National Tobacco Import & Export Corporation. Notably, he enclosed a briefing document for British and European trade officials that set out BAT’s difficulties in market access, noting that this “should not be shown to the visitors” (24, emphasis in original).

Reflecting the dual strategy of trying to facilitate trade liberalization while also trying to establish a manufacturing presence within the country, BAT simultaneously approached Chinese diplomatic staff in the United Kingdom. In July 1994, BAT Chief Executive Martin Broughton hosted a dinner for the Chinese Ambassador to London, in an effort to garner support for an equity joint venture between BAT and CNTC. Adams subsequently wrote to the Chinese Ambassador to follow up the meeting, attaching a briefing paper to the letter that concluded that “it is reasonable to assume that there will be greater access to the PRC cigarette market in the near future as a result of world trading agreements,” and presented BAT as the ideal partner for CNTC in competing with “those companies intent on growing their market share in the PRC at the expense of CNTC” (25). These attempts to agree on a joint venture were ultimately to be rebuffed, and the lobbying focus moved to Europe and the United States.

**LOBBYING IN EUROPE:**

A “PROMINENT ROLE ON CHINESE MATTERS”

In Europe, Duncan recommended “that we speak to both the DTI [U.K. Department for Trade and Industry] and Brussels in a two pronged Euro approach” (26). In March 1994, Duncan had met with the Deputy Representative of the European Union in Beijing who, according to Duncan’s trip notes, assured him that “it was certainly not too late to table the issues of the excessively high import duty and the prohibition of JVs [joint ventures]” for the first round of talks on China’s entry into the GATT, to be held the week after (18). Significantly, Duncan’s account of the exchange suggests that E.U. officials were willing to table the company’s concerns without revision, while concealing their source: “His suggestion is that I should write a letter showing the changes to the duty/tax system and the statement on the prohibitions of future JVs to be given to the EU officials below with a copy to him. They would table these in a generic way, i.e. without mentioning BAT by name” (18).

The importance of discretion, and the expectation that it would be observed, was also a characteristic of BAT’s contacts with U.K. officials. On July 29,
1994, Duncan emailed David Bacon (Head of BAT Corporate Communications) to report that he had met with Nigel Heriz-Smith (Asia Pacific Rim Policy Unit, DTI) in Hong Kong to discuss market access to China in the light of the increased duties and taxes on imported cigarettes introduced in early 1994. In September, Brendan Brady (Corporate Affairs Manager, Asia Pacific, BAT) wrote to Heriz-Smith to follow up on this meeting, complaining that the “new laws are severely discriminatory against imported cigarettes,” and provided a detailed briefing note on tariff and non-tariff barriers to trade. However, he requested that his approach to the DTI remain confidential, since “it would be counterproductive to our current relationship with CNTC if BAT is directly associated with raising these matters” (27).

Contemporaneously, BAT also hired the Russell Partnership as “parliamentary consultants,” to provide advice on trade and market access issues in China and the Asia Pacific Region (28). A background paper by the Russell Partnership in May 1994 proposed that, although there was “no substitute for personal contacts at the highest possible level in the PRC,” a series of meetings should be arranged with officials in the DTI, the U.K. Foreign and Commonwealth Office, and the European Commission, “each of which needs to be sought out through personal telephone calls so as to ensure that meetings are not a waste of time and effort” (29). It also recommended that BAT make use of “advice and assistance” through the China-Britain Trade Group, the area advisory group for China of the British Overseas Trade Board, “the President of which is Sir Michael Palliser, and on whose Council sits a representative of Eagle Star [a BAT financial services company].” Sir Michael Palliser was a former senior civil servant, Head of the Diplomatic Service from 1975 to 1982, and from 1983 until 1992 a non-executive director of BAT and Eagle Star (30).

The Russell Partnership was then given a brief to “identify and provide access to key decision makers” in the British government, the European Union, the GATT/WTO, “and other relevant international policy making organizations” (31). For immediate action, the company was to “develop a timetable of meetings” between Adams and British and E.U. officials, “with the objective of outlining current concerns and with a secondary objective of building long term contacts” (31). By November 1994, Heather Honour (BAT External Affairs Manager and former Home Office employee), reporting on a lunch that had been arranged with DTI officials, could claim that “the DTI is now taking its role as sponsor department of the tobacco industry more seriously” (32).

The strategy to lobby U.K. officials, however, needed to be revised as Sino-British relations deteriorated over negotiations on the handover of Hong Kong to China by 1997. BAT executives were clearly concerned with the position of Chris Patten, Governor of Hong Kong, on the need for reassurances from the Chinese government over the protection of human rights. As tensions developed between the U.K. and Chinese governments, BAT became stymied in its efforts to push the British government to represent it on trade issues (33):
We have been cautioned not to expect [British government officials] to be able to do much more of a positive nature to assist on market access matters, particularly at this time. That said, however, the Foreign Office in London is in a position of assisting with any plans for a visit to China. The DTI is able to take up export/import issues and inject them into the GATT machinery. The European Commission can do likewise.

Given these tensions in U.K.-China relations, BAT continued to brief DTI and Foreign Office officials while “widening the focus of trade relations from a UK to a European perspective” (33). This included “the setting up of a sub-group of the European Round Table, to look at EU-China trade issues,” while the Multinationals Chairmen’s Group planned “to make representations to [British Prime Minister] John Major about the handling of the Hong Kong handover by Christopher Patten” (33). The latter group comprised the chairmen from British companies BAT, RTZ, Guinness, ICI, Shell, Unilever, HSBC, BP, and Glaxo (33, 34); little is known about this group, although it continued to enjoy privileged access to the British prime minister following Tony Blair’s election in 1997 (35, 36). In December 1994, BAT was advised by the Russell Partnership that “as UK-China relations are delicately poised at present we should not approach officials or ministers on the trade issue” (37).

At the beginning of 1995, however, a new opportunity for BAT emerged with the establishment of a “China Task Force” by the Royal Institute of International Affairs (RIIA, now Chatham House). The task force was a means of facilitating British business interests in a way that could avoid the tensions between the British and Chinese governments, by providing “an opportunity for discussions with the Chinese independent of the British Government” (38). The task force had China’s membership of the WTO as one of its key issues, and involved 25 major British companies (39, 40). BAT was approached to help sponsor the task force with £15,000 to £20,000, and Martin Broughton was invited to chair the group (41). The benefits for BAT were clearly identified by the company (38):

Leading a project like this will give us a prominent role on Chinese matters within the UK. It will help develop our profile with the Chinese. We can steer research projects at Chatham House along the lines in which we are interested. Participating in the various study groups at Chatham House will help develop our thinking and would lead to good contacts such as journalists, academics, FCO [Foreign and Commonwealth Office] and DTI officials, politicians and other companies.

2 The European Round Table is a group of chief executive officers from European multinational corporations, with institutionalized input into the E.U. policy process.
The need to actively lobby in the United States became especially important following the election of President Clinton in 1992, which signaled a shift in official support for tobacco exports. The contradiction between increasingly strong tobacco control measures domestically and efforts to promote tobacco exports was considered by the U.S. General Accounting Office in December 1992 (42). The Clinton administration subsequently announced that it would not use measures such as Super 301 to promote market liberalization for tobacco products.³

BAT’s strategy toward China was also affected by the human rights issue. U.S. public opinion continued to be negative toward the Chinese government following the events of Tiananmen Square and the prosecution of those involved, and there were concerns that this would affect China’s most favored nation status with the United States; prior to entry into the WTO, this was renewed annually. The U.S. tobacco industry lobbied hard to protect China’s most favored nation status, because it meant that reciprocity would favor industry exports and that the industry could legally challenge rising tariffs on foreign cigarette imports. In March 1994, Brady reported that, while the Clinton administration would not pursue market access for tobacco, “with the background of the Most Favoured Nation discussions [Richard Duncan] felt that an industry delegation (PM + BAT + RJR?) from tobacco growing states in the US could leave an important message with Chinese officials,” and arrangements were made to pursue this through BAT’s U.S. subsidiary Brown & Williamson (26).

Although the Clinton administration’s public stance was critical of China’s lack of political reform, BAT documents suggest that an increasingly pragmatic approach began to be seen in Washington that sought to maintain a separation of political and economic reform. Indeed, some American officials demonstrated a willingness to support the tobacco industry’s efforts behind the scenes. During a visit to China in March 1994, Duncan met with a U.S. Department of Commerce official who (18):

confirmed the attitude of the new administration but she said that if we gave them position papers on the tax and JV issues they would be prepared to table them even though they would not be able to formally discuss tobacco issues.

³ “Super 301” was initially mandated by Congress in 1988 for a two-year period, but was re-instituted by Executive Order in 1994. It required the U.S. Trade Representative to identify priority foreign country practices, the elimination of which was likely to have the most significant potential to increase U.S. exports, and within 90 days to initiate investigations under Section 301 of the U.S. Trade Act 1974, which permits the U.S. government to impose trade sanctions against countries designated as acting in a trade-discriminatory manner. See www.osec.doc.gov/oge/occic/301.html (accessed February 20, 2009).
She felt we could, possibly, organize a delegation of pro-tobacco senators/congressmen to visit China. China needs all the support it can get on Capitol Hill for the Most Favoured Nation (MFN) debate in late May and might be prepared to make concessions.

China’s most favored nation status was renewed that year. The process of getting backing for tobacco in trade negotiations was also helped somewhat when the Republican Party gained a majority in the U.S. Congress in November 1994, prompting Duncan to observe that “the USTR [U.S. Trade Representative] is now (unofficially) prepared to push the case for tobacco much harder” (43). BAT did not limit its congressional contacts to the Republicans, however. In April 1995, the Brock Group, another consultancy, was enlisted to work on Chinese trade issues. The Brock Group was identified as having “excellent connections to the Republicans and through family connections to Senator Wendell Ford of Kentucky” (43). Ford was the Democratic Party whip in the Senate and had a long record of protecting tobacco interests (44).

As in the United States, the Russell Partnership reported to BAT that the position of European governments on the human rights issue was also likely to soften (29). Indeed, following the creation of the WTO in 1995, the policy stance in the United States and Europe, as well as in China, was that economic and political reform could be pursued as a “two-track” agenda. This was supported by the Chinese government’s approach that the most important human rights were ensuring basic material needs, such as food and housing, rather than Western-defined political rights. Sino-E.U. and Sino-U.S. trade negotiations thus resumed and intensified.

SEEKING TO “WORK CLOSELY” WITH THE CHINESE GOVERNMENT WHILE “PRESSING HARD FOR FULL LIBERALIZATION”

As is apparent from internal documents, BAT’s sense of urgency over its need to influence trade policy also intensified during the late 1990s. The creation of the WTO in 1995, to replace the GATT as a permanent body to provide the legal framework for multilateral trade, had major implications for continued global expansion of the tobacco industry. BAT executives were also fearful that competitors, notably Philip Morris and RJ Reynolds, would gain a foothold in China before them. The documents reflect an intensification of lobbying activities in an effort to make high-level political contacts and to use a range of forums to influence negotiations.

In July 1997, it was reported that “our lobby has been well received at the EU, who are supporting our case on market access and the USTR is also being briefed” (45). BAT’s approach was that “the EU should therefore be viewed as a company resource, to be nurtured and drawn on as necessary” (46). A
breakthrough came in August 1997, when STMA announced its intention to lower tariffs on tobacco imports as part of China’s bid to join the WTO (47). However, there remained resistance from both sides. While the Chinese government was strongly committed to securing coveted WTO membership, the domestic tobacco market remained closely guarded by the state monopoly. Indeed, the Chinese industry showed little interest in numerous overtures by TTCs to enter into joint ventures and other cooperative relationships (5). This is reflected in a September 1997 letter from Martin Broughton (BAT Chief Executive) to Sir Leon Brittan (Vice President of the European Commission responsible for trade negotiations), drawing attention to the issues of import quotas, distribution, and retail licensing, and complaining that cigarettes remained subject to state trading in China (48, 49). Broughton argued that this sent “a very worrying signal not only to our sector but also to other industries facing similar problems. In addition, it encourages the Chinese to believe that they can gain access to the WTO on relatively easy terms” (48, 49). He asked Brittan to raise these issues with USTR Charlene Barshevsky when coordinating the E.U. and U.S. approaches to the accession negotiations, and directly with the Chinese. Brittan replied to Broughton in November, stating that he had received “only limited support from the Americans” on the issue of state trading and that “it may help if you could sensitize them further to the interests at stake” (50). At a subsequent meeting with Brittan, Ulrich Herter (BAT Managing Director) intended to “thank Sir Leon for the very helpful attitude of his staff in DGI [European Commission Directorate General on External Relations], and to praise the Commission’s openness and readiness to listen” (51).

By the end of 1997, the key features of a settlement were becoming clearer. On October 6, Jonathan Miller and Shelly Han (of RMA International, a lobby group employed by BAT) met with Jason Hafemeister and Lynn Alfalla (Foreign Agricultural Service, U.S. Department of Agriculture), who were taking the lead on tariff and quota issues. On October 7, Miller met with Robert Cassidy (Office of the USTR), who was focusing on service issues such as distribution and retail outlets (52). Miller reported that both Hafemeister and Alfalla were “more than willing to take in consideration B&W’s [Brown & Williamson] concerns during the throes of negotiations with the Chinese.” It was reported that the European Union had already succeeded in getting the Chinese to lower the tariff level on tobacco leaf to 10 percent “in exchange for the right for leaf to stay under state control” (52). On retail restrictions, Cassidy pointed out that upon accession, all outlets licensed to sell tobacco would have to be opened to foreign brands under the national treatment principle. On October 21, 1997, Peter Wilmott (Prisma Consulting Group, acting on behalf of BAT) met with Hiddo Houben and other officials from the European Commission. Commission officials were reported to see “no problem in pressing hard for full liberalization of distribution, on a broad front (that is, without specific references to tobacco, except as one of a series of sectors where current practice illustrated the unacceptable nature of circumstances on the Chinese market)” (53).
The disguising of BAT’s influence over trade policy remained important, given its continued pursuit of a joint venture with the Chinese. Any intimation that the company was behind demands for liberalization or the end of state trading would probably undermine such an agreement. On November 10, the European Commission wrote to Long Yongtu (Chinese Vice-Minister for Foreign Trade and Economic Cooperation and chief negotiator on WTO accession), setting out the European Union’s negotiating position on all outstanding market access issues in advance of the next negotiating round in December (54). This reflected Wilmott’s discussion with Houben, identifying tobacco as one sector where retail and distribution should be accorded full national treatment, and arguing that state trading in tobacco be subject to gradual liberalization. The Commission, aware that state trading is permitted under the GATT and mindful of BAT’s intention to agree on a joint venture, had to accept that state trading might persist for some time and suggested “transitional periods,” also pointing out that the “European industry” was “willing to work closely” with STMA/CNTC (54). The access BAT was given to this letter is itself an indication of its insider status at this point, as BAT employee Francis De Vroey emphasized (54, emphasis in original):

I was explicitly asked neither to circulate, nor to quote the letter since—
I quote DGI—“it would have dramatic consequences for EU’s negotiating position and for some officials in DGI, particularly if China noticed that Long got bypassed.” Member States do not get a copy of it; no DTI involvement. You are the custodian of the information which will have to be discussed with Martin [Broughton], Ulrich [Herter] and Paul [Adams] in order to define the next steps.

BAT also continued to make use of its political contacts in the United Kingdom. In March 1998, Labour Chief Whip Nick Brown attended a dinner at BAT Headquarters with Broughton and Honour (55). Among the topics for discussion was “government support for the Company on trade issues.” Later that year, during a visit to China, Tony Blair announced the establishment of a high-level U.K.-China Forum, with former Conservative cabinet member Michael Heseltine as joint chair and the RIIA as secretariat. The purpose of the forum was “to provide a vehicle for high level discussion . . . whose deliberations can be fed into the policy arena at the highest level” (56). In a letter from Heseltine to Broughton soliciting BAT’s subscription to the Forum, it was stated that the “success of the Forum will ensure that there should be long commercial benefits for British companies” (57). In July 1999, Broughton disbanded the China Task Force and became Chair of the U.K.-China Forum Industry Sub Group, with his appointment being supported by Heseltine. The group comprised representatives of major British corporations such as BP Amoco, Rolls Royce, and Cable & Wireless. Included on the list of issues to be addressed by the subgroup was “British support for China’s membership of the WTO” (58, emphasis in original).
Such forums for exerting influence were important to BAT because, in both the United States and Europe, support for aligning domestic and foreign policy on tobacco was increasing. Following a 1997 legislative amendment by Representative Lloyd Doggett, the U.S. State Department had issued a directive to its embassies in February 1998 with guidelines not to promote the sale or export of tobacco products or to seek the removal of non-discriminatory tobacco control laws (59). From June 1, 1999, the British government similarly adopted a policy of “no longer directly promot[ing] products containing tobacco” (60). In April 1999, BAT’s Duncan summarized the situation: “As you know, the White House has given instructions to the USTR that they are not to work on behalf of the tobacco industry. While the negotiators have been quietly pushing and are prepared to push quite hard on non-tariff barriers, there is no doubt that the US is not being as hard nosed as the EU” (61). Duncan was concerned that the Chinese might blame this perceived E.U. aggressiveness over tobacco on BAT lobbying, thereby undermining hopes of concluding a joint venture. Although such lobbying continued, it was decided that senior management should find opportunities to “make public comments in favour of Chinese accession” (61).

In April 1999, Chinese Premier Zhu Ronghi visited the United States in an attempt to conclude a WTO accession deal. In late 1998, BAT had recruited Nicola Shears, formerly a DTI official, to work on trade issues. Subsequent to the April negotiations in the United States, Shears confirmed the agreement of the 10 percent tariff on tobacco leaf discussed above and reported a likely phased reduction of tariffs on cigarettes to 25 percent by 2004 (62). There was some consternation, however, that the reduction was likely to start from the published rate of 65 percent rather than from the lower rate of 36 percent actually operating at that time, and that tobacco was likely to be excluded from the significant concessions the Chinese had made on distribution services generally. This exclusion from the broader distribution deal was confirmed by DGI official Gerard Depayre in May 1999, who indicated that the European Union had finally decided to accept the U.S. “moral” line on tobacco (63).

Bowing to political pressure at home on human rights, however, Clinton refused to sign the accession deal with China, and the Chinese appeared to back away from the commitments they had made (64). Negotiations were then temporarily halted altogether by the U.S. bombing of the Chinese embassy in Belgrade in May 1999, during a NATO mission in Yugoslavia. Fearing the need for further concessions if negotiations dragged on any longer, China resumed talks at an Asia Pacific Economic Cooperation summit in September and finally concluded negotiations with the United States in November 1999 (64). An agreement with the European Union followed in May 2000. Documents describe BAT’s continued access to top-level officials throughout this period—for example, with Broughton meeting the newly appointed WTO Director General Mike Moore in November 1999 (65).
OUTCOMES AND RESPONSES BY THE CHINESE TOBACCO INDUSTRY

Having concluded negotiations with the United States and the European Union, China finally acceded to the WTO in December 2001. In negotiating membership, the Chinese government needed to weigh the benefits to some sectors of improved access to world markets and the costs to others of increased foreign competition. With WTO membership seen as “critical to sustaining China’s growth and economic dynamism” (66), the government’s agreement to liberalize elements of the tobacco industry was a major concession after decades of monopoly control. Under the terms of the agreement, China was required, by January 2004, to reduce the tobacco leaf import tariff; reduce the cigarette tariff; eliminate the export rebate for flue-cured tobacco leaf and cigarettes; eliminate the export bounty (a reward for exporting cigarettes); and liberalize licensing requirements (4). Tariffs for cigarettes and tobacco leaf were subsequently reduced to 25 percent and 10 percent, respectively (Table 2). The special licenses for selling foreign tobacco products were eliminated in 2003. However, although discrimination in the retail licensing system was abolished as part of WTO accession, tobacco was designated an exception to the agreement on the establishment of foreign wholesale and distribution systems (67).

China’s WTO accession removed important obstacles to TTC penetration of the market, but the agreement left unclear the timetable for increasing or abolishing the de facto cigarette import quota operated by STMA’s control over distribution (67). Table 1 shows the levels of official cigarette imports into China between

<table>
<thead>
<tr>
<th>Year</th>
<th>Cigarettes</th>
<th>Leaf</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>70</td>
<td>45</td>
</tr>
<tr>
<td>1997</td>
<td>65</td>
<td>40</td>
</tr>
<tr>
<td>2001</td>
<td>57</td>
<td>34</td>
</tr>
<tr>
<td>2002</td>
<td>35</td>
<td>22</td>
</tr>
<tr>
<td>2003</td>
<td>25</td>
<td>16</td>
</tr>
<tr>
<td>2004</td>
<td>25</td>
<td>10</td>
</tr>
</tbody>
</table>

Imports continued to fall between 2000 and 2002, following the big reductions of the late 1990s, but began to slowly grow again following the reduction of tariffs to 25 percent and the elimination of special licenses. Prices of foreign brands such as State Express 555 have decreased significantly, from about 20 yuan per pack before 2003 to 12 yuan afterward, comparable to popular domestic brands costing about 10 yuan per pack (67). However, STMA’s continued grip on the distribution system has ensured that imports remain severely restricted, although it may yet face pressure to allow an increase in imports over time, and the quota itself may be interpreted as conflicting with the GATT’s principle of removing quantitative restrictions. BAT documents certainly make clear an intention to maintain contact with trade officials after accession, “with a view to using weight of WTO in event of Chinese back-sliding on commitments” and to “move Chinese further along path to liberalization as part and parcel of Millennium Round,” while simultaneously trying to “position BAT as sympathetic partner to Chinese in Millennium Round negotiations” (68). Yet, in 2007, BAT’s share of the official market remained stalled at 0.5 percent (69).

Despite TTCs’ currently restricted market share, the Chinese tobacco industry has perceived WTO accession as a significant long-term threat. Implementation of China’s tobacco commitments under the accession agreement was delayed until 2004 so that the domestic industry could improve its competitiveness in anticipation of liberalization (67). While TTCs’ joint share of the official market remained at less than 1 percent in 2007 (69), CNTC thought it possible that foreign tobacco products could grow to 8 to 10 percent of the market by the end of the decade (4). Following accession, as with sectors such as financial services and telecommunications, a process of substantial restructuring of the domestic tobacco industry took place. Foremost has been the consolidation of the multitude of provincial and local factories into large regional companies. Although a monopoly, CNTC is split into a number of regional companies, none of which would be able to compete with the TTCs in a fully liberalized market. Overcapacity in cigarette manufacturing had been identified in the 1990s (19), but before agreement on WTO accession, plans to rationalize the industry had proceeded slowly.

In 1999, STMA announced four modernization goals: consolidate; acquire new technology; diversify; and internationalize (67). By closing smaller factories and consolidating the industry, STMA hoped to improve efficiency through greater economies of scale and by forcing regional companies to compete against one another. Hence, the number of regional companies decreased from 185 in 2001 to 62 by the end of 2004, while the number of domestic brands decreased from 1,049 in 2001 to 370 in 2004 (67). By 2008, the total number of enterprises had been reduced to 30, and there were plans for even greater consolidation to create a few large enterprises and brands capable of competing with TTCs (70). By the end of 2007, four large provincial enterprises had become limited liability companies (71). The international orientation of the Chinese industry has also
increased, although it is too early to say whether CNTC will attempt to follow the model of Japan, where the forced opening of the market in the 1980s led the former tobacco monopoly to aggressively expand into the international market. As Table 3 shows, China’s official exports of cigarettes doubled from 2000 to 2002, but thereafter remained relatively low and stable.

The lucrative nature of the tobacco industry has led many to argue that the Chinese government would be unlikely to allow a substantial rise in the share provided by foreign producers. It has steadfastly resisted the efforts of TTCs to set up domestic factories, and has restricted licensing agreements and joint ventures to a few limited deals that pose little threat to domestic producers (67). In addition, consumption patterns suggest that smokers of foreign brands are the relatively wealthy in urban areas, among whom smoking rates are falling. Rural people smoke local brands, which are cheaper (1 to 2 yuan per packet) and readily available. Thus, even with reduced trade barriers following WTO accession, TTCs still face a major battle to increase their market share in China. The facilitation of greater competition may nevertheless have a deleterious effect in increasing tobacco consumption and its attendant health effects, both in China and globally, if CNTC chooses to aggressively expand abroad.

CONCLUSION

British American Tobacco has kept a keen eye on what Hormats and coauthors call “the world’s most important emerging economy” (66). This article has examined how the company sought to influence trade negotiations over the long period leading up to China’s accession to the World Trade Organization. Internal

Table 3
China’s official exports of cigarettes, 2000–2006

<table>
<thead>
<tr>
<th>Year</th>
<th>Total quantity (sticks), thousands</th>
<th>Value, US$ thousands</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>8,408,000</td>
<td>125,394</td>
</tr>
<tr>
<td>2001</td>
<td>13,860,000</td>
<td>175,432</td>
</tr>
<tr>
<td>2002</td>
<td>16,218,000</td>
<td>207,076</td>
</tr>
<tr>
<td>2003</td>
<td>18,242,000</td>
<td>237,441</td>
</tr>
<tr>
<td>2004</td>
<td>16,530,000</td>
<td>221,477</td>
</tr>
<tr>
<td>2005</td>
<td>15,680,000</td>
<td>239,738</td>
</tr>
<tr>
<td>2006</td>
<td>16,962,000</td>
<td>244,157</td>
</tr>
</tbody>
</table>

Source: General Administration of Customs of the People’s Republic of China, Hangzhou Customs District.
documents describe a concerted strategy of lobbying both European and U.S. officials. Despite shifts in political climate and the adoption of formal positions of not promoting tobacco trade by the U.S. and U.K. governments, BAT enjoyed privileged access throughout to high-level trade officials—although toward the end of the negotiating period, the more critical stance of the Clinton administration toward tobacco may have led officials to push less hard for liberalization in this sector than in others. The Chinese industry has so far responded to the market threat from TTCs by both a concerted program of tobacco industry restructuring and continuing reluctance to open the market more than is strictly required under its WTO commitments.

The documents reviewed here raise important questions about how corporate interests influence trade policy, particularly as it affects health. Lobbying is generally an accepted part of the political process, by which various interests may make their views known to policymakers. However, the documents show that BAT was able to gain access to, and exert influence over, policymakers through a variety of mechanisms that lack transparency. These included sustained informal contacts and meetings, the employment of former civil servants from key U.K. government departments, the use of organized business groups such as the Multinational Chairmen’s Group, and the assumption of leading roles in the forums and taskforces of Chatham House. Indeed, BAT convinced officials to keep secret the company’s role in pressing for market liberalization, in order not to undermine its intended joint venture agreement with the Chinese. These issues attain particular significance in the case of the tobacco industry, given the potentially devastating health consequences of liberalization.

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