

RESEARCH PAPER

British American Tobacco's tactics during China's accession to the World Trade Organization

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Background: China entered the World Trade Organization (WTO) in 2001 after years of negotiations. As a WTO member, China had to reduce tariffs on imported cigarettes and remove non-tariff barriers to allow foreign cigarettes to be more competitive in the Chinese market. Among foreign tobacco companies, British American Tobacco (BAT) was the most active lobbyist during China's WTO negotiations.

Objective: To review and analyse BAT's tactics and activities relating to China's entry into the WTO.

Methods: Internal tobacco industry documents were reviewed and are featured here. Industry documents were searched mainly on the website of BAT's Guildford Depository and other documents' websites. 528 documents were evaluated and 142 were determined to be relevant to China's entry into the WTO.

Results: BAT was extremely active during the progress of China's entry into the WTO. The company focused its lobbying efforts on two main players in the negotiations: the European Union (EU) and the US. Because of the negative moral and health issues related to tobacco, BAT did not seek public support from officials associated with the WTO negotiations. Instead, BAT lobbyists suggested that officials protect the interests of BAT by presenting the company's needs as similar to those of all European companies. During the negotiation process, BAT officials repeatedly spoke favourably of China's accession into the WTO, with the aim of presenting BAT as a facilitator in this process and of gaining preferential treatment from their Chinese competitor.

Conclusions: BAT's activities clearly suggest that tobacco companies place their own interests above public health interests. Today, China struggles with issues of tobacco control that are aggravated by the aggressive practices of transnational tobacco companies, tobacco-tariff reductions and the huge number of smokers. For the tobacco-control movement to progress in China, health advocates must understand how foreign tobacco companies have undermined anti-tobacco activities by taking advantage of trade liberalisation policies. China should attach importance to public health and comprehensive tobacco-control policies and guarantee strong protection measures from national and international tobacco interests supported by international trade agreements.

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China is the largest tobacco producing and consuming country in the world, with over 350 million smokers in a population of 1.2 billion.^{1,2} China's cigarette market is dominated by a state-owned monopoly, the State Tobacco Monopoly Administration, which strongly protects the domestic tobacco industry.³ This largest cigarette market in the world is nearly 3½ times the size of the US cigarette market and over 12 times the size of the German cigarette market, which is the largest in Western Europe.⁴ However, as smoking rates have fallen in North America and Western Europe,⁵ transnational tobacco companies (TTCs) from the US and Great Britain have turned to international cigarette markets to seek greater profits.

China entered the World Trade Organization (WTO) in 2001 after years of negotiations.⁶ As a condition of WTO membership, China had to reduce tariffs on imported cigarettes and remove non-tariff barriers to allow greater competitiveness for foreign cigarettes in the Chinese market.⁷ O'Sullivan and Chapman⁸ and Lee *et al*⁹ studied TTC industry documents and described TTC aims and conduct in China. Those studies mainly focused on the heavy reliance on contraband and the undermining of national advertising bans. However, no previous papers have examined China's entry into the WTO on the basis of tobacco-industry documents. British American Tobacco (BAT) was engaged in the most active lobbying during China's accession to the WTO. This paper reviews and analyses BAT documents related to China's WTO negotiations to clarify BAT's tactics and use of international trade policies to support their corporate interests.

METHODS

Under the Master Settlement Agreement reached between major tobacco companies and the US states, previously secret tobacco-industry documents have been made public. For this study, we primarily examined documents made public through the Master Settlement Agreement and made available on the website of BAT's Guildford Depository (<http://bat.library.ucsf.edu>). Documents on other websites such as Philip Morris (<http://www.pmdocs.com>), RJ Reynolds (<http://www.rjrtdocs.com>), Lorillard (<http://www.lorillarddocs.com>), The Tobacco Institute (<http://www.tobaccoinstitute.com>), The Council for Tobacco Research (<http://www.ctr-usa.org>), Brown & Williamson (<http://www.bwdocs.com>), Tobacco Documents Online (<http://tobacodocuments.org>) and Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu>) were also investigated.

Initial document searches for broad terms such as "China", "BAT" and "World Trade Organization" led to more specific searches for the names of departments and personnel. We obtained 528 documents from the initial searches and evaluated these documents page by page. Of these documents, 142 were determined to be relevant to our research objective. Industry trade publications and websites, newspapers and

Abbreviations: BAT, British American Tobacco; CNTC, China National Tobacco Corporation; EU, European Union; TTC, transnational tobacco company; USTR, United States trade representative; WTO, World Trade Organization

academic journals were also reviewed for information on BAT activities as related to China's entry into the WTO.

RESULTS

China and the WTO

The General Agreement on Tariffs and Trade was created after World War II to ensure stable global trade and economic activity. Formed as a successor to the organisation in 1995, the WTO is the only international body dealing with the rules of trade among nations and regulates over 90% of international trade in goods and services.¹⁰ China was a founding member of the General Agreement on Tariffs and Trade, but it withdrew in 1950. Talks about readmission began in the late 1980s as China became increasingly open to trade.¹¹

The WTO accession process proceeded in roughly four phases.¹² Firstly, China presented a formal request to the WTO General Council and created a WTO Working Party and Foreign Trade Memorandum. Secondly, China's request was reviewed and bilateral talks were initiated. The third phase involved completion of the Working Party report and accession instruments. Finally, a decision was made, and the Protocol of Accession was adopted. For China, the most difficult phase involved bilateral talks with the US and UK.

Meaning of China's accession into the WTO

BAT closely monitored China's progress from the start of the admission process. Paul Adams, the director responsible for BAT's business in the Asia Pacific region, reported, "China is ... by far the largest and most profitable opportunity ... The market remains fiercely protected and controlled and no change to this is anticipated in the short term. However, China is keen to join the WTO and membership has its obligations as well as its privileges."¹³

BAT anticipated the future business environment at the time of the WTO establishment in 1995, noting that China's accession to the WTO "will still involve complex and difficult negotiations". However, as also noted, such an emerging market would be important "to the future of the tobacco business, and to BAT's objective to regain the number one position".¹⁴

The Chinese government was also aware of the importance of China's huge tobacco market and had protected it from foreign tobacco companies through high import tariffs and some non-tariff barriers. Foreign companies had to cooperate with the China National Tobacco Corporation (CNTC) through measures such as joint ventures.¹⁵ However, for BAT, "contract manufacture of these ... minor brands [with CNTC] is less profitable ... than importing them."¹⁴⁻¹⁶ Thus, for BAT, WTO agreements would lead to a more favourable export and investment environment in China. BAT anticipated "the concessions which will probably have to be made by the Chinese to join the WTO which will almost certainly result in a significant opening of the Chinese market through a phased reduction in import duties and the removal of non-tariff barriers".¹⁷

Lobbying strategy

BAT also sought every opportunity to lobby officials on its company interests, while keeping a close eye on the negotiation process.¹⁸⁻²³ To access the WTO, China had to complete bilateral negotiations with each member of the organisation; however, in practice, not all members were equal. As noted in BAT documents, China's negotiations featured "two heavyweight players—the EU [European Union] and the USA".²⁴ Leon Brittan, as the EU's Trade Commissioner, led the EU in negotiations with China, and Charlene Barshevsky served as the United States trade representative (USTR). In a document originally marked as "restricted", BAT planned to "promote the

adoption of effective excise systems which benefit British American Tobacco ... and a team has been established to lobby through the EU and USTR to influence the concession from, and condition on, China's entry".²⁵ BAT developed a comprehensive regulatory affairs strategy for China and a specific programme to obtain trade concessions by lobbying the EU and USTR during China's WTO accession negotiations.²⁶⁻²⁸ BAT lobbied the EU and USTR by presenting itself as a European company, a strategy that enabled them to "enlist European Commission support for our [BAT] negotiating aims".²⁹

BAT's lobbying team had four main negotiating priorities in their dealings with the EU and USTR.³⁰⁻³¹ The first priority related to advertising and marketing, with BAT hoping to market cigarettes freely within China. The second was the "abolition of retail licenses to sell international cigarette brands". The third was to resist a distribution monopoly, reflecting BAT's desire to set up companies in China that could freely manufacture and distribute BAT products. The last was a "reduction in duty"—that is, "encouraging the EU to press for the lowest possible tariff concession from China on tobacco".²⁴

Lobbying activities

In a meeting in 1997 with Leon Brittan, vice president of the European Commission, BAT representatives stated that, "our interest is in laying the foundations of a long-term and successful presence on the Chinese market; this involves both securing market access now and creating the conditions in which BAT can manufacture and distribute in China under its own team (or, especially in the earlier stages, in partnership with the Chinese tobacco monopoly)".²⁴ To support their case, BAT provided the European Commission with information on Chinese restrictions on wholesale and retail distributions. BAT documents also noted the company's "excellent relations" with the Director-General of external relations (Director-General I).²⁴

BAT also contacted the Director-General VI of agriculture regarding tariff issues and was linked through the American subsidiary Brown & Williamson with lobbying to the USTR in Washington.²⁴ Martin Broughton, Chairman of BAT, lobbied Ambassador Hugo Paeman, head of the European Commission Delegation to the US, on BAT's interests and asked Paeman to raise these issues to Ambassador Charlene Barshevsky (special representative to the Trade and Environment Policy Advisory Committee to the US) and to Chinese senior officials "as a reflection of many industries' problems".³² Clayton Yeutter, one of BAT Industries' non-executive board directors, also raised market-access concerns with USTR.³²⁻³³

Peter Wilmott, a consultant to BAT on indirect tax and trade issues, held a meeting on 22 October 1997 with Hiddo Houben, Deputy Head of Director-General I, to "discuss ways forward on the points of concern to BAT". Wilmott listed problems faced by BAT and wanted "the EU to go in defending market access for tobacco products ... The more the EU's demands could be generalised (for instance, as fighting for the right of all businesses to have free access to the retail market) or presented as claims on behalf of all tobacco companies present on the EU market (where BAT had a comparatively low market share), the readier BAT would be to support ambitious negotiating aims."³⁴ Because China's problems with tobacco products were essentially political and difficult to remove, BAT suggested that the EU split tobacco into a raw materials issue—for which access issues could perhaps be addressed in the same manner as with other agricultural goods—and a consumer goods issue. Hiddo Houben accepted BAT's suggestion that "this position be put forward as responding to the needs of *all* [original italics] companies present on the EU market, in order to protect BAT's position". The Director-General I also promised to write to Yongtu Long, chief negotiator for China's admission to the

WTO, about state trading, arguing that it was inappropriate for products such as tobacco, and that EU industries required open and fair access to China, with full control over import operations and an unfettered ability to meet the demand of the Chinese market.³⁴

Later, G Depayer, Deputy Director-General, wrote the following in a letter to Yongtu Long on 10 November 1997, regarding negotiations on the state trading of tobacco: "I [Director-General I] am open to considering options you [China] may propose, but you will understand our wish gradually to liberalise a system whereby foreign products are currently imported and distributed exclusively by what is, effectively, their only domestic competitor."³⁵ Stefano Micossi, Deputy Director-General III Industry, gave a speech in indirect support of BAT's interests: "State trading is a problem mostly affecting the Chinese market. Restrictions on imports of cigarettes ... [is] some important example of where state trading must be abolished in China."³⁶ Leon Brittan, vice president of the European Commission, also supported this idea.³⁷

BAT summarised lobbying activities in the EU and US in its reports, which were originally marked as "secret": "Our lobby has been well received at the EU, who are supporting our case on market access, and the USTR is also being briefed."³⁸⁻⁴¹ They also listed this tactic in company plans or guidelines to "put British American Tobacco in the position of securing optimum excise systems".⁴²⁻⁴³

BAT's win-win plan

BAT intended to "create a win-win situation", whatever the outcome of lobbying for the abolishment of state trading. BAT would benefit from competition with CNTC if state trading were abandoned. However, even if the lobbying failed, BAT could "capitalise on our [BAT's] attitude to becoming the preferential partner for joint ventures", because, "if we are perceived as facilitators for China's accession we may expect a "preferential treatment"; hence easier access compared to our competitors with all commercial benefits attached to it."⁴⁴ In public speeches, BAT representatives voiced strong support for China's WTO membership.⁴⁵ Martin Broughton, Chairman of BAT, said in BAT's first Annual General Meeting in 1999, "A word on WTO and the Chinese We would hope to improve our market access and secure tariff reductions and I welcome reports that China has offered far-reaching cuts."⁴⁶⁻⁴⁸ Furthermore, "British American Tobacco has been a long-standing supporter of accession. We welcome the Chinese commitment to participate fully in the international trading system and hope that the negotiations are concluded quickly."⁴⁹

Smuggling issue

BAT contended that rampant smuggling of foreign cigarettes into China was a result of the country's high taxes and tariffs on imported cigarettes.^{14 21 50 51} They lobbied the EU, USTR and Chinese officials to reduce taxes on imported cigarettes.^{30 34 32} BAT even gained the support of Huaicheng Xiang, China's Finance Minister, who stated, "I don't see that much pressure on the issue of falling tariffs", and gave the example of cigarettes,⁵³ noting that high tariffs on cigarettes led to smuggling. During the WTO negotiation process, China progressively reduced taxes and tariffs on imported cigarettes.⁵⁴⁻⁵⁶ A non-tariff barrier, the retail licence required to sell imported cigarettes, was also cancelled in 2003.⁵⁷

Results of negotiations

Owing to the size of the Chinese market and importance of tobacco as a source of revenue, the Chinese government excluded the tobacco sector from a proposal on distribution in

July 1998.^{58 59} However, BAT continued their lobbying activities and decided to "redouble our [BAT's] efforts".^{39 60-62} Even after BAT was aware that "it may be too late to get tobacco re-included in distributions concessions", they kept contacting Gerard Depayre, Deputy Chief of Director-General I, to persuade him on tariff and non-tariff issues: "one of the purposes ... was to make sure that he was aware of our concerns so he could include them in his brief, when-if-the WTO negotiations get going again".⁶³ Although "the US had deliberately not included tobacco for moral reasons and the EU had followed the US line",⁶³ behind the scenes, their negotiators had been quietly and indirectly pushing quite hard for the removal of non-tariff barriers.³⁹

After long and complex negotiations, China completed a bilateral agreement on accession to the WTO with the US in November 1999 and with the EU in May 2000.^{43 64 65} China became a WTO member in 2001. As a member, China had to agree to reduce tariffs on imported cigarettes and eliminate non-tariff barriers.⁷ Tariffs on cigarettes were decreased from 49% in 2001 to 25% in 2003.⁵⁷ Since 2003, with the elimination of the special retail permit under the WTO agreement, any retailer with a CNTC general retail permit to sell domestic cigarettes can sell foreign cigarettes.⁵⁷

DISCUSSION

China is the largest tobacco consumer and producer in the world and has a state-owned tobacco monopoly. Thus, tobacco concerns the Chinese government from both economic and public health perspectives. As a result of China's accession to the WTO, TTCs can increase their market access more easily and compete with China's domestic tobacco company, CNTC.

BAT, one of the biggest international tobacco companies, was very active during the progress of China's entry into the WTO. The company's lobbyists focused their efforts on EU and US officials involved in bilateral negotiations with China. As the leading tobacco company in the EU, BAT could gain closer contact and greater support from the European Commission negotiators.

Because of moral and health concerns,⁶³ BAT did not lobby for direct and public support. Instead, BAT suggested that the company's interests be put forth as part of the response of all European companies.

In the BAT strategy, successful lobbying of EU and US negotiators could allow BAT to become a strong competitor of the Chinese tobacco monopoly. However, if state trading of tobacco could not be removed, the only way for BAT to access the Chinese market would be through cooperation with their competitor, the Chinese tobacco monopoly. BAT officials had anticipated this situation. During negotiations, BAT spokespeople continuously spoke publicly in favour of China's accession, presenting the company as a facilitator of China's entry to the WTO with the aim of acquiring preferential treatment from their Chinese competitor. BAT was determined to gain a firm grip in China's huge cigarette market.

Although the WTO promotes liberalised trade as an important engine of socioeconomic development, public health protection should take precedence over the interests of the tobacco industry. Public health should not be subordinated to commercial considerations. A 1999 World Bank report on tobacco noted, "the removal of trade barriers tends to introduce greater competition that results in lower prices, greater advertising and promotion, and other activities that stimulate demand".⁶⁶ The low price of cigarettes stimulates increased tobacco consumption and smoking rates. High smoking rates and tobacco consumption will undoubtedly harm public health.

Many researchers have suggested that international trade agreements have actually protected the tobacco industry,

What this paper adds

- O'Sullivan *et al* and Lee *et al* studied transnational tobacco companies industry documents and described companies' ambitions and conduct in China. However, those studies mainly focused on the heavy reliance on contraband and the undermining of national advertising bans.
- China entered the World Trade Organization (WTO) in 2001 after years of negotiations. As a WTO member, China had to reduce tariffs on imported cigarettes and remove non-tariff barriers, thus making foreign cigarettes more competitive in the Chinese market. British American Tobacco (BAT) conducted the most active lobbying during China's accession to the WTO, engaging in various tactics to gain the support of WTO negotiators. This paper reviews and analyses specific tactics used by BAT and discusses the need for a balance between trade liberalisation and public health.

eroded human rights principles and contributed to health problems.⁶⁷⁻⁶⁸ International treaties should not protect the rights of business only; health concerns should also be considered. Given the hazardous and addictive nature of tobacco, it should not be treated as an ordinary consumer product in trade policies and should not be exempt from taxation.

The activities of BAT clearly show that tobacco companies place company interests over public health. Today, China faces problems posed by the aggressive practices of TTCs, tobacco tariff reductions and a huge number of smokers. For tobacco-control measures to progress, the tactics of foreign tobacco companies aimed at undermining anti-tobacco activities under the context of trade liberalisation must be understood. China should attach importance to public health and comprehensive tobacco control, and guarantee strong protection for controls on national and foreign tobacco products in international trade agreements.

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