

## RESEARCH PAPER

# “Accommodating” smoke-free policies: tobacco industry’s Courtesy of Choice programme in Latin America

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**Objective:** To understand the implementation and effects of the Courtesy of Choice programme designed to “accommodate” smokers as an alternative to smoke-free policies developed by Philip Morris International (PMI) and supported by RJ Reynolds (RJR) and British American Tobacco (BAT) since the mid-1990s in Latin America.

**Methods:** Analysis of internal tobacco industry documents, BAT “social reports”, news reports and tobacco control legislation.

**Results:** Since the mid-1990s, PMI, BAT and RJR promoted Accommodation Programs to maintain the social acceptability of smoking. As in other parts of the world, multinational tobacco companies partnered with third party allies from the hospitality industry in Latin America. The campaign was extended from the hospitality industry (bars, restaurants and hotels) to other venues such as workplaces and airport lounges. A local public relations agency, as well as a network of engineers and other experts in ventilation systems, was hired to promote the tobacco industry’s programme. The most important outcome of these campaigns in several countries was the prevention of meaningful smoke-free policies, both in public places and in workplaces.

**Conclusions:** Courtesy of Choice remains an effective public relations campaign to undermine smoke-free policies in Latin America. The tobacco companies’ accommodation campaign undermines the implementation of measures to protect people from second-hand smoke called for by the World Health Organization Framework Convention on Tobacco Control, perpetuating the exposure to tobacco smoke in indoor enclosed environments.

Latin Americans are highly exposed to second-hand tobacco smoke (SHS) both in public places and in workplaces.<sup>1,2</sup> In 2001, the Pan American Health Organization launched its “Smoke Free Americas” initiative<sup>3</sup> to “raise awareness of the harm caused by secondhand tobacco smoke, and support efforts to achieve more smoke-free environments in the Americas.” There is longstanding strong public concern over the effects of SHS in Latin America. In 1997, research conducted for Philip Morris International (PMI) showed that about 80% of respondents in four Latin American countries agreed that “Other people’s tobacco smoke poses a long term health risk to nonsmokers.”<sup>4</sup> These results reflect a stronger consensus that SHS is hazardous than Philip Morris (PM) found in the US in 1989—62% of non-smokers and 32% of smokers—as the movement for smoke-free workplaces and public places was beginning to accelerate them.<sup>5</sup> A 2001 survey conducted for the World Health Organization (WHO) in the main urban areas of Argentina showed strong public support (94%; 96% non-smokers and 89% smokers) for the creation of smoke-free places to avoid SHS.<sup>6</sup> Public opinion polls conducted in 2006 in Argentina<sup>7</sup> and Uruguay<sup>8</sup> reported that 92% of respondents agreed that “SHS is dangerous for nonsmokers’ health”, showing an increase in public concern about SHS by 12% since 1997.

The main barrier to progress in implementing smoke-free policies in Latin America has been the efforts by two transnational tobacco companies, PMI and British American Tobacco (BAT), which control almost the entire cigarette market in the region through their subsidiaries (PMI 40%, BAT 60%). Similar to the voluntary self-regulating advertising codes, which the tobacco companies use to fight restrictions on tobacco advertising,<sup>9,10</sup> the tobacco industry has orchestrated public relations campaigns in Latin America since the mid-1990s to avoid legislated smoke-free policies.<sup>11,12</sup> As in the US,

beginning in the late 1980s,<sup>11</sup> this effort mobilised the hospitality industry to block meaningful tobacco control legislation to preserve the social acceptability of smoking and to protect industry profits. These programmes, known as Accommodation in the US and Courtesy of Choice in most parts of the rest of the world,<sup>11,13–15</sup> encourage the voluntary creation of smoking and non-smoking sections in the hospitality industry as an alternative to legislation requiring 100% smoke-free environments. Also, as in the US, the tobacco industry sought to present ventilation as the “solution” to SHS.<sup>16</sup>

As of April 2007, 12 Latin American countries (Bolivia, Brazil, Chile, Ecuador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela) had ratified the WHO Framework Convention on Tobacco Control (FCTC). The FCTC, the first international public health treaty, calls for the implementation of “effective legislative, executive, administrative or other measures ... at the appropriate governmental level to protect all persons from exposure to tobacco smoke” (Article 4.1) “in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.” (Article 8).<sup>17</sup> Given the fact that the only truly effective protection from SHS is the creation of 100% smoke-free environments,<sup>18</sup> in 2003, Venezuela approved a state law (in Monagas<sup>19</sup>) and between 2005 and 2006, Argentina passed and regulated two provincial laws (in Santa Fe and Tucumán) to establish 100% smoke-free public places and workplaces. In March 2006, Uruguay became the first 100% smoke-free country in the

**Abbreviations:** BAT, British American Tobacco; ETS, environmental tobacco smoke; FCTC, Framework Convention on Tobacco Control; HBI, Healthy Building International; IHA, International Hotel Association; PM, Philip Morris; PMI, Philip Morris International; SHS, second-hand tobacco smoke; WHO, World Health Organization

Americas. In response to this movement, one can expect the tobacco industry to accelerate its Accommodation efforts as a way of undermining such effective smoke-free policies to implement FCTC.

## METHODS

Between April 2005 and June 2006, we searched the collection of tobacco industry internal documents in the University of California San Francisco (UCSF) Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu> and <http://ltdlfd.library.ucsf.edu>) and in the BAT Documents Archive (<http://bat.library.ucsf.edu>). Initial search key words were Accommodation, Courtesy of Choice (and its Spanish Cortesía de Elegir), tolerance, Coexistence in Harmony (or Living Together, Living in Harmony, and its Spanish Convivencia en Armonía), Latin America and other geographical names. Follow-up searches used key players' names, specific dates, tobacco companies' subsidiaries and reference (Bates) numbers near relevant documents using a snowball strategy to locate new documents. In addition, we searched BAT affiliates' "social reports" (available at <http://www.bat.com>), local newspaper and magazine articles and internet-based legislative records.

## RESULTS

### Motivation and purpose of the Courtesy of Choice programme (1994)

To promote its Accommodation Program worldwide, PM worked through the International Hotel Association (IHA)<sup>11</sup> to "establish a framework for self-regulation that precludes the need for government intervention"<sup>20</sup> to restrict smoking. Table 1<sup>21-31</sup> shows PM's allies in local hospitality industry associations in some Latin American countries. The international version of PM's US Accommodation Program, the Courtesy of Choice, was introduced at the 32nd IHA Congress in Sidney, Australia, in October 1994. According to PM's Mary Pottorff (manager, Worldwide Regulatory Affairs), the launching was "an unqualified success" because "the program is being treated as a hospitality initiative, not a tobacco program!"<sup>20</sup> Two weeks before the Congress, a management video along with a summary of the programme were distributed by IHA to heads of chain hotels and hotels associations in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay and Peru.<sup>20 32</sup> The Courtesy of Choice team was formed by Healthy Building International (HBI, a firm that promoted ventilation for the tobacco companies<sup>16</sup>), Spring O'Brien, New York, USA (a public relations agency PM hired to coordinate the programme worldwide) and PM's Pottorff.<sup>20</sup>

The 1994 report "Smoking Accommodation Program for the Americas" by Spring O'Brien described the plan to introduce the programme in Latin America "aimed at supporting Philip Morris ETS [environmental tobacco smoke, what the tobacco industry calls SHS] objectives in the Caribbean, Central and South America."<sup>33</sup> The timing for the programme was considered propitious because two markets were introducing smoking restrictions (Argentina and Costa Rica):

With strong anti-smoking sentiment apparent in such key cities as Buenos Aires, Mendoza and Córdoba, Argentina appears to be following in the footsteps of the United States on this issue, and will require ingenious initiatives to counteract that trend. ... Apparently, the local tobacco association is already meeting there with hotel groups. ... an accommodation initiative is urgently needed in Costa Rica to offset impending legislation there ... that country has now been designated as the top priority arena for this program.<sup>33</sup>

The implementation would start with priority markets, and include site visits to develop relationships with local hospitality associations and assess appropriate next steps. Procter Lippincott (senior vice president for Spring O'Brien, New York, USA) with tactical support from Dan Murphy from the Miami-based public relations firm Rubin Barney & Birger (Spring O'Brien's affiliate) was to supervise the programme. A combination of a Latin America support network and locally based PM agencies would provide additional in-country support. Finally, a collaboration with the tobacco national manufacturer associations, the IHA and BAT would be sought in each country to share costs.<sup>33</sup> By December 1994, discussions about the implementation of the programme began with the Hotel/Restaurant Association of Argentina, the Caribbean Hotel Association, and associations in Mexico and Costa Rica.<sup>20</sup>

Although the Courtesy of Choice programme was officially launched in October 1994, by August 1994 PM had developed prototype accommodation materials in Spanish and completed the identification of hospitality associations in Latin America.<sup>34</sup>

### Development of the Courtesy of Choice programme Initial programme rollout: Costa Rica (1994)

Costa Rica was identified as a priority market to implement the programme. A bill, which, according to Spring O'Brien,<sup>33</sup> had strong public support, had been introduced in the Congress in July 1992 to end smoking in workplaces and public transportation. The bill was still pending in 1994 and under strong tobacco industry lobbying pressure to be weakened.<sup>34</sup> Lippincott and Murphy travelled to San José, Costa Rica, to introduce the Courtesy of Choice initiative and work with local consultant Carlos M Echeverría (Central American Consulting Inc., San José, Costa Rica) who claimed he knew President José María Figueres and his wife personally and believed he could influence them.<sup>33</sup> Echeverría also had good connections with the hotel and casino associations, the IHA head located in Puerto Rico, and PM and BAT representatives.<sup>33</sup> Spring O'Brien billed PM \$30 000 for the trip to Costa Rica and associated planning.<sup>35</sup> The trip in December 1994 included a presentation of the programme to PM and BAT local offices.<sup>20</sup>

### Coordinating the programme in Latin America (1995)

By 1995, PM selected Norlop-Thompson Asociados, an advertising agency based in Quito, Ecuador, to coordinate the Accommodation Program in all of Latin America;<sup>36</sup> Norlop-Thompson's specific objectives were to "protect the right of restaurant and hotel owners to welcome both smokers and non-smokers [and to] *avoid the interference of the government.*"<sup>36</sup> [emphasis added]

To reach these objectives, in each country Norlop-Thompson would introduce the voluntary Courtesy of Choice programme to local tobacco companies and to local hotel and restaurant associations, select and hire a local public relations agency to implement the programme, select pilot projects, coordinate studies of ventilation with HBI Iberica, train personnel and design marketing strategies to add new establishments to the programme.<sup>36</sup>

Norlop-Thompson hired the Buenos Aires-based marketing company PEC S.A. to implement the Convivencia en Armonía programme in Argentina, starting in Buenos Aires and then expanding to the rest of Argentina beginning in September 1995. In June, PEC S.A. met with the Federación Empresaria Hotelera-Gastronómica de la República Argentina (FEHGRA, Argentinean Hospitality Industry) and contacted five hotels and five restaurants to pilot test the programme. In addition, they planned to have a cocktail hour during September under the auspices of FEHGRA and invite the Mayor of Buenos Aires, councilmen, candidates running for Mayor, the press, and hotel

**Table 1** Tobacco industry allies supporting its Accommodation (Courtesy of Choice) Program in Latin America

Country (year started)	Local hospitality industry associations supporters	Sponsor
Puerto Rico (1995) <sup>21</sup>	Asociación de Hoteles y Turismo (Hotel Association and Tourism) Cámara de Comercio de Puerto Rico (Chamber of Commerce of Puerto Rico) Centro Unido de Detallistas de Puerto Rico (Retailer Association of Puerto Rico)	RJ Reynolds PM Puerto Rico
Chile (1995) <sup>22</sup>	Federación Gremial de la Industria Hotelera y Gastronómica de Chile (Hotelga, Chilean Hospitality Industry)	Chiletabacos (BAT) PMI
Venezuela (1995) <sup>23 24</sup>	Asociación Chilena de Gastronomía (Achiga, Chilean Gastronomic Association) Asociación Venezolana de Hoteles Cinco Estrellas (Avecintel, Venezuelan Five Stars Hotel Association) Cámara Nacional de Restaurantes (CANARES; National Chamber of Restaurants) Consejo Nacional del Comercio y los Servicios (Consecomercio, National Council of Trade and Services) Cámara de Turismo del Estado Nueva Esparta (Chamber of Tourism of Nueva Esparta State) Fedecámaras (Chambers) Asociaciones de Turismo (Tourism Associations) Federación Nacional de Hoteles (Fenahoven, Nacional Hotel Association) Cámaras Regionales de Turismo (Regional Chambers of Tourism)	BIGOTT (BAT)
Argentina (1996) <sup>25 26</sup>	Federación Empresaria Hotelera Gastronómica de la República Argentina (FEHGRA; Argentine Federation of Hotel, Bar and Restaurant Association)	Nobleza-Piccardo (BAT) Massalín-Particulares (PMI) Souza Cruz (BAT)
Brazil (1996) <sup>27</sup>	Associação Brasileira de Gastronomia, Hospitalidade e Turismo (ABRESI, Brazilian Hospitality and Tourism Association) Associação Brasileira da Indústria de Hotéis (ABIH, Brazilian Hotel Association) Associação Brasileira de Restaurantes e Empresas de Entretenimento (ABRASEL, Brazilian Restaurant and Entertainment Association)	
Costa Rica (1996) <sup>28</sup>	Cámara Costarricense de Restaurant Afines (CA.CO.RE., Costa Rican Restaurant Association) Cámara Costarricense de Hoteles (C.C.H., Costa Rican Hotel Association)	PMI BAT Costa Rica
Dominican Republic (1998) <sup>29</sup>	Asociación Nacional de Hoteles y Restaurant (ASONAHORES, Hotel and Restaurant National Association)	Asociación Dominicana de la Industria del Cigarrillo (PMI)
Mexico (1998) <sup>30</sup>	Asociación Mexicana de Hoteles y Moteles (AMHM, Mexican Hotel and Motel Association) Cámara Nacional de la Industria de Restaurantes y Alimentos Condimentados (CANIRAC, National Chamber of Restaurants and Food Industry)	PM Mexico BAT Mexico
Nicaragua (1998) <sup>31</sup>	Instituto de Turismo (INTUR, Tourism Institute) Cámara Nicaraguense de Turismo (Nicaraguan Chamber of Tourism) Asociación de Hoteles de Nicaragua (Hotel Association of Nicaragua) Asociación de Restaurantes de Managua (Restaurant Association of Managua)	PMI Tabacalera Nicaraguense (BAT)

BAT, British American Tobacco; PM, Philip Morris; PMI, Philip Morris International.

and restaurant owners and managers. In coordination with Norlop-Thompson, PEC S.A. would distribute videos and print material to advertise Courtesy of Choice. They also planned the following activities in the 10 “test” venues: a ventilation assessment by an expert who will write a final report with his recommendations about air circulation and location of smoking and non-smoking sectors; a training programme for the employees working in the places; and a permanent communication line for answering any queries of the participants.<sup>25</sup> They planned to make and distribute a newsletter about the programme to potential future participants, and to establish a bimonthly “Premio a la Cortesía” (Courtesy Award) to the participants that follow the programme in a visible way.<sup>25 37</sup> We do not know the extent to which these activities were completed.

### Chile: BAT’s pilot market (1995)

By 1995, BAT was testing the Courtesy of Choice in Chile and Venezuela, two countries where BAT controls most of the cigarette market. In April 1995, HBI conducted nine “studies” of ventilation systems in three hotels and six restaurants in Santiago, as part of the Courtesy of Choice programme for Chiletabacos BAT’s Chilean affiliate). HBI produced technical-looking reports that recommended how to lay out smoking and non-smoking areas with “appropriate” ventilation systems for each venue.<sup>38–46</sup> The campaign was nominally headed by the Federación Gremial de la Industria Hotelera y Gastronómica de Chile (HOTELGA, the national hotel association, a member of IHA) and the Asociación Chilena de Gastronomía (ACHIGA, the national restaurant association), with coordination by the public relations agency AMW Direct<sup>47</sup> working for BAT based in Toronto, Canada. According to BAT, the 1995 launching of the programme resulted in “a great deal of positive press

coverage.”<sup>47</sup> Although initial costs of the campaign were split by BAT and PMI, BAT was supposed to carry future costs.<sup>48 22</sup>

### The expansion of Courtesy of Choice plans (1996–1999)

In February, 1996, PM’s Jan Goodheart (manager, Worldwide Regulatory Affairs) faxed BAT’s Christopher Proctor (manager, Smoking Issues) to acknowledge BAT’s support for market-specific and generic Courtesy of Choice materials (management and ventilation brochures and videos, and staff-training videos) and to discuss expansion of the programme beyond where it was established in Costa Rica, Chile and Argentina, and progressing in Brazil and Colombia. As in Chile in 1995, PM was trying to ensure the co-participation of BAT in running the programmes in Latin America to implement the programme efficiently using both companies’ resources. To this end, PM’s Goodheart recommended that they “establish a working committee to coordinate this effort”.<sup>49</sup>

In April 1996, PM’s Goodheart made a presentation at a Latin America PM Corporate Affairs Workshop in New Orleans, Louisiana, USA, attended by representatives of PM’s Latin American affiliates. Under the “Social Acceptability” section, Goodheart’s presentation on “Worldwide Courtesy/Tolerance Campaigns”,<sup>50</sup> challenged attendees with three hypothetical scenarios in English and Spanish prepared by the US public relations agency Burson-Marsteller<sup>51–54</sup> to teach attendees how to use Accommodation Programs as an alternative to legislated 100% smoke-free policies. These scenarios reveal what the tobacco industry was anticipating and how they planned to deal with them.

Throughout 1997, PM continued to develop plans<sup>55</sup> “to prevent unreasonable restrictions on smoking and promote accommodation”.<sup>56</sup> The report “Indoor Environmental Principles and Plans to Accommodate Diverse Expectations of



Indoor Environments, Including Smoking in Public Settings”<sup>57</sup> described the principles and strategies developed by the company to maintain smoking in public places, including “to develop and promote programs that promote indoor environmental quality in public settings, taking into account diverse expectations for indoor environments”.<sup>57</sup> This principle involved three strategies:

(1) identify, evaluate and stimulate the use of widely available and recently introduced technologies;

(2) create and support initiatives that apply accommodation options in public venues;

(3) build and nurture networks of technical professionals (eg, design engineers, architects, consultants such as HBI, equipment manufacturers and associations) that support indoor environmental quality and promote accommodation.<sup>57</sup>

To create accommodation options, initiatives were identified in three different venues: hospitality, workplace and travel.

### The hospitality industry accommodation programme

Hospitality establishments were “the priority venue in the Latin America Region in which to promote accommodation”.<sup>55</sup> Convivencia en Armonía (Coexistence in Harmony, another name for the Courtesy of Choice programme) was to be introduced into all markets and expanded in the existing markets (eg, Costa Rica, Argentina, Chile and Brazil). Evaluation studies of the economic impact of smoking restrictions (that claim to show smoke-free policies have adverse effects on the hospitality industry<sup>11 58</sup>) were considered a useful tool to measure the effects of bans, especially in key markets. By 1997, Convivencia en Armonía was running in 12 countries, with 21 associations involved, a network of local engineers, and strategic alliances with hospitality sector, universities, and tourism authorities.<sup>4</sup>

In addition to promoting the voluntary hospitality programme, the industry took the initiative by promoting the implementation of “accommodation laws”, which explicitly require smoking and non-smoking areas in bars and restaurants as a proactive approach to prevent 100% smoke-free laws, such as done in Argentina in 1992, 1994 and 1998.<sup>15</sup>

### The workplace accommodation programme

The workplace programme (unlike the US where the Accommodation Program was solely focused on restaurants<sup>11</sup>) was “a second but longer term objective for the Region”.<sup>55</sup> PM decided to test, evaluate and revise a workplace Accommodation Program in its facilities in Argentina and Costa Rica. According to PM, Argentina was selected “because of the commercial importance of the market to PM, its leadership among other countries in the region, and the relatively favorable climate for the tobacco industry; Costa Rica for the relatively difficult climate for the industry.”<sup>55</sup> The strategy was to identify business trade associations in the employer sector in the two countries to collaborate with their members in developing the programmes, as well as individual companies to pilot test them, followed by extension to other countries.<sup>4 55</sup> In February 1998, PMI’s Communications Supervisor for Andean and Central American countries and Mexico,<sup>59</sup> distributed a memorandum and manual “La Convivencia en el Trabajo”<sup>60</sup> (Coexistence in the Workplace) for Costa Rica, with guidelines on how to implement the programme in private facilities in elevators, bathrooms, cafeterias, halls, offices, reception areas, rest and meeting lounges, and vehicles. Ventilation systems and separation of smoking and non-smoking areas where possible were part of the programme.<sup>60</sup>

Other strategies included facilitating the installation of “appropriate ventilation technologies”<sup>57</sup> in high-profile

locations, “utilize a network of technicians and engineers from the hospitality initiatives to develop protocols for indoor air quality in workplace”,<sup>57</sup> developing a communication strategy to promote the programme.<sup>57</sup> For the workplace programme, PM also hoped to develop alliances with the Chambers of Commerce, the Chambers of Industry, unions, and building owners and managers.<sup>4</sup> We were unable to determine how successful this effort was.

### The airport accommodation programme

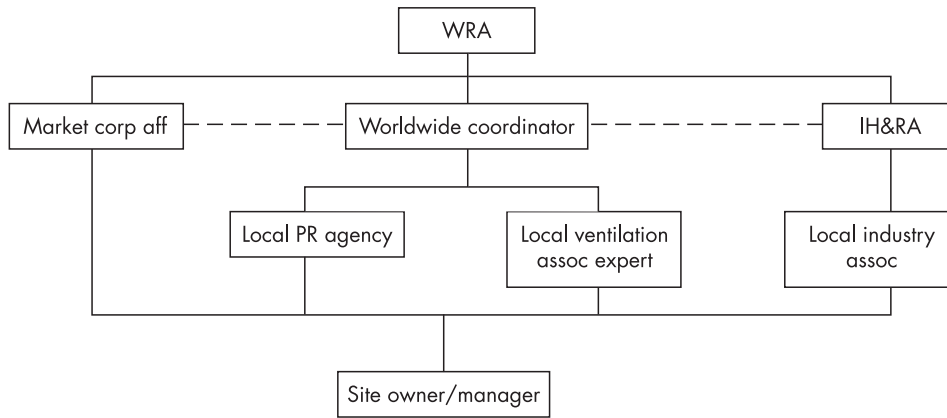
The third component of the programme was airport accommodation. PM was exploring the feasibility of branded lounges (places where people can smoke that are identified with specific cigarette brands), and was planning to introduce the programme in concession stands in Venezuela, Colombia,<sup>57</sup> Bermuda and Puerto Rico where PM representatives were having “discussions with legislator [sic] to restore accommodation policy in San Juan airport.”<sup>64</sup> PM’s strategies were to support efforts by Infraero (Brazil’s airport authority) to install a smoking lounge at the Sao Paulo airport, to “continue dialogue with Ministries of Transport and related authorities, as well as major carriers, to monitor for potential proposals restricting smoking”,<sup>57</sup> and to “develop briefing materials for in-market presentations to local airport officials”.<sup>57</sup> PM hoped to develop allies in the tourism industry, the Minister of Tourism and the airport authorities,<sup>4</sup> as they did in Costa Rica when they signed an agreement with the Head of the Tourism Board.<sup>61</sup>

A 1997 PM Corporate Affairs report, which describes its strategic plan for 1998–2000, stated that PM’s overall strategic direction was to “create and/or maintain a socially acceptable environment to avoid political and regulatory intervention [to] fully achieve [its] business objectives.”<sup>62</sup> The Courtesy of Choice programme in Latin America was highlighted as one of the strategies in the region to “preserve favorable operating climate in light of the proposed U.S. [Global<sup>63</sup>] Settlement”<sup>62</sup> “by protecting smoking in public venues”.<sup>62</sup> PM’s plan for the next years was to continue to expand their established activities throughout the region by adding Mexico, Bolivia, Peru and the Caribbean Islands.<sup>62</sup>

By 1999, PMI’s detailed report on “International Accommodation Programs” reported that these programmes were well established and operating globally under PM’s Worldwide Regulatory Affairs office as a proactive and ongoing programme (fig 1). The worldwide coordinator was the London office of Spring O’Brien, which selected, trained and supervised local public relations firms. Local firms, in turn, implement and run the programmes on a day-to-day basis, and identify and engage local ventilation resources. By June 1999, the participating countries in the Courtesy of Choice programme from the Latin American region were Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.<sup>64</sup>

PMI was pleased with the international Accommodation Program because of its repeated success in “preventing or modifying smoking restrictions” without generating “negative reaction”, as well as the possibility of building “effective coalitions” with the local hospitality industry.<sup>64</sup> In particular, the programme was recognised as a tactical tool to generate goodwill towards PM, especially among legislators. PM’s continuing support for the programmes followed logically from a series of observations:

- bans will continue to proliferate,
- bans damage our business,
- PM can legitimately combat the introduction of bans,



**Figure 1** Structure of PM's worldwide coordination of the Accommodation Programs as of 1999.<sup>64</sup> (assoc, association; corp aff, corporate affairs; PR, public relations; WRA, Worldwide Regulatory Affairs, IH&RA, International Hotels & Restaurants Association).

- accommodation programs can prevent bans,
- well coordinated, preventive programs are efficient,
- current accommodation programs are efficient,
- PM should fund all or most of these programs.<sup>64</sup>

PM identified ways in which smoke-free policies in workplaces, including public places, could damage its business and, therefore, why Accommodation Programs were important to protect its business. The first way was a direct effect on consumption, especially in workplaces where smoke-free policies "have been credited with as much as 17% of the decline in consumption in the USA in recent years."<sup>64</sup> The second, and more important, effect was "that on the social acceptability of smoking. Attempts to depict tobacco use as antisocial get a powerful boost when its use is banned in social settings."<sup>64</sup> Another benefit from the programme PM identified was improving the company's credibility: "PM's participation in accommodation programs has raised the stature of the company and has, in many cases, generated opportunities for cooperation with regulators in other areas."<sup>64</sup> Finally, PM saw the programme as a benefit for all the participants involved (PM, the International Hotel and Restaurant Association, national hospitality associations, public relations agencies, air conditioning engineering consultants, air conditioning system manufacturers, site owners and managers), who PM concluded would be "acting in their economic self-interest, which makes a sound basis for a long term partnership".<sup>64</sup>

### BAT Mexico: accommodation as part of corporate social responsibility campaign

BAT, like PM, has integrated accommodation into its efforts to project a positive corporate image. In February 2006, BAT Mexico launched its corporate social responsibility campaign "Responsables por Convicción" (Responsible by Conviction), including different messages placed on street billboards and bus stops (eg, "No se debe fumar en espacios para no fumadores" [It is not correct to smoke in nonsmokers areas], and "Es respetuoso preguntar si molesta que fumes" [It is respectful to ask if smoke annoys someone])<sup>65</sup> reinforcing the misled public perception of smoking as a nuisance as opposed to a substantial health risk. In addition, in July 2006, and as part of its campaign, BAT Mexico re-launched the "Convivencia en Armonía" programme (first launched in 2001). Logos of the programme were similar to the ones used before (fig 2). The 2006 BAT Mexico report "Fumado Público para los Centros de Consumo" (Public smoking for restaurants, bars, cafeterias, casinos and nightclubs) targeted at owners of the hospitality industry, explains the objectives, benefits and how to implement the programme "Convivencia en Armonía" in response to

the "prohibitionist" threats (eg, New York, Uruguay and Santa Fe, Argentina) that could soon affect Mexico:

#### Take the decision now!

Remember that the investment you make today to improve the air quality of your business, it will pay off in the very short term. The sooner you act [implement the program], the sooner you will be benefited by your clients and a more satisfied staff...

If you rule out this option, you will be losing the opportunity of expressing your point of view about a public smoking policy according to your store conditions that will allow you to take the necessary actions to comply with the established air quality standard, since once a law to ban smoking is passed, it will be almost impossible to go back.<sup>66</sup> [translated by the author]

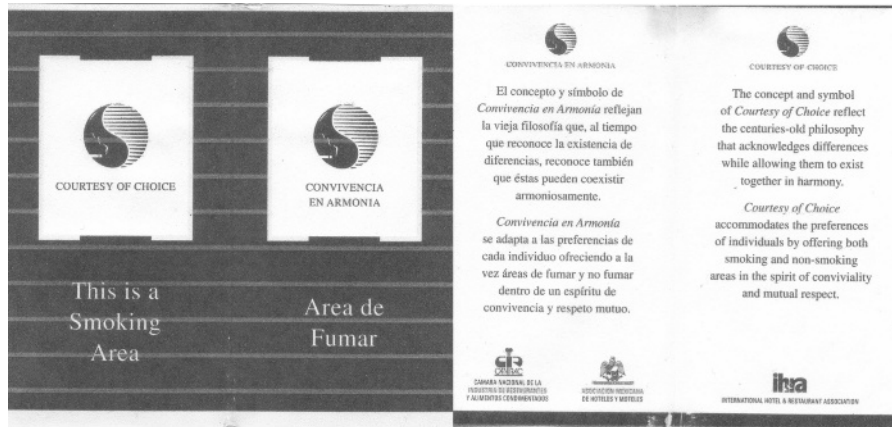
As of April 2007, Mexico lacked any meaningful smoke-free legislation despite being the first country in the region to have ratified the FCTC on 28 May 2004.

### Success of the tobacco industry efforts

#### Argentina: blocking federal and weakening local legislation (1992–2006)

In September 1992, the Argentinean Congress passed a comprehensive tobacco control law, the Neri law, that, among other things, would have ended smoking in most public places.<sup>15 67 68</sup> As a consequence of a strong tobacco industry lobbying campaign, a few days later the President vetoed the law. Soon after, a counterproposal supported by the tobacco industry was introduced. The new bill, drafted with PMI's advice, included smoking and non-smoking areas (accommodation language) in public places. The bill was not approved due to a conflict with another bill in the Congress at the same time.<sup>15</sup> In 2005, the Ministry of Health drafted a bill, that following all the provisions of the FCTC, sought to end smoking in all public places, workplaces and public transportation.<sup>69</sup> After its introduction, the bill was blocked in the Senate Public Health Committee by senators from tobacco-growing provinces. These senators also supported a tobacco industry alternative bill that incorporated accommodation language;<sup>70</sup> neither bill was passed.

By 1994, the New York office of the law firm Shook, Hardy & Bacon was monitoring the local tobacco control legislation in Buenos Aires.<sup>71</sup> A 1994 PMI ETS activity update report reported continuing local lobbying in Argentina and efforts to promote accommodation to the hotel and restaurant associations.<sup>34</sup> In June 1994, motivated by press reports of clean indoor air legislation in the US,<sup>72</sup> the city of Buenos Aires passed



**Figure 2** Acrylic displays on the tables with the “Smoking Area” sign printed on a restaurant in Mexico City, January 2006 (top). New symbol for the Programme Convivencia en Armonía in Mexico, July 2006 (bottom). Bottom left: Coexistence in Harmony; Bottom middle: Here we choose not to smoke; Bottom right: Here we can enjoy a cigarette.



legislation<sup>73</sup> but, consistent with the tobacco industry’s accommodation strategy, established smoking and non-smoking areas in most hospitality venues. The tobacco industry in Argentina monitored the process of approval of this ordinance in the City Council of Buenos Aires and also succeeded in substantially weakening the original proposal.<sup>72 74 75</sup> More than 10 years later, in October 2006, Buenos Aires implemented Law 1.799<sup>76</sup> that, still consistent with the tobacco industry’s ventilation strategy,<sup>16</sup> allowed up to 30% of restaurants and bars to be smoking areas, so long as they were physically separated from the rest of the place.<sup>76</sup>

#### Chile: delaying and weakening a law (1995)

In September 1995, the Chilean Congress passed Law 19.419 to control tobacco advertising and regulate smoking in public places, which had been proposed in August 1990. Thanks to the industry’s efforts, BAT’s Corporate Affairs reported to BAT representatives from Argentina, Brazil, Colombia, Costa Rica and Venezuela, the debate over the law “took near[ly] five years and there are substantial changes between the original and the final one. The changes are fortunately in favor of the industry.”<sup>77</sup> Following typically weak laws that the industry accepted, it ended smoking in public transportation, schools, elevators and some public offices, but allowed smoking areas in health facilities, theatres and cinemas. Consistent with Accommodation, restaurants, bars and hotels could voluntarily choose between having or not having smoking and non-smoking areas, and had to indicate so.<sup>77</sup>

#### Costa Rica: an “accommodation law” model for the region (1995–2001)

In 1995, after public health advocates introduced a strong national law to restrict smoking, the tobacco industry succeeded in having the Lower House Committee of Government and Administration approve a substantially weakened bill<sup>78</sup> that President Figueres signed as Law 7.501.<sup>79</sup> According to PM, Latin America Corporate Affairs, a “severe

anti-smoking proposal submitted to the Congress and endorsed by the President was ultimately modified” to one that “permits smoking in designated areas in venues where it is traditionally prohibited—cinemas, medical centers and museums”.<sup>80</sup> Law 7.501 represented a complete victory for the tobacco industry.

In 1998, a new bill was introduced in Costa Rica by the president of the Congress to end smoking in public places, including hospitality venues.<sup>81</sup> PMI rapidly organised a five-point strategy to avoid this new proposal as stated in its memorandum written by PMI’s Aurora González. Activities included meetings with the president of the Congress, the head of the tourism board (to raise the negative impact of the ban on the hospitality industry) and the head of the hospitality associations. Part of the plan was to “have a well-known hotelier or restaurateur speak up about Courtesy of Choice and how the programme makes good business sense”.<sup>61</sup> Other activities included having the ventilation engineers (from HBI and local engineers) briefing “the appropriate Congressional Committees on the ventilation requirements in Courtesy of Choice”<sup>61</sup> and visiting key government officials. This five-point strategy was presented at a meeting of PM’s Worldwide Regulatory Affairs “Constructive & Credible Management of ETS Issues” in February 1999, where the example of Costa Rica was introduced as a model for other countries in Latin America that “face similar unreasonable smoking restrictions.”<sup>81</sup> The Congress rejected the bill.

A 2000 PM Weekly Highlights highlighted how to use the Accommodation Program to block meaningful legislation to end smoking in public places:

The Costa Rica Congress rejected a proposal to ban smoking in all public venues based on the fact that the courtesy of choice program, backed by the industry and the Hotel and Restaurant Association, has been addressing the public smoking issue effectively for almost 5 years. As a result Congress concluded that government intervention was not appropriate.<sup>82</sup>



Also, in 2000, the Cámara Costarricense de Restaurantes y Afines (CA.CO.RE.; Restaurant Association of Costa Rica) published on its website:

**A GREAT LEGISLATIVE ACHIEVEMENT FROM CA.CO.RE.  
"NO TO THE IMPOSITIONS, WE ALL HAVE THE RIGHT TO  
CHOOSE."**

A couple of months ago CA.CO.RE. embarked on one of its fights against the proposal to modify article 2 of the Smoking Regulation Law [Law 7.501/1995]. That modification sought to ban smoking in restaurants, bars and night clubs.<sup>28</sup> [translated by the author]

The 2001 PMI/PM USA report "Philip Morris Discusses WHO's Proposed Framework Convention"<sup>83</sup> explained PM's position on supporting "reasonable smoking restrictions" giving the example of the 1995 law in Costa Rica: "In Costa Rica an *accommodation law* which requires establishments to designate smoking and non-smoking areas has been in place for the last five years" [emphasis added].<sup>83</sup> As noted above, this law represented a defeat for public health forces, which had been seeking a 100% smoke-free law.

### Accommodation legislation after FCTC ratification

Tobacco industry efforts to prevent the implementation of meaningful smoke-free policies in countries of Latin America that have already become parties to the FCTC have also been successful. Panama, Peru and Chile incorporated tobacco industry accommodation language in their smoking-restriction legislation. In March 2005, Panama (an FCTC party since August 2004) passed federal legislation, which explicitly states that "there will be clearly delimited areas for smokers and nonsmokers"<sup>84</sup> in all hospitality venues and any other enclosed workplace. In April 2006, Peru (FCTC party since November 2004) passed Law 28705,<sup>85</sup> which allows smoking areas in workplaces including hospitality venues, so long as they are physically separated from the non-smoking areas and must have independent ventilation mechanisms. In May 2006, Chile (FCTC party since June 2005) approved Law 20.105<sup>86</sup> that allows owners of bars, restaurants and casinos of <100 m<sup>2</sup> to choose going smoke-free or not.

### Tobacco industry's fight against implementation: the litigation strategy

In addition to the accommodation efforts to undermine successful smoke-free policies, the tobacco industry and its allies began to challenge their implementation. In July 2005, the Province of Santa Fe, Argentina, passed Law 12.432 ending smoking in all enclosed public places and workplaces without exceptions.<sup>87</sup> Despite high public support for the law after it went into effect in 2006, soon after the law was regulated the owner of a popular cafeteria filed a lawsuit to challenge the legislation, as has happened elsewhere, with encouragement from the tobacco industry.<sup>88-91</sup> In addition, in July 2006, an amendment was introduced in the Provincial Congress to re-establish smoking sections in all hospitality venues.<sup>92</sup> Arguments used to support this amendment were the standard tobacco industry arguments. As in the US,<sup>89-90</sup> it seemed publicity began to claim adverse economic impact, restrictions of freedom of choice, enforcement difficulty and excessive governmental interference, as well as claims of "controversy" on the scientific evidence that SHS was dangerous.<sup>93</sup> As of April 2007, the law of Santa Fe had not been modified.

## DISCUSSION

Prompted by the results of PM-driven polls in Latin America that showed strong public concern about SHS, the tobacco

industry anticipated potential smoking restrictions and implemented its "La Cortesía de Elegir" (Courtesy of Choice) programme (also known in Latin America as "Convivencia en Armonía," Coexistence in Harmony) as part of the industry's worldwide plan to prevent meaningful smoking restrictions in the hospitality sector.<sup>11</sup> The programme was a result of an alliance of PM and other tobacco companies with groups from the hospitality industry (table 1) with the assistance of the International Hotel and Restaurant Association.<sup>11</sup> The Courtesy of Choice is the counterpart of PM's Accommodation Program launched in the 1980s in Pittsburgh in the US.<sup>94</sup> In Latin America, as in other parts of the world, Accommodation was formally launched in the mid-1990s, to establish smoking and non-smoking areas in enclosed public places (to "accommodate" both smokers and non-smokers), and to promote ventilation systems to "minimise" SHS. As in the US, where the tobacco industry developed a network of ventilation consultants to promote its "solution",<sup>16</sup> the tobacco industry hired the indoor air quality firm HBI to "offer" their expertise in ventilation to control SHS exposure in indoor areas.

At the same time that the Accommodation Programs were being developed, the tobacco industry continued to implement a concomitant strategy to promote its position that the science related to SHS was unreliable using media briefings and scientific symposia<sup>55</sup> to support creating smoking and non-smoking areas in enclosed places. This communication plan to create "controversy" about SHS and disease was part of a broader project developed in Latin America called "Latin Project".<sup>12 67 95</sup> Although there is overwhelming scientific evidence on the harmful effects of SHS,<sup>18 96</sup> a 2006 BAT Mexico report on public smoking in the hospitality industry repeats the old arguments denying the scientific evidence and also claims adverse economic impacts of smoke-free policies on the hospitality sector. At the same time, it promotes the ventilation "solution" and the separation of smoking and non-smoking areas.<sup>66</sup>

Although it started in the hospitality sector (eg, restaurants, bars, hotels and casinos), the accommodation strategy in Latin America rapidly expanded to include workplaces and airports. In addition to this voluntary initiative, "accommodation language" was incorporated into legislation to weaken meaningful smoke-free policies (eg, in Costa Rica). The Courtesy of Choice programme has been proven to be an effective vehicle for the tobacco industry to delay the implementation of 100% smoke-free policies in Latin America. Despite Chile's ratification of the FCTC, the 2006 Chilean "tobacco control law" also mirrors the tobacco industry's workplace Accommodation Program because it allows the owners or managers in private workplaces to decide whether to be smoke-free or not.<sup>86</sup> Facing increasingly stronger smoke-free policies, new strategies that the tobacco industry began supporting are "physically separated areas" for smokers with "independent ventilation systems" (eg, in Panama, Peru and Buenos Aires City). For this purpose, the tobacco industry has been strongly promoting the 2006 Spanish tobacco control law,<sup>97</sup> which includes provisions such as a "model to follow" in Latin America.

### Limitations

The study is based mainly on internal tobacco industry documents and as such, depicts only part of the story. Secondly, no interviews were conducted to collect information. Finally, the analysis of the smoke-free legislation was not exhaustive, concentrating on national and provincial levels.

## CONCLUSION

Regional and global initiatives have been promoting smoke-free environments in Latin America. The 2001 Pan American Health

## What is already known on this subject

Tobacco companies developed Accommodation Programs to use the hospitality industry (bars, restaurants and hotels) as public relations tools to prevent meaningful smoke-free policies in the US, then in other developed countries.

## What this study adds

“Accommodation” programs have been expanded and adapted to influence Latin American governments undermine tobacco control legislation, and are being adapted to prevent implementation of measures to protect non-smokers from second-hand smoke called for in the WHO Framework Convention on Tobacco Control.

Organization “Smoke Free Americas” initiative was launched to give technical support to the countries in the Americas. Momentum increased in 2003 with the WHO FCTC, whose Articles 4.1 and 8 call for the implementation of policies protecting non-smokers from SHS.<sup>17</sup> Nevertheless, as of April 2007, Uruguay and some regions of Argentina and Venezuela had passed 100% smoke-free legislation, the rest of Latin America lacks meaningful measures to protect all persons.

Tobacco control advocates need to be aware that “accommodation” efforts to use the hospitality industry as a “third party” to represent its interests is a strategy being used worldwide. In addition, in countries in which tobacco control efforts are just beginning, the industry has expanded the concept of “accommodation” beyond the hospitality industry to include all workplaces. These laws are being presented as alternatives to 100% smoke-free policies as a way to implement the clean indoor air provisions in Articles 4.1 and 8 of the FCTC. The public health community should be alert to the real motivations behind these Accommodation Programs and continue to educate policymakers providing them with successful stories from other regions of the world (eg, Ireland, Scotland and New Zealand among others) to implement the provisions of the FCTC appropriately by creating 100% smoke-free environments.

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