

Congress of the United States
Washington, DC 20515

February 3, 2016

Andrew Weissmann
U.S. Department of Justice
Criminal Division, Fraud Section
Bond Building, 4th Floor
10th and Constitution Ave. NW
Washington, DC 20530-0001

Dear Mr. Weissmann:

We are deeply troubled by recent media reports¹ alleging that British American Tobacco (BAT) conspired to bribe politicians and public health officials across Central and East Africa to block, weaken, and delay the passage and implementation of public health laws designed to protect people from the deadly effects of tobacco. We request the Department of Justice investigate BAT's alleged bribery to determine whether it violated the terms of the Foreign Corrupt Practices Act.

On November 30, 2015, a British Broadcasting Corporation (BBC) documentary² revealed that BAT allegedly funded illegal corporate espionage and bribed politicians and policymakers in Rwanda, Kenya, Uganda, Burundi, and Comoros. The bribes ranged from \$3,000 to \$20,000 and shockingly, the evidence, suggests some of these illicit activities were authorized by a regional BAT executive.³

As a foreign and publicly traded corporation on the New York Stock Exchange, BAT is subject to the Foreign Corrupt Practices Act (FCPA), which prohibits any issuers of stock on the exchange to engage in bribery of foreign officials.⁴ BAT is one of the largest publicly traded tobacco corporations in the world and owns 42 percent of Reynolds American, Inc.,⁵ a major U.S. tobacco corporation whose subsidiaries distribute BAT's brands, Lucky Strike and Pall Mall, in the U.S. Though BAT has ardently denied these allegations, the corporation's involvement in other illicit activities such as smuggling has been well-documented in Africa and other regions.^{6 7 8 9}

¹ Richard Bilton BBC Panorama, "The Secret Bribes of Big Tobacco," *BBC News*, <http://www.bbc.com/news/business-34964603> (accessed December 14, 2015).

² Richard Bilton BBC Panorama, "The Secret Bribes of Big Tobacco," *BBC News*, <http://www.bbc.com/news/business-34964603> (accessed December 14, 2015).

³ "The Secret Bribes of Big Tobacco Paper Trail," *BBC News*, <http://www.bbc.com/news/business-34944702> (accessed December 14, 2015).

⁴ Criminal Division, "Foreign Corrupt Practices Act," *United States Department of Justice*, <http://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act> (accessed December 14, 2015).

⁵ "Reynolds American Completes Acquisition of Lorillard and Related Divestitures," *Reynolds American, Inc.*, June 12, 2015, <http://www.reynoldsameric.com/About-Us/Press-Releases/Press-Release-Details-/2015/Reynolds-American-completes-acquisition-of-Lorillard-and-related-divestitures/default.aspx> (accessed December 14, 2015).

⁶ LeGresley et al., "British American Tobacco and the 'insidious Impact of Illicit Trade' in Cigarettes across Africa," *Tobacco Control* 17, no. 5 (October 1, 2008): 339–46, <http://tobaccocontrol.bmj.com/content/17/5/339.abstract> (accessed December 14, 2015).

If true, these allegations would show that BAT attempted to undermine the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), a global tobacco treaty agreed to by 179 countries and signed by the United States.¹⁰ If implemented appropriately and without interference, this treaty has the potential to save 200 million lives by 2050. Further, these allegations would show that BAT attempted to unduly and negatively influence public health policymaking in multiple countries.¹¹

The WHO FCTC has already accelerated progress in curbing the expansion of the tobacco epidemic throughout the world.¹² Progress in Africa, however, has been much slower than in other regions.¹³ To date, few if any African countries have implemented health policies fully in line with their obligations under the WHO FCTC.¹⁴ Consequently, a report by the American Cancer Society in 2013 demonstrated that unless these public health measures are passed immediately, Africa could be the next epicentre of the tobacco epidemic.¹⁵

If nothing is done to reduce smoking in Africa, adult smokers on the continent will soar from 77 million in 2013 to 572 million by 2100, making the immediate passage of these public health measures paramount to preventing millions of deaths on the continent.¹⁶ An investigation by the Department of Justice into allegations against BAT and the application of appropriate punitive measures could shed light on the lack of effective tobacco control policies in some African countries and accelerate the implementation of the treaty's lifesaving measures.

We are deeply concerned that BAT, as an issuer subjected to the FCPA, may have violated both the Anti-Bribery and Books and Records provisions of the Act by making illegal payments to government officials to influence those individuals and/or to secure an improper business

⁷ R. Nakkash and K. Lee, "Smuggling as the 'key to a Combined Market': British American Tobacco in Lebanon," *Tobacco Control* 17, no. 5 (October 1, 2008): 324–31, <http://tobaccocontrol.bmj.com/content/17/5/324.abstract> (accessed December 14, 2015).

⁸ Luk Joossens and Martin Raw, "Cigarette Smuggling in Europe: Who Really Benefits?," *Tobacco Control* 7, no. 1 (March 1, 1998): 66–71, <http://tobaccocontrol.bmj.com/content/7/1/66.abstract> (accessed December 14, 2015).

⁹ The International Consortium of Investigative Journalists, "Global Reach of Tobacco Company's Involvement in Cigarette Smuggling Exposed in Company Papers," *International Consortium of Investigative Journalists*, February 2, 2000, <http://www.icij.org/node/460/global-reach-tobacco-companys-involvement-cigarette-smuggling-exposed-company-papers> (accessed December 14, 2015).

¹⁰ "Parties to the WHO Framework Convention on Tobacco Control," *World Health Organization*, http://www.who.int/fctc/signatories_parties/en/ (accessed December 14, 2015).

¹¹ "WHO Framework Convention on Tobacco Control: Why Is It Important?," *World Health Organization*, May 2012, <http://www.who.int/features/qa/34/en/> (accessed December 14, 2015).

¹² Ashley N. Sanders-Jackson et al., "Effect of the Framework Convention on Tobacco Control and Voluntary Industry Health Warning Labels on Passage of Mandated Cigarette Warning Labels from 1965 to 2012: Transition Probability and Event History Analyses," *American Journal of Public Health* 103, no. 11 (November 2013): 2041–47, <http://www.ncbi.nlm.nih.gov/pubmed/24028248> (accessed December 14, 2015).

¹³ Convention Secretariat of the WHO FCTC, "2014 Global Progress Report on Implementation of the WHO Framework Convention on Tobacco Control," Global Progress Report (Geneva: WHO, 2014), <http://www.who.int/fctc/reporting/2014globalprogressreport.pdf?ua=1> (accessed December 14, 2015).

¹⁴ "FCTC Compliance in Africa," *Tobacco Tactics*, http://www.tobaccotactics.org/index.php/FCTC_Compliance_in_Africa (accessed December 14, 2015).

¹⁵ The Editorial Board, "The Global Cancer Burden," *The New York Times*, December 24, 2013, <http://www.nytimes.com/2013/12/25/opinion/the-global-cancer-burden.html> (accessed December 14, 2015).

¹⁶ *Ibid.*

advantage. We encourage your agency to thoroughly investigate the facts to determine the extent and nature of BAT's illegal activities. If you determine such violations did occur, we respectfully request the Department of Justice seek appropriate enforcement measures against BAT.

Sincerely,


Representative Lloyd Doggett



Senator Richard Blumenthal


Representative John Conyers


Senator Edward Markey


Representative William Keating


Senator Jeff Merkley


Representative Jerrold Nadler


Senator Jack Reed


Representative Niki Tsongas