



July 18, 2006

The Honorable John Conyers
U.S. House of Representatives
Washington, DC 20515

Dear Representative Conyers:

We write to you today in strong opposition to H.R. 5535, a bill that would exclude foreign governmental entities from suing under civil RICO provisions. It appears to us that H.R. 5535 is special interest legislation designed to protect the tobacco industry from the legitimate efforts of foreign governments to protect themselves from tobacco companies that aid, abet and foster illegal smuggling, criminals, and terrorists.

There is no reason why Congress should protect any tobacco company that engages in cigarette smuggling. Today the law permits recovery against only the most egregious law violators for actions such as money laundering and conspiracies to engage in illegal smuggling. We believe companies should be held accountable for these actions.

Tobacco company involvement in and/or fostering of cigarette smuggling worldwide has been widely documented. There is evidence that this smuggling has helped to finance terrorist organizations, and that existing law is more than adequate to protect the innocent and to prevent foreign governments from improperly using our courts for inappropriate purposes.

This amendment will only benefit the most serious law violators and those that benefit from their illegal actions, such as terrorist organizations. The courts already limit lawsuits by foreign governments against all but the most heinous actions. The courts have interpreted a doctrine known as "the revenue rule" to prevent foreign governments from suing in U.S. courts to recover revenue losses, even if that revenue is lost as the result of American companies consciously and knowingly helping criminal elements to violate the laws of the aggrieved country by fostering the illegal smuggling of large amounts of cigarettes.

There is extensive evidence of U.S. based cigarette companies being involved in international contraband tobacco product trafficking, which produces substantial profits for criminal and terrorist organizations. Blocking RICO lawsuits by other countries to stop that cigarette smuggling will protect that significant terrorist funding source, threaten U.S. security, and only help criminals. H.R. 5535 would take an existing potentially useful tool away from the effort to fight terrorism. In this regard, the substitute amendment to H.R. 5535, which would terminate all possible RICO lawsuit rights of foreign countries, not just Section 1964(c) actions, is even more damaging and excessive.

Letter to The Honorable John Conyers

July 18, 2006

Page Two

RICO lawsuits brought by foreign governments can benefit the United States by uncovering criminal and terrorist organizations and activities and bringing those criminals and terrorists to justice before they harm the U.S. government or U.S. citizens.

In 2002, *The Wall Street Journal* reported that American cigarettes were being smuggled in to Saddam Hussein's Iraq from Turkey and other countries, allegedly with the knowledge and cooperation of RJ Reynolds. According to *The Wall Street Journal* report, thanks in large part to this smuggling, Saddam Hussein's eldest son, Uday, was collecting on average \$10 million a year in "taxes" from legal and illegal sales of imported cigarettes in Iraq to enrich the Hussein regime. Our laws should encourage and support lawsuits by other countries, such as the European Union or Turkey, that could have stopped this kind of smuggling that funded Saddam Hussein's Iraq in past years – and that could help to stop cigarette smuggling that supports various terrorist organizations today.

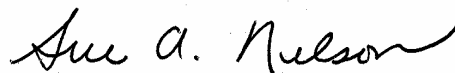
Tobacco product smuggling also undercuts the efforts of foreign governments to protect the health of their citizens. Almost a third of all global cigarette exports are diverted into the illegal contraband market with U.S. companies serving as a major source of these smuggled cigarettes. Smuggled cigarettes help the companies to penetrate markets they cannot legally enter, and help to increase the companies' overall sales by providing smokers with cheaper cigarettes sold free from import duties and taxes. These activities encourage people to start smoking and discourage smokers from quitting.

For all these reasons, we ask that you oppose H.R. 5535 until its full ramifications can be publicly examined and considered.

Sincerely,



Matthew L. Myers
President
Campaign for Tobacco-Free Kids



Sue Nelson
Vice President for Federal Advocacy
American Heart Association