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TOBACCO EXPORTS

Agencies Have
Implemented
Restrictions on
Promoting Tobacco
Overseas but
Additional Actions
Could Strengthen
Their Efforts

GAO Highlights

Highlights of [GAO-19-124](#), a report to congressional requesters

Why GAO Did This Study

The World Health Organization estimates that tobacco use kills over 7 million people each year, more than tuberculosis, HIV/AIDS, and malaria combined. Since the 1990s, Congress has enacted restrictions regarding the use of certain appropriated funds to promote U.S. tobacco exports.

GAO was asked to review the implementation of these restrictions. This report examines (1) guidance select U.S. agencies have issued to implement these restrictions, (2) whether overseas officials from select U.S. agencies were aware of the restrictions and guidance, and (3) select U.S. agencies' implementation of the guidance overseas. GAO reviewed U.S. laws, agency guidance, and internal communications; analyzed Commerce data; and interviewed agency officials in Washington, D.C. and in 24 offices across 11 overseas posts in 9 countries. GAO selected these countries based on criteria that included U.S. tobacco export totals, smoking rates, and geographic dispersion.

What GAO Recommends

GAO recommends that (1) State and USDA include information about the funding restrictions and guidance in training materials for relevant employees and (2) State, in consultation with Commerce and USDA, assess and update the interagency guidance cable, as needed, on promoting tobacco in light of questions raised by officials at posts overseas. State and USDA concurred with the recommendations.

View [GAO-19-124](#). For more information, contact David Gootnick at (202) 512-3149 or gootnickd@gao.gov.

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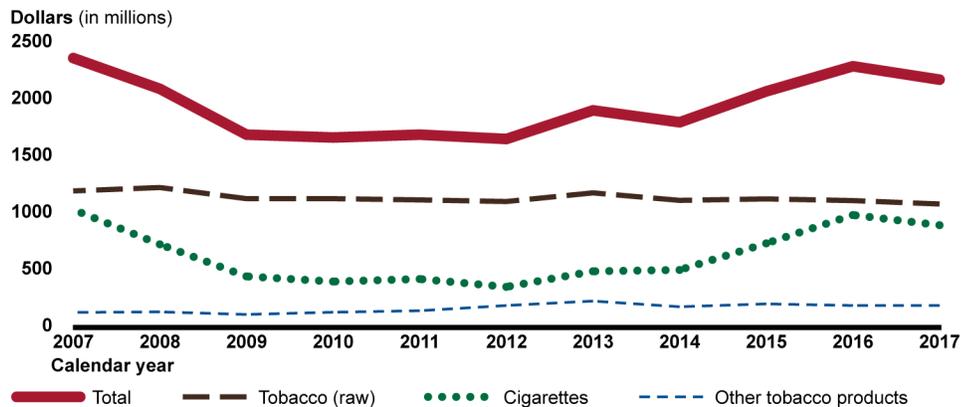
TOBACCO EXPORTS:

Agencies Have Implemented Restrictions on Promoting Tobacco Overseas but Additional Actions Could Strengthen Their Efforts

What GAO Found

Congress has restricted the use of certain appropriated funding to promote tobacco exports and the Departments of State (State), Commerce (Commerce), and Agriculture (USDA) have issued interagency guidance through the cable system that they rely on to implement these restrictions. State collaborates with these and other agencies to periodically update this cable. The cable informs officials about the types of actions they should take—such as providing routine business facilitation services to all U.S. companies—and the types of actions they should not take—such as attending events sponsored by tobacco companies.

Trends in U.S. Tobacco Exports, 2007 through 2017



Source: GAO analysis of U.S. Census Bureau data. | GAO-19-124

Most, but not all, officials overseas that GAO interviewed were aware of the restrictions and received some guidance concerning the restrictions. However, GAO found that some officials did not recall receiving the interagency guidance cable. In addition, State and USDA's current training materials do not address the restrictions. Federal internal control standards state that appropriate training is essential to an organization's operational success. Thus, providing officials overseas with training about the funding restrictions and related guidance would help to ensure that officials are aware of the restrictions.

U.S. officials overseas have implemented restrictions on promoting tobacco, but some officials said that the interagency guidance lacks clarity. Officials said that they have not promoted tobacco by, for example, attending events sponsored solely by tobacco companies. However, officials identified three areas of the guidance that are unclear: (1) attendance at events not sponsored by U.S. tobacco companies but attended by representatives of these companies; (2) the types of services officials can provide tobacco companies; and (3) the description of tobacco products, such as whether component parts for electronic cigarettes are included. Federal standards for internal control state that management should clearly document internal controls in policies and guidance to prevent officials from failing to achieve an objective or address a risk. By providing more specific guidance, the agencies would help ensure that officials consistently implement the funding restrictions on promoting tobacco.

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Abbreviations

Commerce	Department of Commerce
State	Department of State
USDA	U.S. Department of Agriculture
USTR	Office of the U.S. Trade Representative
WHO	World Health Organization

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December 6, 2018

The Honorable Karen Bass
Ranking Member
Subcommittee on Africa, Global Health, Global Human Rights and
International Organizations
Committee on Foreign Affairs
House of Representatives

The Honorable Lloyd Doggett
House of Representatives

The World Health Organization (WHO) estimates that tobacco use kills over 7 million people each year, more than tuberculosis, HIV/AIDS, and malaria combined. The U.S. National Cancer Institute and the WHO reported in 2016 that tobacco-related deaths are projected to increase to over 8 million by 2030, with the majority of those deaths occurring in low- and middle-income countries. As smoking rates have declined in developed markets, the global tobacco industry has shifted sales to emerging markets in Asia and Africa.¹

Since the 1990s, Congress has annually enacted appropriation acts with restrictions on the use of certain appropriated funds to promote the sale or export of U.S. tobacco or tobacco products. Current law prohibits appropriated funds from being made available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.² Similarly, the acts annually appropriating funds for the Departments of State (State) and Commerce (Commerce) from fiscal year 1998 through fiscal year 2017 have prohibited the funds appropriated therein from being used to promote the sale or export of tobacco or tobacco products and to seek

¹Trends in U.S. tobacco exports are described in appendix II.

²Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004, Pub. L. No. 108-199, Div. A, § 770.

the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products.³

You asked us to review the implementation of these restrictions at overseas posts.⁴ This report examines (1) the guidance select U.S. agencies have issued to implement funding restrictions on promoting tobacco overseas, (2) to what extent overseas officials from select U.S. agencies were aware of the restrictions and guidance, and (3) to what extent select U.S. agencies have implemented this guidance overseas.

To address these objectives, we reviewed U.S. laws and guidance on tobacco promotion issued by State and Commerce. We also interviewed officials in headquarters from State, Commerce, the U.S. Department of Agriculture (USDA), and the Office of the U.S. Trade Representative (USTR) about the development of guidance on tobacco promotion and its implementation.⁵ In addition, we held structured interviews with 45 State, Commerce, and USDA officials overseas who were conducting promotion-related activities in 24 offices across 11 posts and in 9 countries, about tobacco promotion guidance, training, and their activities. When multiple officials from one agency attended a meeting, we reported their combined responses as one “office” response. Thus, we are reporting the results from the 24 offices we interviewed—9 State, 8 Commerce, and 7 USDA offices. We selected this non-generalizable sample of countries based on criteria that included the countries’ large or

³For recent examples of this provision see Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, Div. B, § 509, and Div. J, § 7010(c), 131 Stat. 135, 221, 623. The statutory language also specifies an exception for restrictions which are not applied equally to all tobacco or tobacco products of the same type. The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018, contained a similar provision that states that the funds appropriated by the act should not be used to promote the sale or export of tobacco or tobacco products, which according to State, makes the promotion activities permissible with respect to the use of State’s appropriations. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Div. K, § 7010(c), 132 Stat. 348.

⁴For the purposes of this report, we use the term overseas posts to refer to U.S. embassies and consulates.

⁵USTR expands international markets for all U.S. exporters of goods and services by developing and coordinating U.S. international trade policy and oversees trade negotiations, which typically include negotiations on tariffs and rules. USTR received a memorandum from the Department of Justice in 2003 advising USTR that negotiations to reduce or eliminate tariffs are not promotional activities. Because USTR received guidance stating that tariff negotiation activities are not promotional activities and USTR officials are generally not posted overseas, we excluded USTR activities from the scope of this review.

increasing amounts of U.S. tobacco imports, relatively high tobacco smoking prevalence rates, and geographic dispersion.

We also analyzed Commerce's fee-based services data, reviewed State cables from six countries sent between January 2013 and December 2017 that named a tobacco company, and conducted a literature search to identify instances in which U.S. government officials may have conducted activities addressed by the interagency tobacco guidance cable. We determined that Commerce's fee-based services data were sufficiently reliable for the purposes of our reporting objectives. In addition, we analyzed Commerce email communications concerning tobacco-related issues sent between January 2015 and February 2018 to identify commonly asked questions or concerns about the existing guidance and actions the agencies should or should not take to support U.S. tobacco companies or the tobacco industry. We also interviewed representatives from the World Health Organization, the tobacco control community, and business associations. Our scope and methodology are described in detail in appendix I.

We conducted this performance audit from November 2017 to December 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Roles and Responsibilities

U.S. agencies perform a wide variety of activities that contribute to export promotion, and responsibility for these activities is widely dispersed.⁶ Some of the services these agencies provide are intended, at least in part, to assist U.S. companies in entering foreign markets or expanding their presence abroad. For example, the U.S. government distributes

⁶GAO previously reported that nine U.S. agencies have budgets for programs or activities directly related to trade promotion, including State, Commerce, USDA, USTR, Department of Treasury, Export-Import Bank, Overseas Private Investment Corporation, Small Business Administration, and the Trade and Development Agency. GAO, *Export Promotion: Better Information Needed about Federal Resources*, [GAO-13-644](#) (Washington, D.C.: July 17, 2013).

trade-related information to exporters, conducts foreign country market research, and provides counseling to U.S. companies throughout the export process. U.S. agencies may also use diplomatic tools to advocate on behalf of U.S. companies to help ensure they can compete on a level playing field in export markets.

Three of these agencies—State, Commerce, and USDA—receive appropriations that are restricted from being used to promote the sale or export of U.S. tobacco or tobacco products. These agencies promote the growth of other U.S. exports through various activities, as discussed in table 1.

Table 1: Select U.S. Agencies’ Export Promotion Activities

U.S. agency	Roles and responsibilities related to export promotion
Department of State (State)	State promotes U.S. exports through U.S. embassies and consulates overseas that collect and disseminate trade and economic data, identify trade opportunities, participate in trade negotiations, and monitor trade agreements. State officials overseas, including ambassadors, also promote U.S. companies’ interests and facilitate meetings with host country government officials, among other activities. In addition, State officials overseas provide fee-based commercial assistance services at the roughly 60 posts where Commerce does not have a presence through the Partnership Post program.
Department of Commerce (Commerce)	Commerce provides export assistance services for non-agricultural U.S. exports, such as market research, trade events to promote U.S. products and services, introductions of pre-screened buyers and distributors in foreign countries to U.S. companies, and counseling and advocacy services throughout the export process, among other services. Some of these services are available to the U.S. public free of charge and do not benefit any single U.S. company, while some services are tailored for specific U.S. companies, who Commerce charges for such services under Office of Management and Budget Circular A-25. Commerce also works to counter unfair foreign trade practices by enforcing trade laws and agreements.
U.S. Department of Agriculture (USDA)	USDA supports U.S. agricultural exports through various marketing and trade-related activities, according to officials. Marketing activities, such as the Market Access Program, provide eligible U.S. organizations with funding for promotional activities that educate consumers overseas about a product, such as point-of-sale demonstrations or participation in trade fairs and exhibits. USDA also collects, analyzes, and provides monthly reports on various commodities and annual reports on foreign markets to support U.S. agricultural exports. Trade-related activities include negotiating and monitoring agriculture trade agreements.

Source: GAO analysis. | GAO-19-124

Funding Restrictions on Promoting Tobacco

Congress has restricted the use of funds that are generally appropriated for State, Commerce, and USDA from being used to promote the sale or export of U.S. tobacco and tobacco products since the 1990s. In 1990, we reported that U.S. policy and programs for assisting the export of tobacco and tobacco products worked at cross purposes to U.S. health

policy and initiatives, both domestically and internationally.⁷ Congress later restricted the use of funds that are generally appropriated to State, Commerce, and USDA from being used to promote the sale or export of U.S. tobacco and tobacco products.

During fiscal years 1994 through 2003, Congress prohibited funds generally appropriated for USDA through annual appropriations acts from being used to promote the sale or export of tobacco or tobacco products.⁸ In fiscal year 2004, Congress permanently prohibited funds appropriated for USDA from being used to promote the sale or export of tobacco or tobacco products.⁹ According to USDA officials, USDA stopped its efforts to gather and disseminate tobacco-related production and consumption information overseas in the early 2000s.

Congress restricted the use of certain appropriated funds, including appropriations for Commerce and State, from being used to promote the sale or export of U.S. tobacco and tobacco products from fiscal years 1998 through 2017. Congress passed the Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act, 1998, which prohibited the funds provided by the act from being used to promote the sale or export of tobacco or tobacco products.¹⁰ This act also prohibited the funds provided by the act from being used to seek the reduction or removal of foreign country restrictions on the marketing of tobacco or tobacco products. The act provided an exception for the funds

⁷GAO, *Trade and Health Issues: Dichotomy Between U.S. Tobacco Export Policy and Antismoking Initiatives*, [GAO/NSIAD-90-190](#) (Washington, D.C.: May, 15, 1990).

⁸Congress passed the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993 which, among other things, prohibited the use of appropriated funds to pay the salaries of personnel who carried out USDA's Market Promotion Program with respect to tobacco subsidies. Pub. L. No. 102-341, § 727, 106 Stat. 873, 909. In fiscal year 1994, Congress passed the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994. This appropriations act contained the 1993 prohibition on the use of appropriated funds with respect to the salaries of USDA's Market Promotion Program personnel as well as a new provision prohibiting the use of funds appropriated to the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products. Pub. L. No. 103-111, Title V and Title VII § 723, 107 Stat. 1046, 1073, 1080.

⁹Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, Div. A, Title VII, § 770, 118 Stat. 3, 40.

¹⁰Pub. L. No. 105-119, § 618, 111 Stat. 2440, 2519 (1997). The provision prohibiting the use of these funds for the promotion of the sale or export of U.S. tobacco and tobacco products is sometimes referred to as the Doggett Amendment.

to be used to address foreign-country restrictions on tobacco marketing that are not applied equally to all tobacco or tobacco products of the same type. These restrictions have been enacted through annual appropriations acts through fiscal year 2018.¹¹

In fiscal year 2018, Congress altered the restriction language on tobacco promotion in the act making appropriations for State,¹² which, according to State, makes promotion activities permissive with respect to the use of State appropriations. Congress used the term “should” in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (2018 State Appropriations Act) instead of the term “shall” as in prior acts making appropriations for State.¹³ Specifically, the 2018 State Appropriations Act states that “None of the funds made available by this Act should be available to promote the sale or export of tobacco or tobacco products. . . .”¹⁴ In contrast, prior acts making appropriations for State stated “None of the funds made available by this Act shall be available to promote the sale or export of tobacco or tobacco products. . . .”¹⁵ According to State officials, they interpreted the term “shall” in prior appropriations acts as a mandatory action, whereas the use of the term “should” gives the agency more discretion in how it addresses the restrictions. However, State has not changed how it addresses the restrictions and does not plan to promote the sale or export of U.S. tobacco, according to State officials.

The legislation restricting fiscal year 2018 appropriations provided to Commerce and USDA from being used to promote tobacco retains the mandatory “shall” language.¹⁶ According to Commerce and USDA officials, the change to State’s restriction language does not affect the

¹¹Barring language indicating a longer period of availability, these restrictions have generally expired after one year and would need to be enacted in subsequent legislation to apply to future appropriations.

¹²Pub. L. No. 115-141, Div. K, § 7010(c).

¹³As of November 2018, the House bill proposing appropriations for State for fiscal year 2019 (H.R. 6385) continued to use the “should” language in the description of the funding restriction, and the related Senate bill (S. 3108) does not include funding restrictions on promoting tobacco.

¹⁴Pub. L. No. 115-141, Div. K, § 7010(c).

¹⁵See e.g. Pub. L. No. 115-31, Div. K, § 7010(c).

¹⁶Pub. L. No. 115-141, Div. B, § 509.

agencies' activities because Commerce and USDA are still subject to the mandatory restrictions outlined in their agencies' appropriations language.

U.S. Agencies Have Issued Guidance to Implement Funding Restrictions on Promoting Tobacco

State collaborates with Commerce, USDA, and other agencies to develop and periodically issue an interagency guidance cable to implement funding restrictions on promoting tobacco. According to officials, this cable serves as the primary source of guidance for implementing the restrictions on promoting tobacco for their officials at all posts overseas.

State Periodically Issues an Interagency Guidance Cable to Implement Funding Restrictions

State collaborates with Commerce, USDA, and other agencies to develop and periodically issue an interagency guidance cable to all posts overseas to facilitate their implementation of funding restrictions on promoting tobacco.¹⁷ State officials draft the updated cable and Commerce, USDA, and other agency officials have the opportunity to review and comment on it before State issues it through its cable system. This cable serves as the primary source of guidance for implementing the restrictions, according to officials at these agencies (see table 2).

Table 2: Actions Posts Should Not and Should Take, as Outlined in the April 2018 Interagency Guidance Cable on Tobacco

Actions posts should not take	Actions posts should take
Posts should not promote the sale or export of tobacco or tobacco products and should not assist the efforts of U.S. firms or individuals to do so.	Posts are encouraged to actively assist and promote tobacco-control efforts in host countries.
Posts should not attend or otherwise support receptions, trade promotions, or other events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products, where their attendance could be construed as U.S. government support for the sale or export of tobacco or tobacco products.	Posts should continue to provide all U.S. citizens or firms with routine business facilitation services, such as the provision of publicly available information on foreign country conditions and policies.
Posts should not participate in corporate social responsibility activities or related events involving U.S. tobacco companies, or events where a U.S. tobacco company is among the corporate sponsors or has a public role in the event without first consulting with Washington.	Posts should continue to provide all U.S. citizens or firms with information or assistance that may help U.S. firms or individuals comply with foreign government laws or regulations.

¹⁷This interagency guidance applies to USTR as well, but USTR does not typically assign officials to posts overseas.

Actions posts should not take

Posts should refrain from soliciting U.S. tobacco companies for gifts, including to avoid the appearance of endorsement.^a

Posts should not challenge host country laws and regulations that are nondiscriminatory, or applied in a nondiscriminatory manner, with respect to both imported and domestic tobacco and tobacco products and for which sufficient notice is given.

Actions posts should take

Posts should continue to provide all U.S. citizens or firms with assistance in resolving business problems such as customs and port clearance, or trademark protection and enforcement.

Posts should gather relevant information on the law or regulations and any evidence suggesting discrimination and refer the issue to Washington officials for policy and legal guidance, if post has reason to believe that such laws or regulations may discriminate against U.S. tobacco or tobacco products.

Source: U.S. Department of State. | GAO-19-124

^aPost officials receive an annual cable reminding them to review the *Foreign Affairs Manual* section concerning solicitation of gifts, which states that officials may not solicit tobacco companies to avoid an appearance of endorsement.

Note: This table does not include all of the information in the April 2018 interagency guidance cable on tobacco.

State has updated and issued the interagency guidance cable four times since 2013 to address changes in tobacco technology and other emerging issues, according to State officials. We identified two significant changes to the cable over the past 5 years.¹⁸

- **Addition of information concerning attendance at corporate social responsibility events:** In May 2013, State added a provision that post officials should consult with headquarters before attending corporate social responsibility events involving U.S. tobacco companies. State officials in headquarters acknowledged that post officials may not link some activities, such as participating in corporate social responsibility events, to the promotion of or selling of products. They noted that this is why it is important to make post officials aware of the actions they should or should not take through the interagency guidance cable.
- **Changes to the scope of tobacco products:** In recent updates to the cable, State expanded the description of “tobacco and tobacco products” to address the emergence of new delivery systems for tobacco. Specifically, in 2014 State added the language “tobacco delivering products, such as electronic cigarettes” to provide an example of a tobacco product. In 2016, State changed the description to “electronic nicotine delivery systems such as e-cigarettes.” Then in

¹⁸We defined “significant changes” as changes that altered the scope of the interagency guidance cable.

2018, State added “non-combustible products such as smokeless tobacco” to the description of tobacco products.

In response to the revised funding restriction language in the 2018 State Appropriations Act, State modified the 2018 cable stating that the changes make promotion activities permissive with respect to the use of State appropriations. However, State decided not to change the portion of the cable describing specific actions officials should or should not take in the version it issued in April 2018, because according to State officials, they do not plan to promote tobacco.¹⁹ In addition, Commerce and USDA officials said that the change to State’s restriction language has not changed how they interpret the guidance.

Commerce’s Policy on Client Eligibility Implements Funding Restrictions

Commerce relies on both the interagency guidance cable as well as its client eligibility policy to implement restrictions on promoting tobacco. Commerce’s client eligibility policy applies to all export promotion services that Commerce provides and educates officials on how to effectively manage U.S. company requests for commercial assistance. The policy’s section on exceptions and other bases for declining services to companies states that Commerce is prohibited by law from promoting the export of tobacco or tobacco-related products. Commerce issued its updated client eligibility policy in October 2018.²⁰

USDA Relies on the Interagency Guidance Cable to Implement Funding Restrictions

USDA relies on the interagency guidance cable to provide direction to its officials overseas, and does not have agency-specific guidance for implementing its permanent funding restrictions on promoting tobacco. USDA officials said that the cable sufficiently addresses the funding restrictions on the agency’s promotion activities and helps to ensure that

¹⁹While the guidance did not change which activities officials should or should not undertake, the guidance contained minor changes such as including non-combustible products, such as smokeless tobacco, in its scope.

²⁰In the prior version of the client eligibility policy, the subsection on exceptions and other bases for declining services to companies was only included in the section on fee-based services. Officials said that these exceptions, including the restriction on promoting tobacco, apply to all export promotion services that Commerce provides. During the course of our review, Commerce updated the client eligibility policy to clarify that these exceptions apply generally to services Commerce provides.

all officials serving at posts overseas conduct activities in a consistent manner.²¹

Most Post Officials Interviewed Were Aware of the Restrictions and Received Guidance but Many Did Not Receive Training

Most State, Commerce, and USDA officials overseas we interviewed were aware of the restrictions on promoting tobacco.²² Most officials we interviewed had received some guidance concerning the restrictions, but several officials did not recall receiving the interagency guidance cable. Moreover, two of the agencies' current training courses do not address the restrictions.

Most Post Officials Were Aware of the Restrictions

Officials in 21 of the 24 offices overseas we interviewed were aware of the restrictions. The three offices that were not aware of the restrictions were from State. Although these officials were not aware of the restrictions, they said they had never provided services to U.S. tobacco companies.

Commerce and USDA headquarters officials said that it is widely known within their agencies that staff should not promote tobacco. Commerce and USDA officials said the guidance concerning these restrictions has been consistent for many years and that staff in the field and in headquarters are very aware of the restrictions.

Most Post Officials Received Some Guidance Concerning the Restrictions

Most officials overseas had received some guidance concerning the restrictions on promoting tobacco. Officials in 21 of the 24 offices overseas we interviewed had received written or verbal guidance concerning the restrictions on promoting tobacco at some point in their career. For example, officials in 15 offices mentioned receiving the State-

²¹USDA officials said that if the Doggett amendment—congressionally enacted funding restrictions on promoting tobacco overseas for State and Commerce—was overturned, a process would be triggered to provide the appropriate guidance to USDA officials overseas.

²²We interviewed State, Commerce, and USDA officials overseas conducting export promotion activities in 24 offices across 11 posts and in 9 countries. We are reporting the results from the 24 offices we interviewed—9 State, 8 Commerce, and 7 USDA offices. See appendix I for more details.

issued interagency guidance cable when we asked them what type of tobacco-related guidance they had received. In addition, officials in four of the eight Commerce offices recalled receiving agency-specific guidance. Some officials said that their supervisors had informed them they are not allowed to promote tobacco exports.

Some officials did not recall receiving the interagency guidance cable, which agency officials said serves as the primary source of guidance for implementing the restrictions, and some were not aware that State periodically issues the cable. For example, one USDA official stated that he could not recall the last time he received guidance and noted that cables can easily be overlooked. He recommended that USDA improve its efforts to distribute the cable and have supervisors maintain an annual checklist to ensure staff have read and understand it or incorporate it into annual training. A State official told us that he was in Washington, D.C. when State issued the prior cable and he did not learn about it until he had been stationed at his next overseas post for several months. A Commerce official noted that some officials new to post may not receive the interagency guidance cable for several months.

All officials working overseas can access the interagency guidance cable through the State cable database or access other resources if a tobacco-related issue arises. For example, the Commerce client eligibility policy and the interagency guidance cable are available on an internal Commerce website. USDA officials in headquarters stated that they do not remind officials overseas about the restrictions or available guidance, but that, in response to our audit work, they plan to send an annual reminder. Finally, many post officials we interviewed said that they are aware of the activities their colleagues are undertaking and would have the opportunity to educate their colleagues before they provided any services to a tobacco company.

Many Post Officials Did Not Receive Training Concerning the Restrictions

Officials in 15 of the 24 offices overseas we interviewed said they did not receive any training concerning restrictions on promoting tobacco. In the past, State, Commerce, and USDA did not include information about the funding restrictions or related guidance in training materials. State and USDA officials in headquarters confirmed that training materials for officials conducting export promotion activities overseas do not address funding restrictions on promoting tobacco. According to an official at

State's Foreign Service Institute,²³ tobacco products may be discussed in a trade-related course when describing those products officials should not advocate for, or in the 6-month economic studies course when examining the nexus between trade issues and public policy. However, State could not provide documentation of where this is specifically addressed in its curriculum. A USDA official stated that none of the Foreign Agricultural Service training courses explicitly discuss restrictions on promoting tobacco. According to Commerce officials, the training for new trade specialists did not include information about the restrictions on promoting tobacco when Commerce last provided the training in 2014. However, in response to our audit work, Commerce added this information into its training materials for new trade specialists in September 2018.

Officials who do not receive training on the restrictions early in their careers may not be aware that they are prohibited from promoting tobacco. For example, one Commerce official told us he did not know about the restrictions while serving at his first post when he attended a meeting that involved representatives from the tobacco industry. He noted that he now questions whether he would have attended the meeting if he had known about the restrictions. Federal internal control standards state that appropriate training, aimed at developing employee knowledge, skills, and abilities, is essential to an organization's operational success.²⁴ If agencies do not explicitly include information about the restrictions and related guidance in training materials for officials conducting export promotion activities overseas, officials may work at a post for several months, or longer, before learning about the restrictions.

Post Officials Have Implemented Restrictions on Promoting Tobacco but Guidance Lacks Clarity

The State, Commerce, and USDA officials we interviewed said they have implemented the funding restrictions on tobacco as outlined in the interagency guidance cable issued by State. For example, post officials said they have not promoted the sale or export of tobacco or tobacco products or attended events solely sponsored by tobacco companies, though many officials said they attended events at which officials from tobacco companies were present. Post officials identified three areas of the guidance that may benefit from additional clarification, according to interviews with agency officials and our review of agency emails.

²³The Foreign Service Institute is the agency's foreign affairs training center.

²⁴GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Post Officials Have Implemented Funding Restrictions on Promoting Tobacco

Our interviews with State, Commerce, and USDA officials in 24 offices in nine countries and our review of agency documents, showed that posts have implemented the interagency guidance outlining actions they should not take (see table 3.)

Table 3: Actions Posts Should Not Take as Outlined in the April 2018 Interagency Guidance Cable on Tobacco, and Results of GAO Interviews with Post Officials and Other Analysis

Actions posts should not take	GAO analysis
Posts should not promote the sale or export of tobacco or tobacco products and should not assist the efforts of U.S. firms or individuals to do so.	Every post official we interviewed said they have not promoted the sale or export of tobacco or tobacco products. In addition, the Department of Commerce (Commerce) did not provide any fee-based services to U.S. tobacco companies in fiscal years 2013 through 2017, based on our review of almost 30,000 records in a Commerce database. We did not identify any activities that specifically promoted the sale or export of tobacco or tobacco products during our review of Department of State (State) cables from eight countries.
Posts should not attend or otherwise support receptions, trade promotions, or other events sponsored by individuals or entities involved in the export, manufacture, promotion, distribution or sale of tobacco or tobacco products, where their attendance could be construed as U.S. government support for the sale or export of tobacco or tobacco products.	Every post official we interviewed said they had not attended events sponsored solely by a U.S. tobacco company. Half—12 of 24 offices—said they had attended American Chamber of Commerce or U.S.-Association of Southeast Asian Nations Business Council events at which officials from U.S. tobacco companies were present.
Posts should not participate in corporate social responsibility activities or related events involving U.S. tobacco companies, or events where a U.S. tobacco company is among the corporate sponsors or has a public role in the event without first consulting with Washington.	Officials in 22 of 24 offices we interviewed said that they did not attend corporate social responsibility events that were sponsored by U.S. tobacco companies. Officials in one State office said they had attended a corporate social responsibility event in 2018 that was sponsored by five U.S. companies, including a U.S. tobacco company. The Consul General and representatives from the sponsoring companies spoke at this event.
Posts should refrain from soliciting U.S. tobacco companies for gifts, including to avoid the appearance of endorsement.	Officials in all 24 offices we interviewed said they had not solicited U.S. tobacco companies for gifts. ^a
Posts should not challenge host country laws and regulations that are nondiscriminatory, or applied in a nondiscriminatory manner, with respect to both imported and domestic tobacco and tobacco products and for which sufficient notice is given.	The officials we interviewed did not cite any challenges they made to local laws concerning tobacco products, and officials in 23 of 24 offices said they had not discussed any tobacco-related issues with host country government officials. One official recalled a conversation with host country government officials about general tax evasion and counterfeiting issues faced by U.S. companies based on concerns that were raised by a U.S. tobacco company. However, the official stated that the embassy raised these issues with the host country government to highlight issues faced by a number of U.S. companies regarding the country's business investment climate.

Source: U.S. Department of State and GAO analysis. | GAO-19-124

^aAccording to State's Foreign Affairs Manual, to avoid an appearance of endorsement, officials may not solicit tobacco companies for gifts for July Fourth events abroad. Officials may solicit gifts for the Department of State when such solicitation assists the Department in carrying out its official functions in the United States and abroad, according to the Foreign Affairs Manual (2 FAM 960). Management officers at post may accept donations for official embassy-sponsored July Fourth events and should not seek to raise more funds than required for the year's official July Fourth event. Post officials

receive an annual cable reminding them to review guidance in the Foreign Affairs Manual concerning solicitation of gifts.

Some Sections of the Interagency Guidance Cable Lack Clarity

Post officials identified three areas of the guidance that may benefit from additional clarification, according to our interviews with agency officials and our review of agency emails: attendance at events, the types of permitted services, and the description of tobacco products.²⁵

Officials Questioned When It is Permissible to Attend Certain Events

Officials from all three agencies raised questions about whether and when it is permissible to attend events at which tobacco company representatives are present. The guidance does not specifically address attendance at events also attended by representatives of tobacco companies. State headquarters officials said the vast majority of questions received from posts concern whether personnel at a post may participate in an event when representatives from a company engaged in the tobacco industry are also expected to participate in that event. We also reviewed emails in which Commerce officials asked for additional guidance about attending events or meetings with tobacco companies. For example, one post official asked whether the embassy could invite a tobacco company to participate in an embassy-organized trade mission that would include meetings with the local governor and mayor. In this case, Commerce headquarters officials advised that the tobacco company's participation could be construed as U.S. government support for the company's commercial activities and recommended against including the tobacco company. A USDA official in headquarters also noted that attending events could, in some cases, be construed as supporting tobacco companies, and noted that this is an area where staff could use more guidance.

Representatives from several tobacco control organizations expressed concern that interactions between U.S. government officials and representatives from tobacco companies at events organized by business associations created a perception that the U.S. government supported tobacco company sales in the country. For example, in 2017 a business association hosted a trade mission to one Southeast Asian country that included representatives from 30 U.S. companies, including a U.S. tobacco company. In response, two tobacco control organizations wrote

²⁵We requested that State, Commerce, and USDA provide us with emails that officials in headquarters received from posts overseas concerning tobacco-related issues. Only Commerce was able to provide us with such emails. See appendix I for more information.

to the U.S. ambassador in that country voicing their concern that U.S. government officials' attendance at meetings that included the tobacco company representatives violated the spirit of the interagency guidance cable and gave the appearance that the U.S. government supports the tobacco company. Subsequently, the Deputy Chief of Mission distributed guidance specific to that post stating that officials were not allowed to attend a trade mission's events or meetings if representatives from a tobacco company were scheduled to give a presentation.

Several post officials said that attending events organized by business associations is a key function of their job. They attend these events to, among other things, exchange information about the local business climate and learn about the concerns of American companies.

Officials Questioned the Types of Services They Can Provide

Commerce and USDA officials identified ambiguities in the guidance concerning the types of services they are allowed to provide to tobacco companies or the tobacco industry. In 14 of the 21 Commerce emails we reviewed, officials at posts asked for additional guidance about the types of services they are permitted to provide to tobacco companies or the types of companies or products they can support.²⁶ For example, some post officials asked whether they could engage with the host country government to obtain information about pending tobacco-related legislation at the request of a tobacco company. In one case, Commerce headquarters advised post officials that the restrictions did not prohibit them from raising concerns on a legislative proposal that would discriminate against foreign tobacco companies. They further noted that because of the sensitive nature of tobacco-related issues, any policy decision to engage should be weighed carefully. Commerce's client eligibility policy does not provide a description of the types of actions Commerce officials should and should not take with regards to tobacco companies and products. The interagency guidance cable also does not provide information about some types of services, such as whether officials should engage with host country government officials to learn about pending tobacco-related legislation. According to a USDA official, some officials overseas interpret "promotional" activities differently and did not agree on whether both marketing and trade-related activities, such as enforcing trade agreements, are promotional activities.

²⁶We also reviewed 20 emails from Commerce officials working throughout the United States. In all but one of these emails, officials asked about the types of services they are permitted to provide to tobacco companies or the types of companies or products they can support.

Officials Questioned the Description of Tobacco Products

Commerce officials at post asked for additional guidance about whether they could provide export promotion services to companies exporting certain tobacco-related products in 3 of the 21 emails we reviewed.²⁷ For example, some Commerce officials asked whether they could provide services to companies selling component parts for electronic nicotine delivery systems, such as e-liquids. Commerce's prior client eligibility policy, issued in May 2017, did not include a list of tobacco products covered by the policy;²⁸ whereas, the interagency guidance cable issued in 2014 states that tobacco products include tobacco delivery systems, such as electronic cigarettes, and the updated version issued in 2018 added non-combustible products, such as smokeless tobacco, to this description. However, neither the interagency guidance cable nor Commerce's updated client eligibility policy specifically states whether the description includes component parts for electronic cigarettes and other tobacco products.²⁹ GAO previously reported that electronic cigarettes include a wide range of products that share the same basic design and generally consist of three main parts: a power source, a heating element, and a cartridge or tank containing liquid solution, which is often sold separately.³⁰

According to State officials in headquarters, the guidance on promoting tobacco was written for a broad audience and to make post officials mindful of the restrictions. They said they trust that officials overseas will use their professional judgment and in-country expertise to determine if post's support for an event or a company will be construed as promotion of a tobacco product. Moreover, State and Commerce officials said that they expect officials overseas to ask headquarters questions to clarify the

²⁷We also reviewed 20 emails from Commerce officials working throughout the United States. In 11 of these emails, Commerce officials working in the United States asked for additional guidance about providing export promotion services to companies exporting electronic cigarettes and related components.

²⁸Commerce published an updated version of its client eligibility policy in October 2018. The updated version includes information from the 2018 interagency guidance cable concerning the activities officials should and should not take.

²⁹According to State officials, the U.S. Food and Drug Administration reviews the description for tobacco and tobacco products as part of its review of the interagency guidance cable. The Family Smoking Prevention and Tobacco Control Act, signed into law on June 22, 2009, gives the U.S. Food and Drug Administration authority to regulate the manufacture, distribution, and marketing of tobacco products. Pub. L. No. 111-31, Div. A, 123 Stat. 1776.

³⁰GAO, *Electronic Cigarettes: Effect on Federal Excise Taxes Collected on Traditional Cigarettes Is Not Currently Evident*. [GAO-15-771](#) (Washington, D.C.: Sept. 14, 2015).

interagency guidance cable. While federal standards for internal control state that management should clearly document internal controls in policies and guidance to prevent officials from failing to achieve an objective or address a risk,³¹ we found that the interagency guidance does not provide examples of the factors post officials should consider when attending business association events. The guidance also lacks sufficient examples of the types of services officials are allowed to provide to tobacco companies and a clear description of tobacco products. More specific guidance would help ensure that State, Commerce, and USDA officials consistently implement their agency-specific funding restrictions on promoting tobacco exports.

Conclusions

The United States exported over \$2 billion in tobacco and tobacco-related products in 2017. Congress has enacted restrictions on the use of certain appropriated funds to promote the sale or export of U.S. tobacco or tobacco products since the 1990s, and State, Commerce, and USDA have developed and updated guidance to implement these restrictions. However, not all officials were aware of the restrictions and more than half had not received training about the restrictions. Including information about the restrictions in training materials would help make officials aware of the restrictions early in their careers and prompt them to seek guidance if a tobacco-related issue arises. If officials conducting export promotion activities are unaware of the funding restrictions on promoting tobacco sales and exports, they may also be unaware of the activities they should and should not undertake. Moreover, some officials said that the guidance is unclear in some areas. Although officials said they need to attend business association events to support all U.S. companies conducting business in a country, they were unsure whether they can attend events where representatives from U.S. tobacco companies may be present. In addition, some officials also indicated that the current guidance lacks clarity on the types of services officials are allowed to provide to tobacco interests and what constitutes a tobacco product. Although we did not identify any instances in which a State, Commerce, or USDA official directly promoted U.S. tobacco products, clearer guidance would help to ensure that officials will consistently implement their agency-specific funding restrictions.

³¹[GAO-14-704G](#).

Recommendations for Executive Action

We are making three recommendations, including two to State and one to USDA. Specifically:

The Secretary of State should work with the Foreign Service Institute to include information about the funding restrictions and relevant guidance on promoting the sale or export of tobacco or tobacco products in its training materials for employees conducting export promotion activities overseas. (Recommendation 1)

The Secretary of Agriculture should include information about the funding restrictions and relevant guidance on promoting the sale or export of tobacco or tobacco products in training materials for employees conducting export promotion activities overseas. (Recommendation 2)

The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Agriculture, should assess the interagency guidance cable on promoting tobacco in light of questions raised by officials at posts overseas and update it to address ambiguities, as needed. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to State, Commerce, USDA, and USTR for review and comment. In their comments, reproduced in appendix III, State concurred with our recommendations and described planned actions to address them. USDA concurred with the recommendation and told us that they had no comments on the draft report. Commerce and USTR told us that they had no comments on the draft report.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of the Department of State, the Secretary of the Department of Commerce, the Secretary of the U.S. Department of Agriculture, the U.S. Trade Representative, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3149 or gootnickd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink that reads "David Gootnick". The signature is written in a cursive style with a large, stylized initial "D".

David B. Gootnick
Director
International Affairs and Trade

Appendix I: Objectives, Scope, and Methodology

This report examines (1) the guidance select U.S. agencies have issued to implement funding restrictions on promoting tobacco exports overseas, (2) to what extent overseas officials from select U.S. agencies were aware of the restrictions and guidance, and (3) to what extent select U.S. agencies have implemented this guidance overseas.

To address our first objective, we reviewed U.S. appropriations laws that prohibited the funds appropriated therein from being used to promote the sale or export of tobacco or tobacco products. We also reviewed guidance issued by the Departments of State (State) and Commerce (Commerce) concerning the promotion of tobacco exports overseas. We also interviewed officials in headquarters from State, Commerce, the U.S. Department of Agriculture (USDA), and the Office of the U.S. Trade Representative (USTR) about the funding restrictions on promoting tobacco exports overseas and the development and revision of guidance on tobacco promotion.¹

To address our second objective, we interviewed officials in headquarters from State, Commerce, and USDA about any training officials posted overseas receive concerning the funding restrictions on promoting tobacco exports. In addition, we held structured interviews with 35 State, Commerce, and USDA officials overseas conducting export promotion activities and reached out to an additional 10 officials to ask about activities associated with the solicitation of gifts and attendance at corporate social responsibility events. These officials were located across 11 posts and in 9 countries. We interviewed officials in Cambodia, Croatia, Dominican Republic, Honduras, Indonesia, Philippines, South Africa, Thailand, and Vietnam. Because multiple officials from one agency attended a meeting in some cases, we are reporting their combined responses as one “office” response. Thus, we are reporting the results from the 24 offices we interviewed—9 State, 8 Commerce, and 7 USDA

¹USTR expands international markets for all U.S. exporters of goods and services by developing and coordinating U.S. international trade policy and oversees trade negotiations, which typically include negotiations on tariffs and rules. According to a memorandum USTR received from the Department of Justice in 2003, USTR’s efforts to reduce or eliminate tariffs are not promotional activities. Because USTR received guidance stating that tariff negotiation activities are not promotional activities and USTR officials are generally not posted overseas, we excluded USTR activities from the scope of this review.

offices.² We selected this non-generalizable sample of countries based on criteria that included the countries' large or increasing amounts of U.S. tobacco imports, relatively high tobacco smoking prevalence rates, and geographic dispersion.³ The information obtained from these interviews is neither generalizable nor reflects the experiences of all State, Commerce, and USDA officials serving at posts overseas, but it does provide insights into officials' experiences at post and illustrative examples across our sample on the topics discussed.

To address our third objective, we interviewed officials in headquarters from State, Commerce, and USDA about post officials' implementation of guidance regarding the promotion of tobacco exports, the types of questions they receive from post officials about the funding restrictions and guidance, and the additional advice they provide to post officials overseas. We asked post officials about the clarity of guidance, whether they attended events sponsored or attended by representatives of U.S. tobacco companies, and whether they discussed tobacco-related issues with host country government officials during our structured interviews with the 24 State, Commerce, and USDA offices overseas.

We also analyzed a Commerce database, agency emails, and State cables and conducted a literature search. Commerce documents all the fee-based services it provides to companies in a database. We obtained a list of approximately 30,000 fee-based services Commerce provided in fiscal years 2013 through 2017, which included the name of the companies to which Commerce provided these services. We then downloaded a list of 763 U.S. tobacco companies from Nexus using criteria such as industry classification codes related to tobacco and tobacco products and the location of company headquarters. We limited

²We selected eight countries for our sample. The embassy in one of the countries we selected, Cambodia, is a Partnership Post. At Partnership Posts, State officials provide commercial services in consultation with Commerce officials at a sponsoring post in the region. In the case of Cambodia, we interviewed the State officials at Embassy Phnom Penh and the Commerce officials in Bangkok, Thailand who cover several countries in the region including Cambodia. We did not speak with USDA officials in Cambodia because USDA does not post officials to the country. USDA officials in Vietnam cover several countries in the region, including Cambodia. In Indonesia, we interviewed State officials at both Embassy Jakarta and Consulate Surabaya, resulting in nine separate State offices. In South Africa, we interviewed State and USDA officials at Embassy Pretoria and a Commerce official at Consulate Johannesburg.

³We excluded all high-income countries from our country selection, as defined by the World Bank.

the list of U.S. tobacco companies to those with revenues greater than \$5 million. We then compared the two lists to determine if Commerce provided any fee-based services to U.S. tobacco companies. To assess the reliability of the Commerce fee-based services data, we reviewed relevant documentation and interviewed knowledgeable officials about system controls. We determined that Commerce's fee-based services data were sufficiently reliable for the purposes of our reporting objectives.

In addition, we requested State, Commerce, and USDA email communications concerning tobacco-related issues sent between January 2015 and February 2018 from post officials to headquarters. State was only able to provide one such email. USDA provided several emails, but the emails were not from USDA post officials to USDA officials in headquarters. Commerce provided us 21 emails that matched our request and an additional 20 emails from officials working throughout the United States. We analyzed the Commerce email communications to identify commonly asked questions or concerns about the existing guidance and actions the agencies should take to support U.S. tobacco companies or the tobacco industry. We also requested State cables from the eight countries in our sample sent between January 2013 and December 2017 that referenced at least 1 of the 10 U.S. tobacco companies with the highest revenues. We received and reviewed cables from six of these countries. We also conducted a literature search to identify instances in which U.S. government officials may have conducted activities addressed by the interagency tobacco guidance cable. To identify relevant articles, such as trade or industry articles, we searched various databases, including ProQuest and Nexus. From these sources, we identified one article relevant to our research objective. We performed these searches in December 2017 and searched for articles published from January 2013 to December 2017.

We also interviewed representatives of the tobacco control community and business associations to obtain their perspectives concerning U.S. government support for tobacco exports and U.S. government interactions with U.S. tobacco companies. Specifically, we interviewed the World Health Organization (WHO), four global or regional tobacco control nongovernmental organizations, and several local nongovernmental organizations in two countries in our scope. In addition, we interviewed officials from the local American Chamber of Commerce and the U.S.-Association of Southeast Asian Nations Business Council in two countries. The information obtained from these interviews is neither generalizable nor reflects the experiences of all tobacco control

organizations or business associations, but it does provide insights into these officials' experiences.

We conducted this performance audit from November 2017 to December 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Trends in U.S. Tobacco Exports

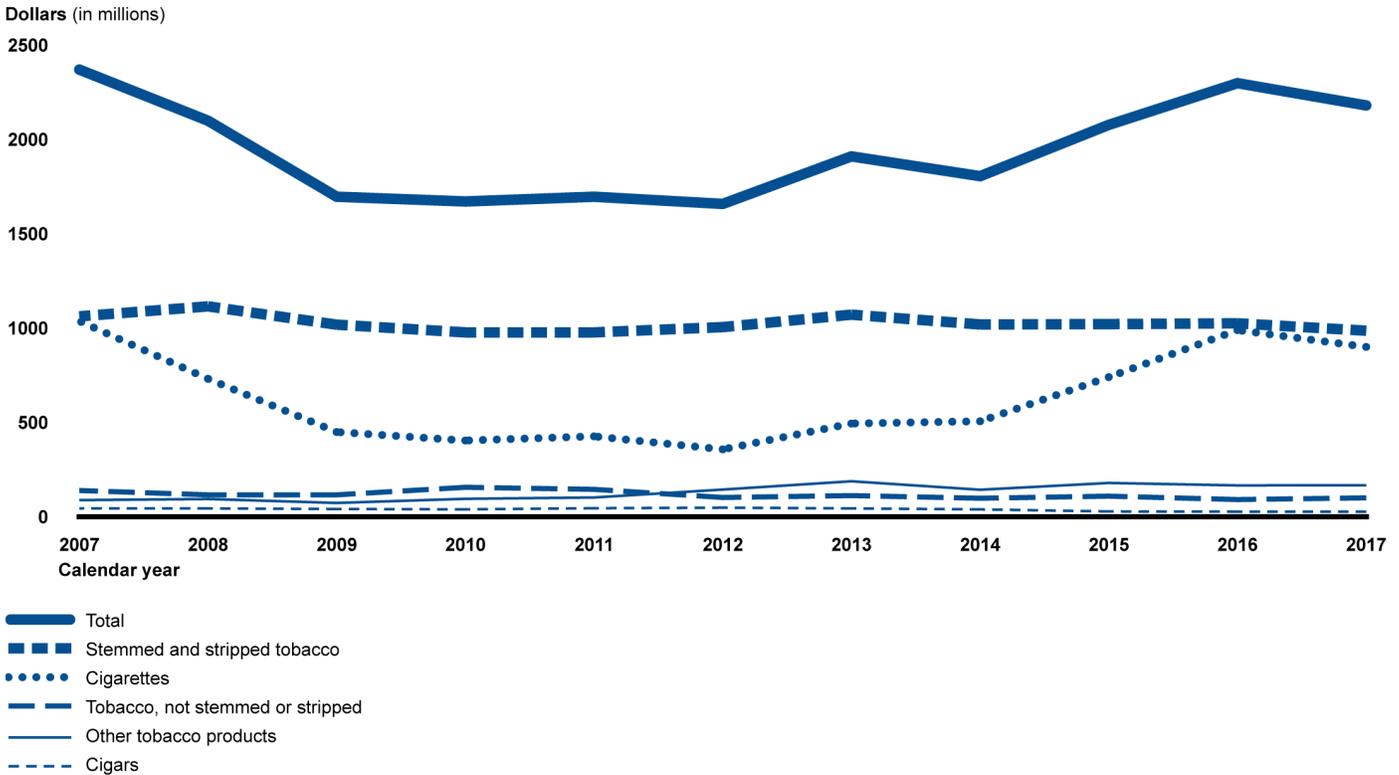
The United States exported over \$2.1 billion in tobacco and tobacco products¹ in 2017.² Figure 1 shows how tobacco exports fluctuated from 2007 to 2017. Specifically, total tobacco exports have ranged from a high of approximately \$2.4 billion in 2007 to a low of about \$1.7 billion in 2012.³

¹The United States exports raw and processed tobacco and manufactured tobacco products, such as cigarettes and cigars. According to the Alcohol and Tobacco Tax and Trade Bureau, processed tobacco is any tobacco that has undergone processing, but does not include tobacco products. The processing of tobacco includes, but is not limited to, stemming (that is, removing the stem from the tobacco leaf), fermenting, threshing, cutting, or flavoring the tobacco, or otherwise combining the tobacco with non-tobacco ingredients.

²The values shown reflect the “free alongside ship” value; that is, the value of exports at the country seaport, airport, or border port of export, based on the transaction price, including inland freight, insurance, and other charges incurred in placing the merchandise alongside the carrier at the country port of exportation. All U.S. exports are classified by U.S. Customs and Border Protection according to the Harmonized Tariff Schedule. The Harmonized Tariff Schedule is based on the internationally agreed nomenclature commonly known as the Harmonized System, which is maintained by the World Customs Organization. For the purposes of this appendix, the U.S. tobacco and tobacco product export totals include all exports categorized under Chapter 24 of the Harmonized Tariff Schedule, *Tobacco and Manufactured Tobacco Substitutes*.

³We previously reported that duty-free stores on the southwest border are filing noncompliant information that they are required to report on cigarette exports valued at more than \$2,500. See GAO, *Tobacco Trade: Duty-Free Cigarettes Sold in Unlimited Quantities on the U.S.-Mexico Border Pose Customs Challenges*, [GAO-18-21](#) (Washington, D.C.: Oct. 11, 2017). However, we determined that for the purposes of this appendix, the export data are sufficiently reliable for reporting general export trends.

Figure 1: Trends in U.S. Tobacco Exports by Product, 2007 through 2017



Source: GAO analysis of U.S. Census Bureau data. | GAO-19-124

Notes: The values shown reflect the “free alongside ship” value; that is, the value of exports at the country seaport, airport, or border port of export, based on the transaction price, including inland freight, insurance, and other charges incurred in placing the merchandise alongside the carrier at the country port of exportation.

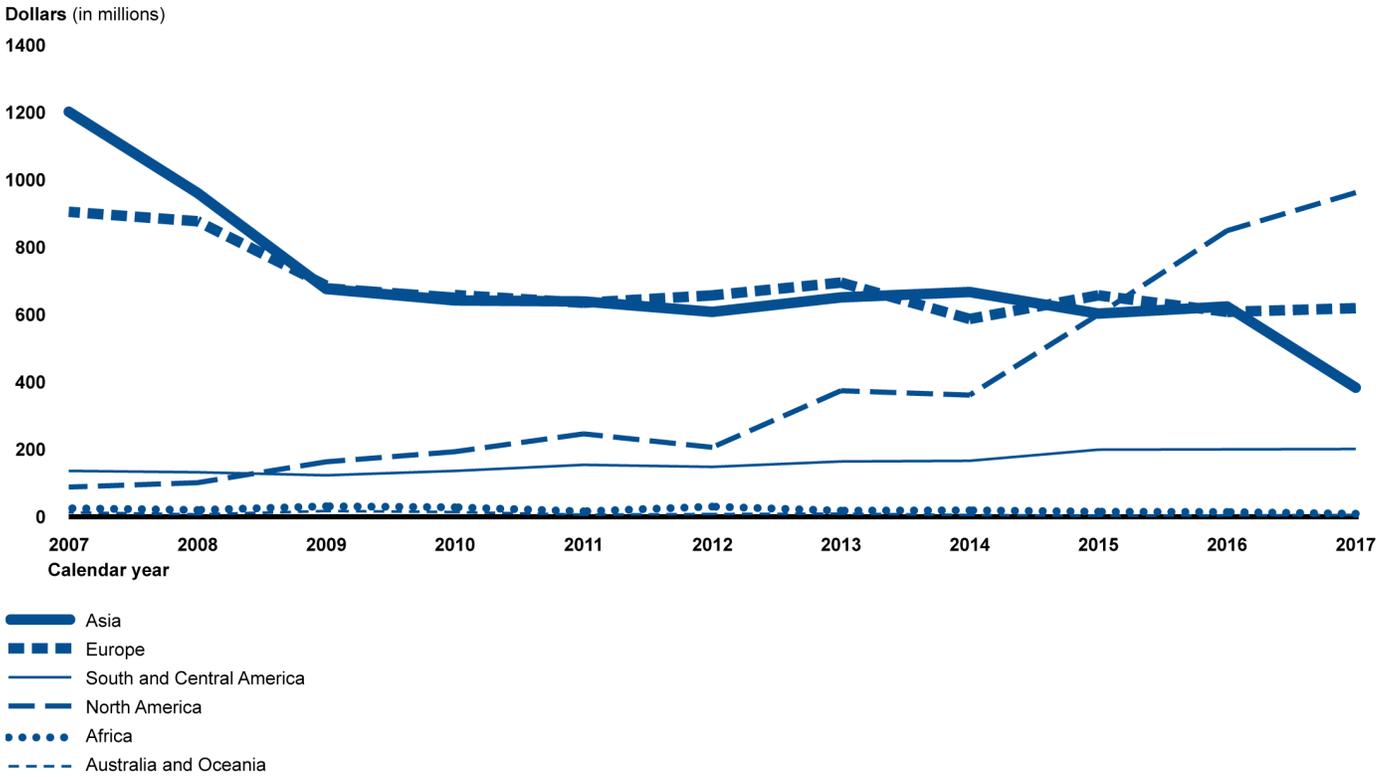
The U.S. tobacco and tobacco product export totals include all exports categorized under Chapter 24 of the Harmonized Tariff Schedule, Tobacco and Manufactured Tobacco Substitutes.

The category “stemmed and stripped tobacco” refers to leaf tobacco intentionally broken into pieces, with the stems removed, for use in the manufacture of cigarettes and cigars.

The “other tobacco products” category consists of various tobacco products including, but not limited to, tobacco refuse and water pipe tobacco.

U.S. tobacco exports to Asia have decreased by 68 percent over the past 11 years, whereas exports to North America have increased 10-fold (see fig. 2). Most of the decrease in exports to Asia is attributable to reduced exports to Japan, which fell 95 percent from 2007 to 2017. Most of the increases in exports to North America are attributable to Canada, which accounted for approximately 40 percent of total U.S. tobacco exports in 2017.

Figure 2: Trends in U.S. Tobacco Exports by Region, 2007 through 2017



Source: GAO analysis of U.S. Census Bureau data. | GAO-19-124

Note: The values shown reflect the “free alongside ship” value; that is, the value of exports at the country seaport, airport, or border port of export, based on the transaction price, including inland freight, insurance, and other charges incurred in placing the merchandise alongside the carrier at the country port of exportation.

Appendix III: Comments from the Department of State



United States Department of State
Comptroller
Washington, DC 20520

November 15, 2018

Thomas Melito
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Mr. Melito:

We appreciate the opportunity to review your draft report, "TOBACCO EXPORTS: Agencies Have Implemented Restrictions on Promoting Tobacco Overseas but Additional Actions Could Strengthen Their Efforts, GAO Job Code 102383.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Marcella Szymanski, Deputy Director, Office of Agriculture Policy, Bureau of Economic and Business Affairs at (202) 647-0111.

Sincerely,

A handwritten signature in black ink that reads "Christopher H. Flaggs".

Christopher H. Flaggs

Enclosure:
As stated

cc: GAO – David Gootnick
EB – Peter Haas
OIG - Norman Brown

Department of State Comments on GAO Draft Report

**TOBACCO EXPORTS: Agencies Have Implemented Restrictions on
Promoting Tobacco Overseas but Additional Actions
Could Strengthen Their Efforts**
(GAO-19-124, GAO Code 102383)

Thank you for the opportunity to comment on the GAO draft report, entitled “*Agencies Have Implemented Restrictions on Promoting Tobacco Overseas but Additional Actions Could Strengthen Their Efforts.*”

Recommendation 1: The Secretary of State should work with the Foreign Service Institute (FSI) to include information about the funding restrictions and relevant guidance on promoting the sale or export of tobacco or tobacco products in its training materials for employees conducting export promotion activities overseas.

Recommendation 3: The Secretary of State, in consultation with the Secretary of Commerce and Secretary of Agriculture, should assess the interagency guidance cable on promoting tobacco in light of questions raised by officials at posts overseas and update it to address ambiguities, as needed.

The Department of State agrees with both recommendations. FSI’s Commercial Tradecraft course already covers commercial advocacy requirements and best/worst practices, including restrictions on tobacco-related advocacy. FSI will explore ways to expand the discussion of advocacy restrictions, including on tobacco, in this course where appropriate. The Department will also examine and expand its online resources related to restrictions on tobacco-related advocacy, such as Econ@state, to provide an information source all Department employees can easily access from anywhere in the world.

The Department will issue new guidance in the fall of 2019 clarifying, as needed, engagement by U.S. missions overseas regarding promoting tobacco. Transmitting the guidance in the fall will coincide with the period when most officers begin a new assignment. The Department will work through the interagency process, which includes the Food and Drug Administration, Commerce, and the U.S. Department of Agriculture to review the guidance. In the meantime, the Economic Bureau Front Office sent a reminder of the existing guidance to economic officers in the field on November 6, 2018.

2

In line with GAO's recommendation, EB is committed to ensuring embassies have the most up-to-date guidance to ensure compliance with appropriate provisions known as (or referred to as) the Doggett Amendment.

Appendix IV: GAO Contact and Staff Acknowledgements

GAO Contact

David B. Gootnick, (202) 512-3149 or gootnickd@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Cheryl Goodman (Assistant Director), Celia Thomas (Assistant Director), Amanda Bartine, Leah DeWolf, Jewel Conrad, Aldo Salerno, and Neil Doherty made key contributions to this report. Grace Lui, Justin Fisher, and Ming Chen provided technical assistance.

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