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November 21, 2002

The Honorable Tommy G. Thompson
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Thompson:

I am writing to ask why our government is objecting to a draft report from the World Health Organization (WHO) that calls for a reduction in the intake of soft drinks as part of a global strategy to fight the obesity epidemic. In formal comments submitted to WHO, the United States argued that "the evidence that soft drinks are associated with obesity is not compelling" and asked for the discussion of the association between soft drinks and obesity to be "deleted or significantly revised."

The U.S. position on soft drinks is startling. The basis for WHO's draft report was a technical review of scientific evidence linking soft drink consumption and obesity. This review was co-authored by the leading obesity expert at the Centers for Disease Control and Prevention (CDC). All major U.S. health and nutrition agencies — including the CDC, the U.S. Surgeon General, and the U.S. Department of Agriculture — agree that Americans should limit soft drink consumption in order to control their weight.

The U.S. opposition to WHO's efforts to fight obesity around the world needs an explanation. I ask that you explain the process used to develop the U.S. comments, including any contacts between your Department and the food industry related to the WHO draft report. I also urge you adopt new positions more consistent with scientific evidence and more protective of the public health.

The rest of this letter explains these concerns in more detail.

The WHO Draft Report

The dramatic rise in obesity seen in the United States over the last two decades is part of a worldwide trend. More than half of an estimated 300 million obese adults now live in countries with developing economies, and associated problems of diabetes, heart disease, and stroke are becoming more common across the globe.¹ To develop a strategy to contain this epidemic, WHO and the Food and Agriculture Organization (FAO) of the United Nations held a joint consultation on diet, nutrition, and the prevention of chronic diseases from January 28 to February 1, 2002. The draft report of this consultation, which runs to 54 pages and includes seven technical annexes, was circulated on April 26, 2002.

The WHO draft report finds that the rise in obesity is related to social change as well as individual choices in diet and exercise. As a result, the draft report concludes that “for interventions to have a lasting effect on the risk factor prevalence and health of societies, more than health education and health promotion is needed.”² Recommended steps include rules to give consumers access to better health and nutrition information, policies to make healthy foods available to people at reasonable cost, and programs to increase opportunities for exercise.

One part of the report makes “nutritional recommendations for the prevention of excess weight gain and obesity” in order to guide governments in their development of an anti-obesity strategy.³ These recommendations are divided according to the strength of the scientific evidence. According to the draft report, “convincing” evidence exists that regular physical activity combats weight gain and obesity. On the other end of the scale, the draft report finds “insufficient” evidence to support eating smaller meals more frequently in order to control weight. One important recommendation in a “probable” category is that individuals should limit “consumption of sugar-sweetened soft drinks” to control their weight.⁴

This classification of soft drinks as a contributor to obesity is based upon the second technical annex to the report, a comprehensive review of the scientific literature that was coauthored by Dr. William Dietz. Dr. Dietz is the Director of the CDC’s Division of Nutrition and Physical Activity and the U.S. government’s leading expert on obesity. The technical annex

¹World Health Organization, *Controlling the Global Obesity Epidemic* (Sept. 16, 2002) (online at www.who.int/nut/obs.htm).

²Joint WHO/FAO Expert Consultation on Diet, Nutrition and the Prevention of Chronic Diseases, *Diet, Nutrition, and the Prevention of Chronic Diseases (draft)*, 17 (Apr. 26, 2002).

³*Id.* at 24–27.

⁴*Id.* at 25.

concluded that “overall, the evidence that high sugar soda drinks promote weight gain is consistent and moderately strong.”⁵

The WHO draft report makes several policy recommendations relevant to soft drinks. It suggests that countries should “encourage schools and other public facilities not to have vending machines, or to at least have healthy choices in them as well.”⁶ The report also recommends “fiscal pricing policies for items that are high in free sugars,” such as taxes on soft drinks to create an incentive for consumers to make more healthy food choices.⁷ Finally, the report encourages “national governments to adopt stringent codes of advertising practice, especially those aimed at children.”⁸ This report, even when finalized, will have no authority to force any government to take any steps it does not want to take.

The U.S. Government’s Objections

On July 2, 2002, the U.S. government filed formal comments with WHO on its draft report that are highly critical of its approach to fighting the obesity epidemic. Rejecting WHO’s finding that “more than health education and promotion is needed” to fight obesity, the United States argues that government’s role should be limited to “motivational messages” and other educational activities.⁹ The U.S. comments reject all of the draft report’s policy recommendations intended to affect the availability or promotion of foods as “outside the scope and expertise of the expert consultation.”¹⁰

⁵B. Swinburn, I. Caterson, J. Seidell, W. Dietz, and W. James, *Annex 2: The Scientific Basis for Diet, Nutrition and the Prevention of Excess Weight Gain and Obesity*, 14 (2002).

⁶Joint WHO/FAO Expert Consultation on Diet, Nutrition and the Prevention of Chronic Diseases, *supra* note 2, at 48.

⁷*Id.*

⁸*Id.*

⁹*U.S. Comments on the Draft Report of the Joint WHO/FAO Expert Consultation on Diet, Nutrition and the Prevention of Chronic Diseases*, 7 (July 2, 2002) (“international guidelines and national policies should encourage healthy and nutritious diets through increased consumer awareness of the link between diet, health, and physical activity, and . . . motivate them to make appropriate changes”).

¹⁰*Id.*

The U.S. comments take special aim at WHO's dietary and policy recommendations on soft drinks. In general comments on the draft report, the United States contends:

The Report seems to focus unduly on soft drink ingestion, and advocates for national and international policies aimed at reducing consumption of soft drinks and the use of vending machines in schools.¹¹

The U.S. criticism extends to WHO's scientific finding that soft drink consumption is a "probable" cause of obesity. According to the U.S. comments, "[t]he evidence that soft drinks are associated with obesity is not compelling."¹² The United States refutes the findings of the second technical annex, co-authored by the CDC's own leading expert on obesity, by arguing that the document cites "insufficient evidence to conclude a causal link between soft drinks consumption and weight gain exists."¹³

The U.S. comments further ask that the WHO discussion of soft drinks be "deleted or significantly revised to provide a more accurate reflection of the available data."¹⁴

Soft Drinks and Obesity

The U.S. argument that excessive soft drink consumption has not been linked to obesity is contradicted by a substantial body of scientific research and by the consensus of U.S. health government experts and agencies.

Over approximately the last 20 years, as obesity has tripled in U.S. adolescents,¹⁵ the percentage of U.S. teenagers' diets (measured in calories) provided by soft drinks has also tripled.¹⁶ Researchers have found that it is no coincidence that these trends are parallel.

¹¹*Id.* at 6.

¹²*Id.* at 13.

¹³*Id.* at 29.

¹⁴*Id.* at 13.

¹⁵William H. Dietz, M.D., Ph.D., Director, Division of Nutrition and Physical Activity, Centers for Disease Control and Prevention, Testimony before the Senate Committee on Health, Education, Labor and Pensions (May 21, 2002).

¹⁶According to the Center for Science in the Public Interest, citing data from the Department of Agriculture, 3% of caloric intake for boys ages 12–19 and 4% of caloric intake for

Investigators from Children's Hospital in Boston prospectively studied 548 children for 19 months, and found that "each additional serving of sugar sweetened drink," including soft drinks, was associated with an increase in body mass and the frequency of obesity.¹⁷ In another study, epidemiologists from Minnesota analyzed a national database and determined that children who drink more than 9 oz of soda per day consumed nearly 200 more calories per day than children who did not drink soda.¹⁸ A third study found that both men and women consumed more calories and gained weight when they had free access to and drank nondiet soda.¹⁹ Most recently, an economic analysis conducted by researchers at the Department of Agriculture showed that "for each 1-ounce reduction in milk consumption, a child consumes 4.2 ounces of soft drinks, resulting in a net gain of 31 calories" and concluded that "the changing beverage consumption among children may have contributed to the increased prevalence of overweight and obese children."²⁰

U.S. government experts and agencies recognize that soft drink consumption has fueled the obesity epidemic. In testimony before the Senate, Dr. Dietz of CDC said:

girls ages 12–19 came from nondiet soft drinks in 1977–1978. Michael F. Jacobsen, *Liquid Candy: How Soft Drinks are Harming Americans' Health*, Center for Science in the Public Interest (1998). According to CDC, "national dietary surveys now indicate that soft drinks provide adolescents with, on average, 11% of their calories." Howell Wechsler, Ed.D., M.P.H., Health Scientist, CDC, Testimony before the Maryland Senate Education Committee (Mar. 13, 2002).

¹⁷David Ludwig, K. Peterson, and Steven Gortmaker, *Relation Between Consumption of Sugar-Sweetened Drinks and Childhood Obesity: A Prospective, Observational Analysis*, *Lancet*, 490–1 (Feb. 17, 2001).

¹⁸L. Harnack, J. Stang, and M. Story, *Soft Drink Consumption Among US Children and Adolescents: Nutritional Consequences*, *Journal of the American Dietetics Association*, 436–41 (April 1999).

¹⁹M. Tordoff and A. Alleva, *Effect of Drinking Soda Sweetened with Aspartame or High-Fructose Corn Syrup on Food Intake and Body Weight*, *American Journal of Clinical Nutrition*, 963–9 (June 1990).

²⁰Economic Research Service, U.S. Department of Agriculture, *Beverage Consumption Among US Children and Adolescents* (online at www.ers.usda.gov/publications/erselsewhere/eejs0221/eejs0221.pdf) (summary of Steven T. Yen and Biing-Hwan Lin, *Beverage Consumption Among US Children and Adolescents: Full-Information and Quasi-Maximum Likelihood Estimation of a Censored System*, *European Review of Agricultural Economics*, 85–103 [2002]).

The rapidity with which obesity has increased can only be explained by changes in the environment that have modified calorie intake and energy expenditure. . . . Soft drink consumption supplies the average teenager with over 10 percent of their daily caloric intake.²¹

The Department of Agriculture and the U.S. Surgeon General echo CDC's advice that Americans limit consumption of soft drinks.²² The Agriculture Department's leading publication of dietary advice, *Dietary Guidelines for Americans*, states:

Intake of a lot of foods high in added sugars, like soft drinks, is of concern. Consuming excess calories from these foods may contribute to weight gain or lower consumption of more nutritious foods.²³

The U.S. Surgeon General concurs that children "should be encouraged . . . to limit intake of beverages with added sugars, such as soft drinks."²⁴

U.S. government experts and health agencies have also supported social policies to promote a healthy diet — including some of the same policies found in the WHO draft report but criticized by the United States. Dr. Dietz has said that the state of West Virginia has "one of the strongest standards in the nation for school nutrition" because "at elementary and middle schools, soft drinks are prohibited."²⁵ The U.S. Surgeon General has endorsed steps to block student access to vending machines that "compete with healthy school meals."²⁶ Los Angeles County school officials, heeding this call, recently voted to ban soft drink sales to its 735,000 students in an effort to reduce obesity.²⁷

²¹William H. Dietz, *supra* note 15.

²²CDC, *Factors Contributing to Obesity* (online at www.cdc.gov/nccdphp/dnpa/obesity/contributing_factors.htm).

²³U.S. Department of Agriculture, *Dietary Guidelines for Americans* (2000).

²⁴U.S. Surgeon General, *Overweight in Children and Adolescents* (2001) (online at www.surgeongeneral.gov/topics/obesity/calltoaction/fact_adolescents.htm).

²⁵William H. Dietz, *supra* note 15.

²⁶U.S. Surgeon General, *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity*, 20 (2001).

²⁷*L.A. Schools Ban Sodas*, CNN.com (Aug. 27, 2002).

While the United States' position in its comments to WHO conflicts with the views of its own experts, the views expressed by the United States are virtually identical to those of the soft drink industry. Like the United States, for example, the International Soft Drinks Council argues in its comments to WHO that "there is . . . no evidence to link sugar-containing beverages to obesity" and objects to limitations on vending machines.²⁸

Questions

The surprising opposition of the United States to the draft WHO report language on soft drinks needs to be explained. For this reason, I ask you to provide:

1. An explanation of the process used in formulating the U.S. comments to the WHO draft, including the scientific experts consulted by the Administration and the views expressed by these experts to the Administration;
2. Copies of any documents relating to the formulation of the U.S. comments, including draft comments, e-mail messages, and other materials;
3. The dates and times of all meetings with representatives of the food industry, the participants in such meetings, and any documents, notes, e-mail communications, faxes, records of phone calls, or other materials relating to communications with representatives of the food industry.

Conclusion

The *Washington Post* recently reported that after meeting with executives from fast food companies and asking them to reduce portion sizes, you next planned to address soft drink manufacturers.²⁹ I would expect that your plan for such a meeting is not to proclaim that there is no link between soft drinks and obesity. Rather, you obviously recognize, as do all of our government's health experts and agencies, that soft drink consumption should be addressed as part of a national strategy to fight obesity.

This makes the Administration's stance on the WHO report all the more troubling. In the past, I have criticized the Administration for putting the interests of tobacco companies ahead of

²⁸Letter from Seiichi Yoshida, Secretariat of the International Soft Drinks Council, to Dr. Pekka Puska, Director, Noncommunicable Disease Prevention and Health Promotion, World Health Organization (June 12, 2002).

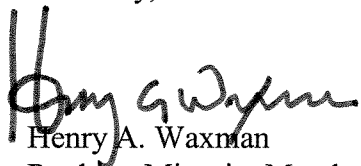
²⁹*Some Thought for Fast Food, Thompson Urges Industry to Offer Healthful Choices*, Washington Post (Oct. 16, 2002).

The Honorable Tommy G. Thompson
November 21, 2002
Page 8

public health during negotiations on the Framework Convention on Tobacco Control.³⁰ I am concerned that the Administration may now be pursuing an agenda that is inconsistent with science and public health even as obesity rates continue their dangerous rise.

I urge you to respond fully to the questions raised in this letter and to reconsider the U.S. approach. Our government should be the leader in advocating a global strategy on obesity consistent with the weight of scientific evidence and the views of health experts. I would appreciate receiving your response no later than December 9, 2002.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry A. Waxman". The signature is written in a cursive, somewhat stylized font.

Henry A. Waxman
Ranking Minority Member

³⁰Henry A. Waxman, *The Future of the Global Tobacco Treaty Negotiations*, New England Journal of Medicine, 936–939 (Mar. 21, 2002).