

63

**DRAFT**  
(For internal discussion)

Dupont de Nemours

Dear Sirs,

We have learned that your company has recently taken a commitment to a smoking policy aiming at a practical smoke-free environment at all Swiss sites.

We are by no means questioning your right to enforce such a policy according to Swiss legislation. We would, however, like to seize this opportunity to communicate to you some basic considerations regarding the smoking at workplace issue. These might contribute to reconsider your decision in a way that the principle of accommodating smokers and non-smokers according to individual preferences, work requirements, local culture and applicable laws will prevail also in the future.

**1. Environmental tobacco smoke: science or politics ?**

- It might be that a key factor for your company's decision to impose in practice a smoke-free environment of work sites is the widespread claim about environmental tobacco smoke and alleged health effects. We firmly believe that such claims cannot be substantiated by available scientific data, as groups hostile to tobacco are trying to do.
- The misuse of science and the scientific process to fit pre-selected policy goals has been one of the most disturbing trends in recent years. In the case of ETS (Environmental Tobacco Smoke) and alleged health effects, science has often been ignored or manipulated in pursuit of political goals. A prime example of such manipulation has been the process by which the US Environmental Protection Agency (EPA) came to prepare and publish their risk assessment of environmental tobacco smoke. An assessment which serves already today most often as a pretext for draconian smoking bans at public places and work sites.
- The US Congressional Research Service questioned the findings of the EPA's ETS risk assessment and concluded in its report of March 1994 and at a testimony to a Senate Panel on May 12, 1994, that "...the statistical evidence does not appear to support a conclusion that there are substantial health effects of passive smoking."

2046543612

- On June 22, 1993, a group of tobacco growers and businessmen sued the EPA, asking the courts to declare the agency's risk assessment on ETS nul and void. The plaintiffs alleged that in classifying ETS as a Class A carcinogen, the agency ignored its own scientific guidelines, overstepped its regulatory authority, used faulty science and improper scientific procedures to arrive at its conclusion, and "cherry picked" data by ignoring new and larger studies that contradicted its conclusions.

## 2. Can smoking be accommodated?

If smokig bans at workplace cannot be based, as we firmly believe, on alleged health effects of ETS, we recognize, however, that some individuals are concerned about tobacco smoke exposure in the workplace. To respond to those concerns, employers have an array of technical and organizational options which can accommodate both the employees who wishes to smoke and those who want to minimize their exposure. Occupants in buildings with adequate ventilation generally have few complaints about air quality or smoking.

## 3. The Swiss legislation re smoking at workplace

- The new Labour Law ordinance 3, put in force on October 1st, 1993, contains in article 19 a ruling on the protection of non-smoking labour with the following wording: "The employer will ensure, within the possibilities of the company, that non-smokers are not inconvenienced by other people's tobacco smoke."
- With this ruling, the legislator states two principles: one, that smoking is basically considered as a possible source of nuisance to some non-smokers, and two, that total smoking bans are not the target of the law.
- Article 19 is to be seen and applied in the context of article 16 and 17 of the Labour Law Ordinance 3, which lay down the obligation of the employer that all rooms and indoor facilities must be, in accordance with their use, sufficiently ventilated by technical or natural means.
- Overall, the Swiss Labour Law is to a high degree determined by a spirit of mutual courtesy and tolerance, and in particular by a spirit aiming at common sense solutions searched for and agreed to collectively. This same point and approach is

2046543613

63

fully supported by the Swiss Employers Federation, also with regard to smokers/non-smokers accommodation at workplace.

#### 4. Swiss public and labour's opinion

(The contents of this chapter will be to communicate results of 1994 Swiss survey re labour's preferences for smokers/non-smokers accommodation.

Signature

Enclosure (For Dupont)

The Confederation of European Community Cigarette Manufacturers Limited (CECOM):  
Environmental Tobacco Smoke, March 1993

ULC/28.7.94

2046543614