



Indonesia v. United States (World Trade Organization)

Topics Covered: Anti-tobacco

Outcome: Very Unfavorable

Issue

The issue in this case was whether the ban on importation of clove flavored cigarettes in the Food, Drug, and Cosmetics Act (FDCA) violates the General Agreement on Tariffs and Trade (GATT) and the Technical Barriers to Trade (TBT) Agreement, because the FDCA allows the importation of menthol flavored cigarettes.

AMA Interest

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

Case Summary

The Government of Indonesia (which exports cloves) contended that the FDCA violated both the GATT and the TBT because it arbitrarily discriminated against some cigarette flavoring. A World Trade Organization (WTO) panel ruled that the flavoring ban is justified from a public health standpoint. It also ruled, however, that the ban violated the TBT, because it arbitrarily discriminated between flavorings. The case was appealed to the WTO appeals body.

The WTO appeals body upheld the ruling of the prior panel, forcing the United States to lift its ban on the importation of cigarette flavorings.

AMA Involvement

At the request of the Office of the United States Trade Representative, several health care organizations, including the AMA, filed an *amicus* brief before the WTO in support of the FDCA ban. The position of the brief is that even a partial ban on cigarette flavorings is a desirable public health measure.

World Trade Organization brief