

Litigation Outside the U.S.

Actions for the Recovery of Treatment Costs

Apart from cross-border litigation, a growing number of health insurers and governments have filed, or are considering filing suits, in their own court systems. At this point, information is available on almost 10 cases.

The Canadian Province of British Columbia filed suit in its own court system in November 1998 to recoup health care costs of approximately CAD \$500 million.

In addition, health insurers and health organizations in France, Germany, Israel and Australia are seeking compensation. A similar suit is planned by the Costa Rican social security system.

Individual & Class Action Lawsuits

Apart from actions for the recovery of treatment costs, there are also suits filed by one or more individuals seeking

compensation for bodily injury. According to press reports, the tobacco industry is facing approximately 20 cases filed by individuals in:

- Europe (France, Germany, Ireland, Italy, the Netherlands, Poland, Spain, Sweden, Turkey and the U.K.);
- Australia;
- Asia (Hong Kong, Japan, Philippines and South Korea); and
- Brazil.

Apart from smokers and their families, people are claiming compensation for illnesses caused by passive smoking. Class action suits are pending in Australia, Ireland, Israel and the U.K. and possibly in Taiwan. Furthermore, there are two public interest litigation suits pending in India.

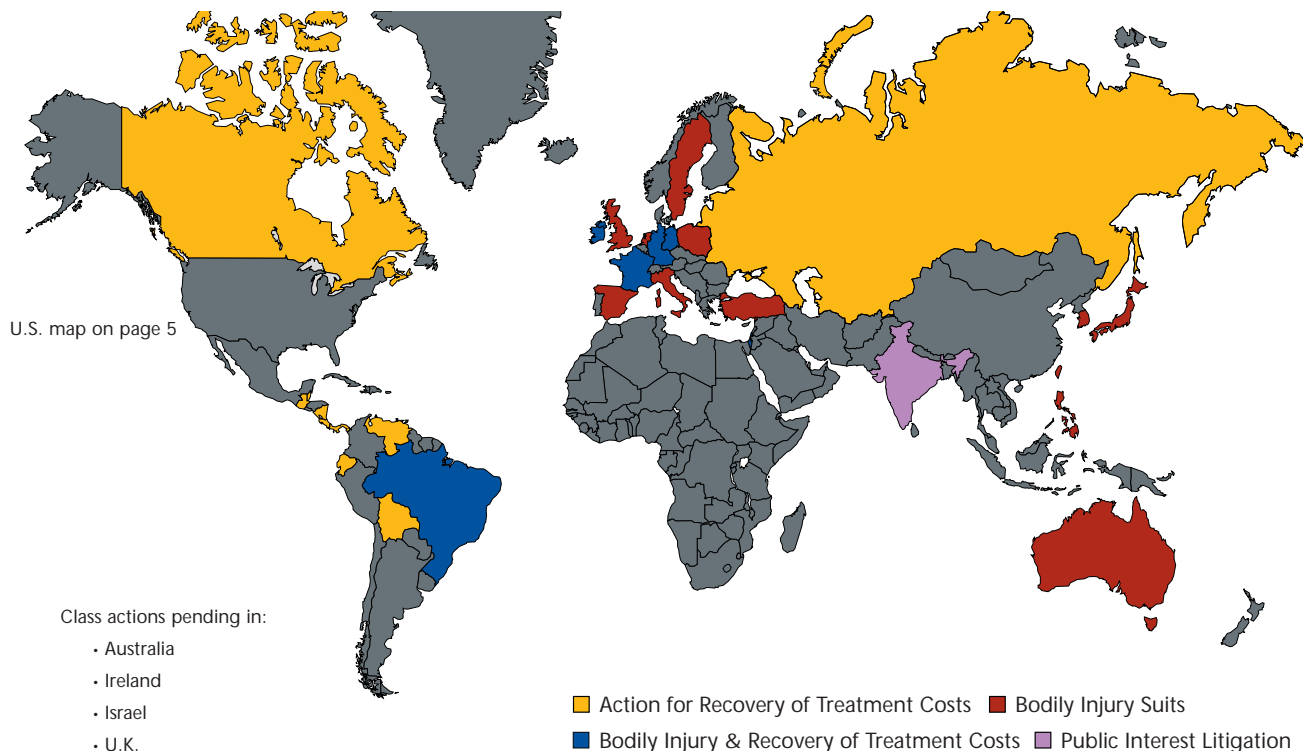
According to our information, verdicts have been handed down in fewer than

10 non-U.S. cases. In some cases, minor sums have been awarded (passive smoking suits in Australia and the U.K.; a bodily injury suit in Brazil).

These cases prove that tobacco litigation is no longer exclusive to the U.S. Even if, due to different liability provisions in other countries, the actions do not promise to be quite as successful, the ensuing legal defense costs should not be underestimated.

Tobacco Litigation — A Selection of Non-U.S. Cases

(as of September 1999)



North America (excluding the U.S.)

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Canada				
<i>Action for recovery of treatment costs:</i> Province of Ontario ³	U.S. tobacco industry (in U.S. courts)	Compensation for health costs; violation of law against criminal conspiracy, allegedly targeting youth smokers	U.S. \$40B	Suit planned to be filed in the U.S./April 1999
<i>Action for recovery of treatment costs:</i> Province of British Columbia ⁴	Imperial Tobacco, Rothmans, Benson & Hedges Inc. R.J. Reynolds JTI MacDonald in Canada	Compensation for health costs; industry conspired to mislead consumers and cover up its knowledge that cigarettes are addictive	U.S. \$325M (CAN \$500M)	Suit filed/November 1998 British Columbia Supreme Court ruled that the British Columbia law authorizing the lawsuit was unconstitutional and dismissed the suit February 2000 because the Province sought damages from the international parent companies of Canadian tobacco manufacturers. The court upheld the Province's right to sue the Canadian companies. British Columbia-legislation reintroduced legislation authorizing lawsuit against tobacco industry
<i>Action for recovery of treatment costs:</i> Province of Quebec	Canadian Cigarette Manufacturers	Compensation for health costs for treating smoking-related illness	Multibillion	Attorneys for the Province are drafting the lawsuit
<i>Action for recovery of treatment costs:</i> Province of Newfoundland	Imperial Tobacco, Rothmans, Benson & Hedges Inc. R.J. Reynolds JTI MacDonald in Canada	Compensation for health costs; industry conspired to mislead consumers and cover up its knowledge that cigarettes are addictive		Attorneys for the Province are drafting the lawsuit

Europe

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
France				
<i>Individual bodily injury suit: family of smoker (Richard Gourlain), who died of cancer in 1998; suit joined by Caisse Primaire d'Assurance Maladie/Montargis (health insurer)⁵</i>	Seita	Family demands compensatory damages and accuses defendant of failing to warn about health risks of smoking and production of addictive products; health insurer seeks compensation for cost of treating Richard Gourlain	Compensatory damages U.S. \$430,000 (FRF \$2.7M) Compensation for health costs U.S. \$160,000 (FRF \$1M)	Complaint lodged/ December 1996; Hearing started/ September 1999 (Montargis) Seita was held partially liable/December 1999
<i>Action for recovery of treatment costs: Caisse Primaire d'Assurance Maladie/St. Nazaire (health insurer)⁶</i>	Seita, Philip Morris, Rothmans, R.J. Reynolds	Compensation for health costs	U.S. \$8.1M (FRF \$51.3M) and annual fund of U.S. \$3.7M (FRF \$23.6M)	Suit filed/June 1999 (St. Nazaire)
<i>Action for recovery of treatment costs: Caisse Primaire d'Assurance Maladie/Avignon (health insurer)⁷</i>	Seita, Philip Morris, Rothmans, R.J. Reynolds	Compensation for health costs		Suit under consideration/ March 1999 (Avignon)
Germany				
<i>Individual bodily injury suit: 54-year-old smoker (H. Kühnen) suffering from lung cancer⁸</i>	Philip Morris, R.J. Reynolds	Compensatory damages (pursuant to tort law and product liability law); allegation of failure to warn about the addictive nature of nicotine; action for declaratory judgement	U.S. \$55,000 (DEM \$100,000) and future medical costs	Suit filed/ July 1999 (District Court Dortmund)
<i>Action for recovery of treatment costs: health insurers⁹</i>	Philip Morris, R.J. Reynolds	Compensation for health costs		Suit supposed to be filed/ June 1999 (District Court Dortmund)
<i>Action for recovery of treatment costs: health insurers (Barmer Ersatzkasse, Techniker Krankenkasse, Kaufmännische Krankenkasse, Deutsche Angestellten Krankenkasse)¹⁰</i>	U.S. tobacco companies (in U.S. courts)			Suit under consideration/ September 1999
Ireland				
<i>Action for recovery of treatment costs: Irish Government</i>	Irish tobacco companies	Compensation for health costs for treating tobacco related illnesses	Estimated \$23 Billion	Parliamentary committee recommended filing suit in November 1999. Government preparing lawsuit.
300 individual suits	Irish tobacco companies	Seeking personal injury damages		Suits filed/ (expected to be heard within a year)

Europe

<i>Plaintiff</i>	<i>Defendant</i> ¹	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict</i> ²	<i>Status/Date</i>
Ireland (continued)				
<i>Individual bodily injury suit:</i> 20 barmen and waiters ¹¹	Tobacco manufacturers and publicans	Compensation for damage to health due to passive smoking in pubs; violation of Health and Safety at Work Act		Suit filed/ August 1998
<i>Class action:</i> more than 200 people suffering from smoking-related illnesses (the first two women were Ann Moloney and Susan Reilly) ¹²	P.J. Carroll and Co., Rothmans of Pall Mall, Players & Wills, Benson & Hedges, Gallaher	On behalf of Irish people who developed a series of illnesses doctors have attributed to smoking; compensation for damage to their health or that of their relatives; allegation of negligence and fraud by selling products that cause cancer	U.S. \$168,000 to \$1.68M (GBP \$100,000 to \$1M) each	Proceedings issued/ (expected to be heard by end of 2000) October 1998 (High Court Dublin)
Italy				
<i>Individual bodily injury suit:</i> family of a smoker (Marcello Stalteri) who died of a lung tumor in 1991 ¹³	AAMS-Monopoli di Stato (state tobacco monopoly)	Compensatory damages; allegation of gross negligence by selling tobacco products without health warning		Suit dismissed/ April 1997
Netherlands				
<i>Individual bodily injury suit:</i> smoker (Wim ter Schegget, suit joined by other claimants) ¹⁴	Tobacco industry; Dutch state	Compensation for damages after contracting lung disease; allegation of failure to warn about dangers of their Dutch state liable for not taking sufficient steps to inform the public about effects of long-term tobacco use		Suit filed/ Expected to come to court end of the year
Poland				
<i>Individual bodily injury suit:</i> son of a female smoker who died of lung cancer ¹⁵	Tobacco industry plant in Rzeszow; Philip Morris Polska	Compensation for damage to mother's health	U.S. \$2.5M (PLN \$10M)	Suit filed/August 1999 (District Court Cracow)
Spain				
<i>Individual bodily injury suit:</i> widow of smoker who died of lung cancer (Emilio Carraminana) ¹⁷	Tabacalera	Compensation for death of husband	U.S. \$390,000 (ESP \$60M)	Suit filed/Countersuit planned by Tabacalera January 1998 (Barcelona)
Russia				
<i>Action for recovery of treatment costs:</i> government ¹⁶	U.S. tobacco industry (in U.S. courts)	Compensation for health costs		Suit under consideration/ January 1999

Europe

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Sweden				
<i>Individual bodily injury suit:</i> female smoker ¹⁸	Swedish Match Sverige AG	Compensation for loss of health (lung cancer)		Case closed (plaintiff died, charges not resumed by family)/ April 1999
Turkey				
<i>Individual bodily injury suit:</i> 62-year-old smoker (Yilmaz Sayin) ¹⁹	Philip Morris Sababcu Pazarlama ve Satis	Compensation for loss of health	U.S. \$7,200 (TRL \$1B punitive damage; TRL \$1M compensatory damage)	Court declined to hear case (must be refiled where plaintiff or company is based)/ October 1997 (Ankara)
United Kingdom				
<i>Class action:</i> 53 people suffering from lung cancer ²⁰	Imperial Tobacco, Gallaher	Compensatory damages; allegation of negligent failure to reduce tar levels in cigarettes between 1957 and 1971 and causation of lung cancer	U.S. \$4.2M to \$1.6B (GBP \$2.6M to \$1B)	Test cases dismissed by High Court (most cases dropped after judgment, often barred by statute)/ April 1999
<i>Individual bodily injury suit:</i> non-smoking employee (Agnes Rae) ²¹	Strathclyde Joint Police Board (employer)	Compensation for health problems caused by passive smoking in the workplace; chronic bronchitis and respiratory problems forced retirement	U.S. \$83,000 (GBP \$50,000)	Initial suit rejected 1997/ Court of Session ruled for new hearing in March 1999
<i>Individual bodily injury suit:</i> non-smoking nurse (Sylvia Sparrow) ²²	Worsley Lodge in Swinton (old people's home, employer)	Compensation for health problems caused by passive smoking in the workplace; nurse suffered chest pains and asthma due to aversion to smoke		Suit dismissed (employer had taken all practical steps)/ May 1998
<i>Individual bodily injury suit:</i> non-smoking employee (Beryl Roe) ²³	Stockport Metropolitan Borough Council (local government, employer)	Compensation for damage to health caused by passive smoking at work; exposure forced retirement from work in 1987	U.S. \$38,000 (GBP \$25,000)	Out of court settlement/ July 1995
<i>Individual bodily injury suit:</i> disabled non-smoking employee (Elizabeth Ashby) ²²	Chartered West LB (employer)	Compensation for injuries sustained as a result of passive smoking	U.S. \$3,800 (GBP \$2,500)	Out of court settlement/ February 1995
<i>Individual bodily injury suit:</i> non-smoking employee (Veronica Bland) ²²	Stockport Metropolitan Borough Council (government, employer)	Compensation for pain, suffering and loss of amenity and disadvantages in labour market due to passive smoking	U.S. \$15,000 (GBP \$23,000)	Out of court settlement with employer's insurer/ January 1993

Asian Pacific

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Australia				
<i>Class action:</i> Tobacco Control Coalition on behalf of 65 Australian health organizations ²⁴	Philip Morris, WD & HR Wills, Rothmans	Compensation for loss or damage likely to be suffered by people who have smoked or may smoke and funding of anti-smoking measures; allegation of misleading or deceptive conduct	U.S. \$320M per year (AUD \$500M)	Action launched in Federal Court October 1999; Statement of claim will be prepared by December 1999
<i>Class action:</i> 60,000 smokers ²⁵	Philip Morris, WD & HR Wills, Rothmans	Action for every Australian citizen who suffered smoking-related disease in the past three years; compensation for pain, loss of income, medical expenses and punitive damages; allegation of failure to manufacture safe products and to warn about dangers of their products	U.S. \$3.8-6.3B (AUD \$6-10B)	Suit filed/March 1999; Federal Court rejected application by tobacco companies to strike out class action/ September 1999 (Sydney)
<i>Class action:</i> 10 non-smoking air passengers ²⁶	Qantas Airways	Compensation for distress, discomfort and, in some instances, aggravation of asthmatic conditions of upper respiratory infections (passengers had requested non-smoking seats but were seated in smoking seats or seats next to smokers)	U.S. \$2,000 (AUD \$3,000 award) (AUD \$50-750 each) plus 70% of legal costs	Suit successful/ Fall 1995
<i>Individual bodily injury suit:</i> female smoker (Phyllis Cremona) ²⁷	Three tobacco companies	Compensation for damage to health (emphysema and chronic bronchitis); allegation of failure to warn about the addictive nature of nicotine		Agreement on legal costs and guarantee by plaintiff not to reactivate the case/ February 1999
Hong Kong				
<i>Individual bodily injury suit:</i> 55-year-old male smoker (Wah Po-hing) ²⁸	Philip Morris Asia	Compensatory damages; allegation of misleading by advertisements and suffering mental, physical and psychological problems (smoker consulted a doctor after vomiting blood in 1991, but refused further examination, fearing a diagnosis of lung cancer)	U.S. \$3.6M (HKD \$28M)	Suit filed/ August 1999 (High Court Hong Kong)
India				
Public Interest Litigation ²⁹	Union Government and City Government	Petition to ban chewing tobacco "Paan masaala," which allegedly leads to tongue and throat cancer		Suit filed; High Court issued notice to explain why product should not be banned as sought/ March 1999 (High Court New Delhi)
Public Interest Litigation ³⁰	ITC, VST Industries, Godfrey Phillips India, GTC	Compensation for victims of smoking, including passive smoking; allegation of flouting the law regarding display of statutory warning on dangers of smoking	U.S. \$115M (INR \$5B)	Suit filed; notice issued/ August 1999 (Supreme Court New Delhi)

Asian Pacific

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Japan				
<i>Individual bodily injury suit:</i> 10 non-smokers ³¹	Japan Tobacco	Compensation for damage or potential damage to health due to passive smoking; allegation of inappropriate health-risk warnings	U.S. \$100,000 (JPY \$11M)	Suit rejected (warning statement appropriate)/ March 1999 (District Court Nagoya)
Philippines				
<i>Individual bodily injury suit:</i> widow of smoker who died of lung cancer (Elsie Reyes) ³²	31 cigar and cigarette manufacturers (top Philippine and multi-nationals, including Philip Morris, BAT)	Compensation for husband's death due to lung cancer from addictive smoking; Philip Morris motioned to have case dismissed (no jurisdiction over multinational cigarette maker)	U.S. \$7.8M (PHP \$300M)	Suit filed/December 1998; Motion to uphold suit/January 1999
South Korea				
<i>Individual bodily injury suit:</i> smoker suffering from lung cancer ³³	Korea Tobacco; Ginseng Corporation	Compensatory damages; alleges the sale of addictive drugs that have the potential to cause death	U.S. \$85,000 (KRW \$100M)	Suit filed/ September 1999
Taiwan				
<i>(Possible) Class action:</i> Asia-Pacific anti-smoking activists ³⁴	U.S. tobacco companies	Compensation for damage to health		Suit under consideration/ April 1999

Latin America

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Bolivia				
<i>Action for recovery of treatment costs:</i> federal government ³⁵	17 U.S. tobacco industry (in U.S. courts)	Compensation for health costs		Suit filed/July 1999 U.S. District Court for the District of Columbia denied tobacco manufacturers request to move case to federal court. The case remains in the Texas State Court System
Brazil				
<i>Action for recovery of treatment costs:</i> federal government ³⁶	U.S. tobacco industry (in U.S. courts)	Compensation for health costs		Suit under consideration/ July 1999
<i>Action for recovery of treatment costs:</i> State governments of Rio de Janeiro and Goias	U.S. and British tobacco industry (in U.S. courts)	Compensation for health costs	Rio de Janeiro— U.S. \$10B; Goias—billions of U.S. dollars	Suits filed: Rio de Janeiro/ July 1999; Goias/October 1999
<i>Individual bodily injury suit:</i> family of smoker who died in 1995 (Nelson Cabral Alves) ³⁷	Souza Cruz	Compensation for damage to health	U.S. \$82,500 award (including monthly pension)	Suit successful (smoking had been determinant in heart attack followed by death)/ September 1997 (Civil Court Rio de Janeiro)
<i>Individual bodily injury suit:</i> ex-smoker ³⁸	Souza Cruz	Compensation for damage to health		Suit dismissed/ September 1997 (Civil Court Fortaleza)
Costa Rica				
<i>Action for recovery of treatment costs:</i> Social Security System ³⁹	Republic Tobacco, Tabacalera of Costa Rica	Compensation for health costs	Several million U.S. dollars	Plan to demand/ July 1997
Ecuador				
<i>Action for recovery of treatment costs:</i> government ⁴⁰	U.S. tobacco industry (in U.S. courts)	Compensation for health costs		Suit likely to be filed in the near future (announced by a law firm representing the government)/ January 1999

Latin America

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Guatemala				
<i>Action for recovery of treatment costs: government⁴¹</i>	U.S. tobacco industry (in U.S. court)	Compensation for health costs; treble amount government had to pay for treatment	Approx. U.S. \$300M	Suit filed/May 1998 (U.S. Federal Court)
Nicaragua				
<i>Action for recovery of treatment costs: government⁴²</i>	11 tobacco organizations (nine manufacturers and distributors, two related entities) ⁴³ (in U.S. courts)	Compensation for past and future health care costs resulting from the conduct of foreign tobacco companies; defendants allegedly conspired to conceal scientific and medical information about health risks		Suit filed/ December 1998 (Federal District Court Puerto Rico)
Panama				
<i>Action for recovery of treatment costs: government⁴⁴</i>	18 U.S. tobacco companies (in U.S. courts)	Compensation for harm and detriment caused by sale of tobacco products in Panama	U.S. \$1B per million affected Panamanians	Suit filed/August 1998; Suit dropped/ October 1998 (District Court Louisiana)
Venezuela				
<i>Action for recovery of treatment costs: government⁴⁵</i>	18 tobacco companies, affiliated companies and institutions (in U.S. courts)	Compensation for cost of treating sick smokers; tobacco industry knowingly concealed the addictive and dangerous nature of their products	Several billion U.S. dollars	Suit filed/January 1999 (County Circuit Court Miami-Dade) In June 2000, the U.S. District Court for the District of Columbia denied tobacco manufacturers request to move the case to Federal Court. The case remains in the Florida State Court System

Middle East

<i>Plaintiff</i>	<i>Defendant¹</i>	<i>Cause of Action</i>	<i>Damages Sought or Value of Verdict²</i>	<i>Status/Date</i>
Israel				
<i>Action for recovery of treatment costs:</i> Kupat Holim Maccabi (health fund) ⁴⁶	Dubek	Compensation for health costs; allegation of failure to declare known dangers and addition of nicotine to make cigarettes more addictive	U.S. \$477M (ILS \$1.75B)	Suit filed/June 1998; Suit dismissed (assumed risk, contributory negligence of smokers)/September 1999 (District Court Tel Aviv)
<i>Action for recovery of treatment costs:</i> Kupat Holim Clalit (health fund) ⁴⁷	Philip Morris, R.J. Reynolds, BAT, Brown and Williams, Liggett & Myers, Lorillard and local manufacturer Dubek; including personal suit against former director of Dubek, Zerah Gehl	Compensation for medical expenses; withholding evidence of the harmful effects of smoking, targeting minors in advertisements and altering nicotine levels to render products more addictive	U.S. \$8B	Suit filed/ September 1998 (District Court Jerusalem)
<i>Class action:</i> Five Israeli smokers (Yadin Giladi, Gershon Pincas, Gideon Katz, Mordechai Simon, Eitan Ben-David) ⁴⁸	Israeli and foreign manufacturers, importers and distributors: Dubek, Menashe H, Elisar, TLS Tobacco, R.J. Reynolds, PM, Brown & Williams and several other tobacco companies	Compensation for loss of property (cost of purchasing cigarettes, cost of quitting), distress and various other losses; applicants stress that action is not directed at compensation for bodily injury	U.S. \$4B (NIS \$17B)	Suit filed/July 1999 (District Court Tel Aviv)

Sources

- 1 If not indicated otherwise, defendants are local companies or subsidiaries of international tobacco companies
- 2 All U.S. dollar amounts are rounded up roughly; exchange rates were selected according to the available information
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- 5 *Reuters News Service*, September 8, 1999
- 6 *Frankfurter Allgemeine Zeitung*, July 14, 1999; *Reuters News Service*, June 22, 1999; *Le Monde*, May 21, 1999; *Business Insurance*, March 8, 1999; *Reuters News Service*, February 15, 1999; *Reuters News Service*, February 13, 1999
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- 8 *Kölner Stadt-Anzeiger*, September 28, 1999; *Die Tageszeitung*, July 15, 1999; *Reuters News Service*, July 13, 1999; *Handelsblatt*, July 12, 1999
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- 11 *Sunday Times*, August 9, 1998
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- 15 *BBC Monitoring European - Political*, August 16, 1999
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- 19 *Turkish Daily News*, September 10, 1997; *Reuters News Service*, September 9, 1997; *Reuters News Service*, May 26, 1997
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- 25 *Sydney Morning Herald*, September 3, 1999; *Sunday Herald Sun*, July 11, 1999; *Herald Sun*, July 9, 1999; *Courier Mail*, April 20, 1999; *Age*, May 17, 1999; *British Medical Journal*, April 1999
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- 33 *South China Morning Post*, September 8, 1999
- 34 *Deutsche Presse Agentur*, July 27, 1999
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- 37 *Financial Times*, September 25, 1997
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- 40 *Reuters News Service*, January 28, 1999
- 41 *Financial Times*, May 13, 1998
- 42 *Business Wire*, December 10, 1998
- 43 Liggett Group, Brooke Group, British American Tobacco/BAT Industries, British American Tobacco (Investments)/British American Tobacco Co., Brown & Williamson Tobacco, Philip Morris Companies, Philip Morris, Philip Morris Sales, Philip Morris International, The Tobacco Institute and the Council for Tobacco Research-USA
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- 47 *Süddeutsche Zeitung*, September 30, 1998; *Jerusalem Post*, September 29, 1998
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