# Appendix 2

## Corporate Relationship Between British-American Tobacco Co. and Brown & Williamson Tobacco Co.

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## I. Organizational Structure of British-American Tobacco

From 1927 to 1980, Brown & Williamson Tobacco Company, U.S.A., (B&W) was a wholly-owned subsidiary of British-American Tobacco Company, Ltd (BATCO). BATCO is a subsidiary of BAT Industries PLC (BAT), the parent holding company for all the various BAT companies including BATCO, other tobacco companies, and companies involved in other industries, most notably insurance and finance. In 1980, a reorganization within BAT resulted in the creation of a U.S. holding company for B&W (BATUS). In the resulting hierarchy, BATUS and BATCO both report directly to the parent holding company BAT Industries PLC. Thus, from 1980 to the present, BATCO and B&W have been affiliates.

Relevant entities or groups for purposes of this document include:

BAT Industries PLC (BAT): the overall holding company for all the tobacco companies below.

BATCO: both a tobacco company and holding company for subsidiaries engaged in the manufacture and marketing of tobacco products.

B&W: a BAT-affiliated U.S. tobacco company engaged in the manufacture and marketing of tobacco products.

Other BAT affiliates: BAT affiliates other than BATCO and B&W engaged in the manufacture and marketing of tobacco products, including affiliates in Germany, Brazil, Australia, and Canada.

BAT Group: all the BAT affiliates engaged in the manufacture and marketing of tobacco products.

## II. Summary and Conclusions

The documents described below show that BAT sought to facilitate and foster ready access, by BATCO, B&W and the other BAT affiliates, to any information anywhere within the BAT Group with potential commercial application for tobacco products. These parties also sought to facilitate and foster the creation of information with potential commercial application, by jointly supporting research and development [R&D] activities, jointly supporting a central R&D facility, and coordinating and prioritizing Group and individual company R&D activities across the BAT Group. They also sought to reach consensus on conclusions to be drawn, and on recommendations to be made on commercial application and future research, on the basis of data and information presented at BAT Group Conferences or conveyed through other means.

To facilitate the flow of information with potential commercial application, the BAT Group Research Conference member companies attended regular meetings to obtain information on both jointly-supported and individual member company R&D activities. The Group members also scheduled technical exchange meetings to facilitate communications between different specialty areas and disciplines within individual companies and among and between companies within BAT. The documents also demonstrate the flow of information through a variety of other means including intercompany correspondence, and site visits by visiting scientists and executives. The documents further illustrate multiple efforts to facilitate the ready flow of information and technology by way of computer information networks, Group-wide distribution of technical reports, specific initiatives to foster improved communications, and the development of policies formalizing open information and technology exchange.

Taken together, the evidence makes clear that BAT's organizational goal was the efficient flow of information throughout the enterprise to speed the rate at which innovative R&D made its way into commercial products. The evidence shows that B&W was an active participant, both communicating and receiving information and participating in coordination and oversight of R&D activities within BAT.[1] Therefore, it is altogether reasonable to attribute to B&W the knowledge, information and conclusions contained in BAT Group Conference documents, in documents from other meetings at which B&W was represented, and in scientific reports and other technical documents which were distributed to B&W.

## III. Overview of the Evidence

The evidence before the Agency makes clear that between 1958 and at least 1985, a close functional relationship existed between B&W and BATCO that included the routine, systematic sharing of information and data related to tobacco product R&D. A formal cost-sharing agreement was created to support joint research programs for the benefit of BATCO, B&W and other BAT affiliates engaged in manufacturing or marketing of tobacco products. BATCO, B&W and the other affiliates supported a common research enterprise (BATCO Group Research & Development Centre [GR&DC]) to conduct jointly supported R&D activities.

Other documents show that information and data from both jointly-supported and individual company R&D activities were routinely shared at formal meetings attended by

[1] In fact, the evidence hints at an even more integral role for B&W in the BAT organization than that of other BAT affiliates.

representatives of the BAT-affiliated companies. The evidence also indicates shared oversight and coordination of jointly supported and individual company R&D activities. This coordination of R&D activities across BAT was intended to avoid unnecessary duplication of effort and to better serve BAT's overall strategic marketing and technology objectives. The shared responsibility among BATCO, B&W and the other BAT affiliates for deriving the scientific conclusions, recommendations, and strategic plans was developed at the formal meetings of group members.

The documents also show that information was routinely exchanged between BAT affiliate companies by means other than formal meetings, and that systematic efforts were undertaken to improve the flow of information throughout BAT Group.

A. Agreements to share the cost and results of joint R&D activities, and to share information from individual R&D activities.

Documents obtained by the Agency reveal a long history of formal agreements between BATCO and B&W to jointly support R&D activities and to exchange data and information from various R&D activities. One document contains a chronology of efforts by BATCO and B&W to reduce overall R&D costs by jointly underwriting certain activities, and by sharing the results of research done at individual affiliate companies. In fact, as of October 1958, because research was becoming "more extensive and more costly[,]" BATCO and B&W ". . . have been pooling the findings and experience resulting from [their] joint and separate research programmes."[2] The

[2] The chronology appears in undated handwritten notes from B&W that describe agreements between BATCO and B&W to share R&D information during the years 1958 to 1980.

notes reveal that BATCO and B&W "share reports and findings"[3] apparently without regard to which party generated and paid for the research. The notes also reveal a formula to share the costs of jointly-supported R&D based on the ratio of B&W sales to BAT sales."[4]

The notes suggest that this cost-sharing formula became unacceptable to the parties. It was abandoned in 1961 and each party was made responsible for the costs of their own R&D. However, information continued to be exchanged between BAT and B&W. In 1962, the parties apparently agreed to continue the free exchange of information and data from R&D activities at the individual companies, notwithstanding the lack of a formal cost sharing agreement. Moreover, the notes strongly suggest that this sharing of information was not limited to an exchange between B&W and BATCO, but included other BAT affiliates. The notes state that:

> *"B&W shall have access to everyone elses[′] - everyone else shall access to B&Ws′."*[5]

In 1969, B&W and BATCO again entered into a formal R&D cost- and risk-pooling agreement.[6] The agreement stated that:

> *. . . (c) The product of most of the research and development work conducted by the parties is mutually beneficial . . . .*
>
> *(d) The parties have for many years exchanged the product of their development work. Brown & Williamson has the rights to all such developments within the*

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[3] *Id.* at p. 1.

[4] *Id.* at p. 2.

[5] *Id.* at p. 2.

[6] British-American Tobacco Company Limited and Brown & Williamson Tobacco Company R&D Cost and Risk Pooling Agreement, entered into on July 9, 1969.

> *United States of America . . . .British-American Tobacco Company Limited has such rights elsewhere.*
>
> *(e) It is the purpose of the parties to continue exchange of this development product as heretofore on the basis of this formalized cost and risk sharing agreement . . . .*[7]

The agreement envisioned a very broad exchange of information, including:

> *. . . the development and evaluation of new smoking materials and smoking and related products and improvement therein through changes in ingredient materials, filtration, the use of tobacco and filtration additives for various purposes, and combustion and other smoke stream controls as well as other scientific research pertinent to smoking products.*[8] [Emphasis added.]

The agreement was signed on July 9, 1969, and made retroactive to January 1, 1969. It was to be in effect for five years.[9] However, a 1977 document indicates that the agreement was extended and still in force in 1977.[10] The 1977 document references the 1969 agreement in which BATCO and B&W "agreed to share the costs of certain research and to make research information and product development freely available to each other"[11] and indicates that there had been a comprehensive review of the conduct and financing of R&D among all the BAT

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[7] *Id.* at pp. 1-2.

[8] *Id.* at p. 3.

[9] *Id.* at p. 8.

[10] This document, dated February 7, 1977, is only the first page of a letter from an unidentified party at Brown & Williamson to the Secretary, British-American Tobacco Co. Ltd. The remainder of the document is missing. The document is a letter agreement to rescind the 1969 agreement between BATCO and B&W (as amended in 1974 and 1975) and enter into a new Cost and Risk Pooling agreement which includes BATCO, B&W and the other BAT affiliates involved in the manufacture and marketing of tobacco products.

[11] *Id.* at p. 1.

affiliated companies[12] engaged in the manufacture and marketing of tobacco products. This review identified a need to revise the cost-sharing aspects of the 1969 agreement between BATCO and B&W to include other BAT affihates.[13]

The minutes of a 1980 Group Research conference indicated that the companies continued to share R&D costs.[14] A 1985 document summarizing a meeting on R&D issues also indicated that the agreement to share costs and results of Group R&D activities remained in effect.[15]

In sum, the foregoing evidence demonstrates a close relationship between BATCO and B&W, from 1958 to at least 1985, designed to share information and data from R&D activities of both parties. The evidence reveals an ongoing plan to freely exchange information from jointly-supported and individual company R&D activities between BATCO, B&W and the other BAT affiliates. In addition, the evidence shows an ongoing plan for joint funding of certain research and development activities by BAT, B&W, and the other BAT affiliates, from 1969 to at least

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[12] The 1977 agreement defined "affiliate" as "all companies engaged in manufacture and marketing of tobacco products in which BAT owns, directly or indirectly, at least 30 percent of the voting stock." This would include, among others, Imperial Tobacco Ltd. in Canada.

[13] Apparently, it was the practice within BAT to exchange information broadly, and these other BAT affiliates had benefited from the shared R&D data under the 1969 agreement without financially supporting these activities. *Id.* at p. 1.

[14] BAT Group Research Conference, Sea Island, GA, September 1980, at p. 2.

[15] BAT Group Research Conference, Wallingford, UK, September 1985, at pp. 6-8. The BAT Group not only provided joint support for certain research activities, but also supported a separate Group research facility and staff, the BAT Group Research & Development Centre at Southampton, UK, to conduct the Group's joint research activities. *See, e.g.,* BAT Group Research Conference, St. Adele, Quebec, November 1970, at p. 2.

1985. During approximately this same time period, the evidence documents the existence of a separate BAT Group Research facility for the conduct of certain of the Group's joint R&D activities.

B. International meetings attended by representatives from BATCO, B&W, and other BAT affiliates, to discuss and exchange information on joint and individual company R&D, marketing and policy-related activities.

BATCO documents from the early 1960's provide evidence of formal BAT Group Research meetings that were held to address specific tobacco-related issues.[16] BATCO documents from the late 1960's through 1985 show that representatives from BATCO, B&W and other BAT affiliated companies attended numerous meetings which were held to keep member companies informed of the latest technical, marketing, and policy-related developments.

These later BAT documents reveal that there were regular meetings of the BAT Group, called either Group Research Conferences or Group Research & Development Conferences (hereafter "Group Conferences"). These Group Conferences were routinely attended by representatives from each Group member and seem to have been held on an annual basis.[17]

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[16] *See, e.g.,* BAT Research Conference, Smoking and Health - Policy on Research, Southampton, UK, 1962 (conference was held to discuss what direction research should take, and how the company should respond generally, in light of the mounting evidence of adverse health consequences due to cigarettes); BAT Research Conference, The Importance of Phenols to the Health Question and Their Possible Elimination from Cigarette Smoke, Southampton, UK, 1962.

[17] Documents obtained by the Agency include notes or minutes from the following Group Research Conferences:

October 1967, Montreal, PQ
September 1968, Hilton Head, SC
June 1969, Kronenberg, Germany
November 1970, St. Adele, PQ

These conferences served as opportunities to exchange data and information from jointly-supported and individual company R&D activities. Conference agendas ranged from general policy matters arising from the public health controversy surrounding tobacco products, to the minute details of cigarette manufacturing processes.[18] The documents also make clear that the scope of R&D matters discussed during these conferences included the R&D activities of all the BAT Group members.[19]

B&W documents also reveal the existence of so-called "technical exchange" meetings which involved the Group Research people from BAT Group member companies and technical

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1972, Chelwood Vachery, UK
January 1974, Duck Key, FL
April 1975, Merano, N. Italy
March 1978, Sydney, Australia
February 1979, Part I, location not identified
February 1979, Chewton Glen and Torquay, UK, R&D Policy Conference
October 1979, London, UK
September 1980, Sea Island, GA
August 1981, Pichlairn, Austria
August 1982, Montebello, Canada
August 1983, Rio de Janeiro
September 1984, UK
September 1985, Wallingford

[18] The minutes of a 1968 Group Research conference illustrate the breadth of issues that were discussed at Group research Conferences. The minutes identify the three major themes under discussion as (1) smoking and health, (2) product development, and (3) process development (manufacturing). BAT Group Research Conference, Hilton Head, SC, September 1968, at p. 1.

[19] For example, the minutes of a 1974 Group Research conference state that the "discussion was wide ranging and covered most of the activities of R&D in the various companies represented." BAT Group Research & Development Conference, Duck Key, FL, January 1974, at p. 1. Similarly, the minutes of a 1979 Group Research Conference note that the bulk of the five day conference was spent reviewing the R&D activities "of the Southampton [BATCO GR&DC], Canadian, German, Australian, Brazilian, and U.S. [B&W] Laboratories." BAT Group Research Conference, Notes, February 5-9, 1979, at p. 1.

staff from other specialty areas or disciplines within these same companies.[20] The minutes of a 1984 Group Research Conference contain summaries of several technical exchange meetings that had occurred during that year, including a summary of a tobacco flavorists workshop to exchange information on new flavor materials, techniques and procedures.[21] Conferees at the 1983 Group

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[20] The documents include notes or minutes from the following meetings involving BAT, B&W, and other BAT affiliates:

October 1976, Conference on Smoking Behavior
November 1977, International Smoking Behavior Conference, Chelwood Vachery, England
1983, Smoking Behavior Conference
July 1984, Smoking Behavior/Marketing Conference, Montreal
November 1983, Flavourists Workshop II, Louisville, KY
April 1984, Biological Conference, Southampton, UK
June 1984, Nicotine Conference, Southampton, UK
June 1984, Structured Creativity Conference, Southampton, UK
1984, Psychology Research Program

The 1983 BAT Group Research Conference in Rio de Janeiro, at p. 16, identifies the following meetings as having taken place in the previous year:

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|---|---|---|---|
| September | 1982 | Research Conference | Canada |
| November | 1982 | Production Conference | UK |
| December | 1982 | Combustion Conference | UK |
| March | 1983 | Environmental Smoke Mtg. | UK |
| March | 1983 | INTERBAT Meeting | UK |
| April | 1983 | Smoking Behavior Conf. | USA |
| May | 1983 | Tobacco Processing Mtg. | Germany |
| May | 1983 | Biological Meeting | UK |
| May | 1983 | Review of GR&DC Program | UK |
| June | 1983 | Flavourist Conference | Germany |
| July | 1983 | Computer Modelling Conf. | UK |
| August | 1983 | Research Conference | Brazil |

[21] BAT Group Research Conference, UK, September 1984, at p. BW-W2-01987-8. (summary of Flavorists Workshop II, Louisville, KY, November 1983). This same document contains a summary of a 1984 Smoking Behavior-Marketing Conference that brought together R&D and marketing people, and was intended to better integrate R&D and marketing activities throughout BAT. This summary contains notes of the closing speaker's remarks:

> *[The closing speaker observed that there had been an] open exchange of ideas and information. He proposed that the conference achieved its objective of bringing R & D and Marketing people together, of sharing in a vocabulary and updated awareness of available techniques and developing technologies, and where their applications are seen*

Research Conference in Brazil agreed that Group Research Conferences and technical exchange meetings were a "highly effective means of exchanging technology throughout the Group," and further agreed that the frequency of meetings should be maintained at a similar level in the future.[22]

From 1982 to 1985 there were 29 scheduled or proposed meetings.[23] The minutes of the 1985 Group Research Conference reviewed the status of R&D and information exchange throughout BAT and, on the basis of this review, proposed that the technical meetings be held more frequently.[24]

Thus, the evidence shows that from the early 1960's through at least 1985 routine and frequent meetings were held to facilitate the systematic flow of information and data to all corners of the BAT enterprise involved in manufacture and marketing of tobacco products. All of these meetings were attended by representatives from BATCO, B&W and the other BAT affiliates engaged in the manufacturing and marketing of tobacco products. The documents indicate that BAT Group was satisfied that these meetings were effective in communicating such information throughout the Group and, for that reason, the Group intended to continue these meetings in the future.

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*in the future.*
BAT Group Research Conference, UK, September 1984, at p. BW-W2-01986.

[22] BAT Group Research Conference, Rio de Janeiro, August 1983, at p. 16 (BW-W2-01844).

[23] BAT Group Research Conference, UK, September 1984, "Listing of Recent Technical Exchange Meetings and Suggestions for Future Meetings," at pp. BW-W2-02026-02027.

[24] BAT Group Research Conference, Wallingford,UK, September 1985, at pp. 3-4.

C. R&D Oversight by BAT Group

The minutes from a 1962 BAT Scientific Conference disclose that the free and equal participation of all Group members was considered a fundamental tenet of BAT's Group Research initiative[25]. A senior BAT official told the conferees that:

> *the reason for raising this point in a rather direct manner is because of the overriding importance of making our Group Research a successful reality -- a reality which can grapple with situations like this. Obviously, it can be successful Group Research if it expresses joint opinions of you all acting as equals with equal responsibilities. I hope our discussion this morning will help that onwards.*[26]

Later documents clearly illustrate an effort on the part of BAT Group to conduct its affairs in an egalitarian manner. Numerous documents indicate that each BAT Group member had input into the coordination of R&D activities. The goal of this coordination effort was to take advantage of economies inherent in shared R&D and to meet BAT's overall strategic goals. Moreover, the documents show that the Group members negotiated and tried to reach consensus on conclusions and recommendations on research, product development and policy-related matters. The minutes from a 1972 Group Research Conference expressly refer to each of these oversight functions. The Conference objectives were identified as coordination of R&D policy and formulation of R&D recommendations.[27]

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[25] BAT Group Research Conference, The Importance of Phenols to the Health Question and Their Possible Elimination from Cigarette Smoke, Southampton, UK, 1962

[26] *Id.* at p. 2.

[27] BAT Group Research & Development Conference, Chelwood, UK, October 1972, at p. 1.

(1) Coordination of Group Research Activities

Numerous documents repeatedly stress the importance of the BAT Group's coordination of R&D activities between and among BATCO GR&DC and the affiliate members of the Group. For example, after discussing the coordination of research activities within BAT, the conferees at the 1972 Group research Conference concluded that the Group's oversight and coordination function is useful, and that on occasion it would be beneficial to have even broader input from technical specialists at member companies.[28]

The documents further reveal efforts to divide certain R&D functions between member companies and the central research facility. The central facility, BATCO GR&DC, was intended to serve more of a long-term, basic research function. This function was intended to complement the shorter-term, more operational-type research done by affiliate companies.[29]

For example, the minutes of the 1980 Group Research Conference discussed a

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[28] *Id.* at p. 5. Other documents also emphasized the need for coordination. For example, notes from the 1974 Group Research Conference stated that "[t]he value of the Group R. & D. Conference in co-ordination of research and development programmes and cooperation across the Group was again underlined." BAT Group Research & Development Conference, Duck Key, FL, January 1974, at p. 5. *See also,* Letter from unidentified party at Brown & Williamson Tobacco Corporation to Secretary, British-American Tobacco Co. Ltd., dated February 7, 1977, at p. 1; BAT Group Research and Development Conference, London, UK, October 1979, at p. 1; BAT Group Research and Development Conference, Sea Island, GA, September 1980, at p. 1 (one of the conference objectives is "to establish guidelines for the formulation of a 1981 Programme that reflects the major technical needs and priorities of the BAT Group"); letter from RA Sanford, Brown & Williamson, to A Heard, BATCO GR&DC, August 18, 1980, attaching survey prioritizing, from B&W's perspective, research issues to be discussed at upcoming Research Conference.

[29] *See, e.g.,* BAT Group Research Conference, Sea Island, Georgia, September 1980, at pp. 1-2. The minutes of another Group Research Conference similarly characterize the role of BATCO GR&DC:

> *The bulk of the [GR&DC] programme should be concerned with new concepts and inventions to support the Group's longer term continuity.*

BAT Group Research & Development Conference, London, October 1979, at p. 3.

coordinated tobacco processing research effort. These minutes note that the theoretical work at BATCO GR&DC complements the practical work being done in Brazil (Souza Cruz).[30]

In addition, the minutes of the 1983 Group Research Conference reveal that economic circumstances had forced cut backs in in-house R&D at the BAT affiliates, thereby placing a greater burden on the jointly-supported activities at GR&DC to keep BAT competitive within the industry.[31]

The Group Research member companies held a meeting in 1985 which included an extensive evaluation of the status of R&D programs at BATCO and its affiliated companies.[32] The conferees discussed problems with and progress towards coordination and prioritization of R&D activities within the BAT hierarchy. For example, they noted the development of a computer-based system to classify projects at all BAT laboratories. This system was expected to simplify identification and classification of projects, reduce overlap, and ensure efficient use of R&D resources.[33]

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[30] BAT Group Research Conference, Sea Island, GA, September 1980, at pp. 6-7.

[31] BAT Group Research Conference, Rio de Janeiro, Brazil, August 1983, at pp. 1-2. These same minutes also highlight the importance of the oversight function of the Group Research Conferences:

> *The Research Conference continues to be essential in formulating and approving the Group R&D programme and in helping generally to sharpen the thrust and effectiveness of R&D throughout the Group.*

*Id.* at p. 2.

[32] BAT Group Tobacco Research and Development Conference, Wallingford, September 1985.

[33] *Id.* at p. 3. The 1985 meeting also shows the involvement of all the BAT affiliated companies in decisions on the direction and scope of existing and future research activities. The document reveals that "[m]ajor programme objectives and priorities" are to be evaluated by the members of the Research Conference Group, "taking as inputs their own perspectives, proposals from their own R&D Centres and proposals from Group specialist meetings." *Id.* at p. 5. It was further recommended that "proposals for

The documents also make clear that the effort to prioritize and coordinate R&D activities was intended to have commercial implications for BAT's products. A major objective of a 1983 Smoking Behavior Conference was:

> *[t]o ensure a comprehensive coordinated program of future work which addresses our research needs, with particular attention to commercial/product development implications of our research.*[34]

The 1985 minutes also emphasize that commercial application is the primary goal of BAT R&D activities. The document describes a specific effort to make better use of the commercial applications of R&D by involving certain scientists from operating companies who have both scientific and business applications expertise:

> *As an example, in the area of aerosol science, Dr. Schneider from Hamburg [BAT Hamburg] and Dr. Honeycutt from Louisville [B&W] will work with scientists from Southampton [GR&DC] with an objective of setting clearer business orientated objectives for this research work. . . .*[35]

(2) Consensus on Conclusions and Recommendations

Representatives from BAT member companies had substantial input into the conclusions reached and recommendations made at conferences. For example, a 1968 letter from B&W representative, Dr. R.A. Sanford to Dr. S.J. Green, BATCO GR&DC, transmits B&W's comments and revisions to the draft conclusions from the recently concluded Group Research

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research should be circulated . . . to the appropriate senior scientists throughout the Group, for evaluation and comment. . . ." *Id.*

[34] BAT Smoking Behavior Conference, April 1983, at p. 1.

[35] *Id.* at pp. 5-6.

conference at Hilton Head, SC.[36] A 1969 letter from Dr. Green to Dr. Sanford transmits a draft agenda for an upcoming Group Research Conference in Kronenberg and indicates that one full day will be set aside for reaching agreement on conference conclusions and recommendations on future R&D direction.[37]

The evidence also indicates that the process of reaching consensus on conclusions and recommendations was not simply pro forma. For example, the minutes to a 1980 Group Research Conference expressly reject a conclusion offered in a position paper presented at the conference. The minutes state that:

> *The specific conclusion in the Position Paper on nicotine that caution is required in the development of low delivery products with higher than average nicotine/tar ratios was not accepted for the following reasons. . .*[38]

These documents demonstrate that each BAT affiliate involved in the manufacturing and marketing of tobacco products had input into oversight of both joint and individual R&D activities throughout BAT. The documents also show that each affiliate had input into the conclusions and recommendations resulting from data and information presented at BAT Group Research Conferences and other meetings. Moreover, the documents indicate that this coordination and oversight function was intended to facilitate the commercialization of innovative R&D within BAT.

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[36] Letter of RA Sanford, Brown & Williamson, to SJ Green, British-American Tobacco Company, December 4, 1968.

[37] Letter of SJ Green, British-American Tobacco Company, to RA Sanford, Brown & Williamson Tobacco Corporation, dated May 21, 1969, at p. 1.

[38] BAT Group Research Conference, Sea Island, GA, September 1980, at p. 3.

D. Routine exchange of information between and among BATCO, B&W, and other BAT affiliates

(1) Correspondence

A letter from Sir Charles Ellis, BATCO, to Addison Yeaman, General Counsel at B&W, suggests an especially close relationship between BATCO and B&W, in contrast to BATCO's relationships with other BAT affiliates. The letter transmits a sensitive, scientific memo entitled "A Tentative Hypothesis on Nicotine Addiction," which was prepared by the Battelle Institute in conjunction with Project Hippo.[39]

A 1968 letter from G.C. Hargrove of BAT to Addison Yeaman, General Counsel at B&W reveals B&W in the role of information conduit, not only to BATCO, but to all the other tobacco companies that are members of the U.K.'s Tobacco Research Council (similar to the Council for Tobacco Research in the U.S.).[40] The letter concerns information and data developed by the Arthur D. Little Company, who was a consultant to all the major U.S. tobacco companies. The letter seeks to confirm that the U.S. tobacco companies would not object to BATCO conveying the information to the other members of the U.K.'s Tobacco Research Council that it had received from B&W.

A 1985 letter from E.E. Kornhurst of B&W to J.A.B. Kellagher of BATCO shows one BAT company relying on the technical expertise of another BAT company.[41] The letter responds

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[39] Letter from Sir Charles Ellis, BATCO, to A Yeaman, B&W, June 28, 1963.

[40] Letter from GC Hargrove, BATCO, to A Yeaman, B&W, August 21, 1968.

[41] Letter of EE Kornhurst, Brown & Williamson Tobacco Co., to JAB Kellagher, British-American Tobacco Company Limited, April 26, 1985.

to a letter from BATCO to B&W requesting comment on a project to develop cigarettes with lower carbon monoxide levels. Kornhurst comments favorably on the BATCO project and volunteers information on a new B&W manufacturing process (use of shredded dried stems) that will reduce carbon monoxide in cigarette smoke. He offers to keep Kellagher informed of B&W's progress in implementing this process.[42]

(2) Site Visits

A 1965 memo by R.B. Griffith of B&W summarizes important matters addressed during Griffith's recent visit to BATCO. The report notes that:

> *Information obtained during a trip to England was considered important enough for presentation to the full [B&W] Executive Committee.*[43]

The information obtained concerned soon to be published research, supported by the tobacco industry in the U.K., that would bolster the conclusion that cigarette smoke is weakly carcinogenic.

A 1967 memo, apparently from the files of Dr. R.A. Sanford of B&W, details the visit of an unidentified B&W scientist to the "BAT Research and Development Establishment in Southampton" for the purpose of exchanging R&D information.[44]

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[42] *Id.* at p. 2.

[43] Memo by RB Griffith, Brown & Williamson Tobacco Company, entitled "Report to Executive Committee", July 1, 1965.

[44] File Note entitled "Current Chemistry Research at Southampton," dated July 14, 1967, (apparently from the files of Dr. R.A. Sanford, B&W) at p. 1. *See also* 1983 letter from the BAT affiliate in Australia discussing a site visit to B&W ( July 22, 1983 letter of PM Denton, W.D. & H.O. Wills

These documents show that the information exchanged between and among BATCO, B&W and the other BAT affiliates at formal meetings was routinely supplemented by other means of information exchange, including routine correspondence between BAT affiliates, and exchange visits by BAT scientists and executives to other BAT facilities.

E. Other efforts by BAT and its affiliates to foster and facilitate the exchange of information and technology

The documents indicate a long-term effort to have open lines of communication between and among BAT, B&W and the other BAT affiliates. A 1954 private correspondence from John W. Hill, then president of the public relations firm of Hill & Knowlton, to Alan Campbell-Johnson, Campbell-Johnson Ltd., suggests the need to facilitate better communication between BATCO and B&W.[45] The documents referenced below discuss a number of specific initiatives to improve communications between BATCO and B&W, and between and among all the BAT affiliates involved in the manufacture and marketing of tobacco products.

(1) Computer-based information networks

Documents obtained by the Agency reveal the existence of computer-based information networks accessible to BATCO, B&W and other BAT affiliates. The minutes of a 1974 Group

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(Australia) Limited (BAT affiliate) to RA Sanford, Brown & Williamson discussing plans for Denton's forthcoming site visit); November 9, 1973 letter of MA Anson, Imperial Tobacco Limited (UK) to EP Finch, Brown & Williamson documenting site visit by Anson to B&W.

[45] Correspondence from John W. Hill, Hill & Knowlton, to Mr. Alan Campbell-Johnson, Campbell-Johnson Limited, May 18, 1954.

Conference discuss new communication lines and an information retrieval system intended to improve communications between and among BAT, B&W and other BAT affiliates. The minutes state that:

> *Communication lines were set up to speed up interchange of information on new packaging and finishes, and also on materials in short supply.*
>
> *The Southampton [GR&DC] computer-based product data information retrieval system was described and this approach was welcomed by all.*[46]

Later Group Research Conference reports also reveal the existence of a computer information network called INTERBAT which was intended to provide BAT companies with access to Group R&D information. A 1980 Group Research Conference report indicates that INTERBAT was considered by Group members to be a valuable communication tool.[47] The report states that the members were considering expanding the amount of information available on INTERBAT, and were also concerned with the scope of access to sensitive information that may be on INTERBAT.[48]

(2) Promoting Interdisciplinary Communications

The major focus of a 1984 Smoking Behavior/Marketing conference was to further expand communications within BAT by facilitating an interdisciplinary flow of information between scientists and marketing people within the BAT companies. The stated objective was:

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[46] BAT Group Research & Development Conference, Duck Key, FL, January 1974, at p. 5.

[47] BATCO Group Research Conference, Sea Island, GA, September 15-18, 1980, at p. 7.

[48] *Id. See also,* BATCO Group Research Conference, Montebello, Canada, August 30-September 3, 1982, at p. 12; BATCO Group Research Conference, Rio de Janeiro, Brazil, August 22-26, 1983, at p. 16.

> *[t]o promote a discussion among the delegates on the most appropriate future directions and feasible means of communication [across technical and marketing disciplines] within/between divisions and companies.*[49]

The conferees concluded that "communications between R&D and Marketing must continue to be developed and improved." Ideas to develop and improve such communications included:

> *Better information coordination between companies and within companies.*
>
> *Informal exchange of information and ideas.*
>
> *The possibility of having Marketing personnel at GR & DC for a period of a year or two, to act in an advisory or consultant role.*[50]

(3) Standardized Technical Reports

At a 1985 meeting to assess the state of BAT research and development, mechanisms were proposed to enhance the flow of information among BAT-affiliated laboratories, outside the context of Group Research conferences. Among the initiatives was a specific proposal that all laboratories provide "[r]eports, reviews, and other technical documents" using the BATCO Group R&D format as a model.[51] The proposal implies that there has been a history of routine exchange of reports, reviews and other technical documents. This proposal merely seeks to improve the utility and/or accessibility of these reports by other BAT scientists through use of standardized formats.

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[49] BATCO Group Research Conference, UK, 1984, containing summary discussion of Smoking Behavior/Marketing Conference at BW-W2-01978.

[50] *Id.* at p. BW-W2-01983-4.

[51] BATCO Group Research Conference, Wallingford, UK, September 1985, at p. 3. *See also* BATCO Group Research Conference, London, UK, October 29-November 1, 1979, at p. 16 (discussing BATCO GR&DC progress reports-to be generated by GR&DC at their discretion).

(4) BAT technology exchange policy

The 1983 Group Research Conference specifically addressed the "interchange of technology" among BAT affiliates. The conferees supported, in principle, an open-door exchange policy across BAT Group for technological innovation, for both product and process innovations. They also advocated the development of specific guidelines for protecting the security of information and for limiting the duplication of applied development.[52]

These documents evidence comprehensive efforts on the part of BAT Group members to ensure broad access to information and technology within BAT. The documents show specific efforts to enhance direct access to information by all BAT Group members by use of computer information retrieval technology, to develop interdisciplinary channels of communication, to improve the quality of information conveyed, and to foster quick and efficient implementation of technological innovations.

[52] BAT Group Research Conference, Rio de Janeiro, Brazil, August 1983, at p. 14 (BW-W2-01842).