

The WHO Framework Convention on Tobacco Control: an overview

Background

The **WHO Framework Convention on Tobacco Control** (WHO FCTC) is the first global public health treaty. It is an evidence-based treaty that reaffirms the right of all people to the highest standard of health.

The WHO FCTC was developed by countries in response to the globalization of the tobacco epidemic. It aims to tackle some of the causes of that epidemic, including complex factors with cross-border effects, such as trade liberalization and direct foreign investment, tobacco advertising, promotion and sponsorship beyond national borders, and illicit trade in tobacco products.

The preamble to the Convention shows how countries viewed the need to develop such an international legal instrument.

It cites their determination “to give priority to their right to protect public health” and the “concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke”. It then notes the scientific evidence for the harm caused by tobacco, the threat posed by advertising and promotion, and illicit trade, and the need for cooperative action to tackle these problems. Other paragraphs of the preamble note the role of civil society, and the human rights that the Convention aims to support.

The Convention entered into force on 27 February 2005 – 90 days after it had been acceded to, ratified, accepted, or approved by 40 States. There are currently 180 Parties to the Convention.

The Parties have made great progress in tobacco control since then, often as a result of fulfilling their obligations under the convention. The global progress reports, and the implementation database maintained by the Convention Secretariat, demonstrate the achievements as well as the areas in which more progress needs to be made.

The Conference of the Parties (COP) is the governing body of the WHO FCTC and is comprised of all Parties to the Convention.

The Convention is divided into sections:

- Articles 3-5 establish the objective, guiding principles and general obligations engendered by the treaty;
- Articles 6 to 14: demand-side reduction measures;
- Articles 15-17: supply-side reduction measures;
- Article 18: protection of the environment;
- Article 19: liability;
- Articles 20-22: cooperation and communication;
- Articles 23-26: institutional arrangements and financial resources;
- Article 27: settlement of disputes;
- Articles 28-29: development of the convention; and
- Articles 30-38: “final provisions”, covering statutory matters such as means of acceding to the Convention, entry into force, and so on.

The following sections provide a brief, article-by-article overview of the Convention.

PART I

Introduction

- In **Articles 1 and 2**, the Convention establishes the terminology used in its text (Article 1) and the relationship between the Convention and other agreements and legal instruments (Article 2).
- An important aspect of **Article 2** is its first paragraph, which states that “Parties are encouraged to **implement measures beyond those required by this Convention** and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law”.

PART II

Objective, guiding principles and general obligations

- **Article 3** establishes that the “the **objective** of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke”.
- In **Article 4**, Parties are provided with **guiding principles** that highlight the need to raise public awareness; to make a political commitment to develop and maintain comprehensive multisectoral measures and coordinated responses; for international cooperation; to consider taking action to deal with criminal and civil liability; to provide assistance for tobacco workers and growers; and to ensure the participation of civil society.
- **Article 5, general obligations**, requires Parties to establish essential infrastructure for tobacco control, including a national coordinating mechanism, and to develop and implement comprehensive, multisectoral tobacco-control strategies, plans and legislation to prevent and reduce tobacco use, nicotine addiction and exposure to tobacco smoke. This process must be protected from the interests of the tobacco industry. The Article also calls for international cooperation and refers to raising the necessary financial resources for implementation of the Convention.
- **Article 5.3** is one of the most important cross-cutting provisions of the Convention, and one for which implementation guidelines have been adopted. It requires Parties to protect their tobacco control and public health policies from commercial and other vested interests of the tobacco industry.
- **Article 5** also stipulates that Parties shall cooperate with international organizations and with each other to achieve the objective of the Convention and to raise financial resources for its implementation (see also Article 26).

PART III

Measures relating to the reduction of demand for tobacco

- **Article 6** encourages price and tax measures as effective means to reduce the demand for tobacco. These include tax increases that result in an increase of the sales price of tobacco products; and prohibiting or restricting sales of tax- and duty-free tobacco products. Guidelines for implementation of Article 6 were adopted at COP6 in October 2014.
- **Article 7, Non-price measures to reduce the demand for tobacco**, stipulates that Parties shall implement non-price measures pursuant to Articles 8 to 13 through effective legislation, regulation and policies, while the COP is called upon to propose guidelines on the same articles.

- **Article 8** addresses the adoption and implementation of effective measures to provide protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places. Guidelines for implementation of Article 8 were adopted at COP2. Although there is no timeline imposed in the treaty itself, the guidelines recommend that comprehensive smoke-free policies be put in place within five years of entry into force of the Convention for that Party.
- **Article 9** requires Parties to regulate the contents and emissions of tobacco products and the methods by which they are tested and measured. **Article 10** calls upon Parties to request manufacturers and importers to disclose to government authorities and the public information on the constituents and emissions of tobacco products. **Partial guidelines** were adopted at COP4 with amendments adopted at COP5 and COP6.
- **Article 11** requires each Parties, within three years of entry into force of the Convention for that Party, to adopt and implement effective measures to prohibit misleading tobacco packaging and labelling; ensure that tobacco product packages carry large health warnings and messages describing the harmful effects of tobacco use; ensure that such warnings cover 50% or more, but not less than 30%, of principal display areas and that they are in the Parties' principal language(s); and ensure that packages contain prescribed information on the tobacco products' constituents and emissions. Guidelines on implementation of Article 11 were adopted at COP3.
- **Article 12, Education, communication, training and public awareness**, concerns raising public awareness of tobacco control issues through all available communication tools, such as media campaigns, educational programmes and training. It also calls upon Parties to promote training and sensitization programmes among a broad range of target groups, including media professionals and decision-makers, among others. Parties are also required to promote access by the public to information on the tobacco industry. COP4 adopted guidelines for the implementation of Article 12.
- **Article 13** requires Parties to undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship (a list of forms of tobacco advertising, promotion and sponsorship within the terms of the Convention, is provided in the appendix to the guidelines for implementation of Article 13, which were adopted at COP3). To be effective, the ban should cover all types of tobacco advertising and promotion as well as any sponsorship conducted by the tobacco industry. The comprehensive ban must be put into effect within five years of entry into force of the Convention for each Party, including of a cross-border advertising ban originating from the Party's territory. Parties that are not in a position to provide for a comprehensive ban due to their constitutional principles must apply restrictions..
- **Article 14** concerns the provision of support for reducing tobacco dependence and cessation, including counselling, psychological support, nicotine replacement, and education programmes. Parties are required to develop and disseminate national guidelines on tobacco cessation and are encouraged to establish sustainable infrastructure for such services. COP4 adopted guidelines for implementation Article 14.

PART III

Measures relating to the reduction of supply of tobacco

- **Article 15** concerns the commitment of Parties to eliminate all forms of illicit trade in tobacco products. The Protocol to Eliminate Illicit Trade in Tobacco Products builds on this article. It includes obligations concerning the marking of tobacco packaging to enable tracking and tracing, the monitoring of cross-border trade, legislation to be enacted, and confiscation of proceeds derived from the illicit trade in tobacco products. Parties are also required (in accordance with national law), to cooperate with each other and with international organizations in combating illicit trade.

- **Article 16** describes the measures that Parties are required to take to prohibit the sales of tobacco products to or by persons under the age set by domestic law, national law or 18 years, as well as other measures limiting the access of underage persons to tobacco products. These include the selling of tobacco products individually or in small packets, distribution of free tobacco products, ensuring that tobacco vending machines are not accessible to minors, and proposes, for consideration by the Parties, options to a total ban of tobacco vending machines.
- Under **Article 17**, *provision of support for economically viable alternative activities*, Parties are obligated, in cooperation with each other and with competent intergovernmental organizations, to promote economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers. Policy options and recommendations on Articles 17 and 18 were adopted at COP 6.

PART V

Protection of the environment

- **Article 18** addresses concerns regarding the serious risks posed by tobacco growing to human health and to the environment.

PART VI

Questions related to liability

- Under **Article 19**, Parties agree to consider taking legislative action or promoting their existing laws to deal with liability and to provide each other with assistance in legal proceedings relating to liability, as appropriate and mutually agreed. Implementation of Article 19 presents Parties with an opportunity to collaborate in their efforts to hold the tobacco industry liable for its abuses. The importance of liability as part of comprehensive tobacco control is also recognized in Article 4.5.

PART VII

Scientific and technical cooperation and communication of information

- Under **Article 20**, Parties undertake to develop and promote national research and to coordinate research programmes internationally, as well as to establish and strengthen surveillance for tobacco control and to promote exchange of information in relevant fields.
- Parties are required, under **Article 21**, to submit to the COP, through the Convention Secretariat, periodic reports on implementation of the Convention. The COP determines the frequency and format of such reports. In 2010, COP4 adopted a decision to introduce a biennial reporting cycle that began in 2012.
- **Article 22** requires Parties to cooperate directly or through competent international bodies to strengthen their capacity for implementing obligations arising from the Convention

PART VIII

Institutional arrangements and financial resources

- In this section, **Articles 23-25** cover the procedures for the establishment and convening of sessions of the COP, for the establishment and functioning of the Convention Secretariat, and relations between the COP and intergovernmental organizations.
- In **Article 26** Parties are requested to provide financial support for their programmes intended to achieve the objective of the Convention, in accordance with their national plans, priorities and programmes. Article 26 also requires Parties to promote the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the implementation of national activities (also referred to in Article 5.6 of the Convention).

PARTS IX-X

Settlement of disputes and development of the Convention

- The articles in these sections cover settlement of disputes between Parties, and matters such as amending the Convention, withdrawal, right to vote, adoption of protocols, and the procedures for acceding to the Convention and for its entry into force.

Protocol and guidelines

The first Protocol to the WHO FCTC, the Protocol to Eliminate Illicit Trade in Tobacco Products, was adopted at COP5, held in November 2012 in Seoul, Republic of Korea, following several rounds of negotiations by the Parties. The Protocol builds on the WHO FCTC (Article 15) in the fight against illicit trade, and is a new international treaty in its own right.

Parties have also adopted, by consensus, the guidelines for implementation of key provisions of the WHO FCTC. The guidelines assist Parties in meeting their legal obligations under the WHO FCTC, with recommended actions that elaborate on the provisions of the Convention. They were developed through intergovernmental processes, and adopted by the Parties at sessions of the COP.