



**FCTC**

WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL

**Conference of the Parties to the  
WHO Framework Convention  
on Tobacco Control**

Seventh session  
Delhi, India, 7–12 November 2016

**12 November 2016**

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**DECISION**

**FCTC/COP7(21) Trade and investment issues, including agreements, and legal challenges in relation to the implementation of the WHO FCTC**

The Conference of the Parties (COP),

Reiterating its determination to give priority to the right of Parties to protect public health;

Reaffirming the right of everyone to enjoy the highest attainable standard of physical and mental health;

Recalling the Punta del Este Declaration on the Implementation of the WHO Framework Convention on Tobacco Control adopted by the fourth session of the COP and Seoul Declaration adopted by the fifth session of the COP in which the Parties expressed their commitment to measures designed to control tobacco consumption in their respective jurisdictions and to prevent tobacco industry interference from hindering implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC):

Recalling that the WHO FCTC is the first international and multilateral instrument on tobacco control that is legally binding for all Parties;

Recognizing that tobacco products are the only consumer products that kill up to half of its users when used as intended, and that they are different from other consumer products in light of scientific evidence that has unequivocally established that tobacco consumption and exposure to tobacco smoke cause deaths, disease and disability;

Recognizing also the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts;

Recalling that Article 2 of the Convention provides, inter alia, that the provisions of the Convention and its Protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional

to the Convention and its Protocols, provided that such agreements are compatible with the obligations under the Convention and its Protocols;

Taking note with interest of recent developments and decisions of international tribunals that affirm the sovereign right of States to adopt public health measures on tobacco control;

Recognizing that measures to protect public health, including measures implementing the WHO FCTC and its guidelines, fall within the power of sovereign States;

Considering the importance of safeguarding regulatory space for public health objectives, including tobacco control policies, when entering into trade and investment agreements;

Taking note of the report on “Trade and investment issues, including agreements, and legal challenges in relation to the implementation of WHO FCTC” (document FCTC/COP/7/21);

1. CALLS on Parties to increase, as appropriate, coordination and cooperation between health and trade/investment departments, including in the context of negotiations of trade and investment agreements;
2. REQUESTS the Convention Secretariat, in cooperation with the World Health Organization (WHO) and the relevant Knowledge Hubs:
  - (a) to collect, document and inform Parties as appropriate on practices in promoting and safeguarding public health measures, including tobacco control measures, under trade and investment agreements and in compliance with international commitments;
  - (b) to document recent developments and decisions of international forums and tribunals regarding tobacco control measures implemented by Parties in compliance with the WHO FCTC and its guidelines with the objective of protecting public health;
  - (c) to document the tobacco control measures most frequently targeted by the tobacco industry, and inform Parties, as appropriate, on how to protect their regulatory capacity in this regard;
  - (d) to report back to the eighth session of the COP on this regard.

(Fifth plenary meeting, 12 November 2016)

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