

**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
Provisional agenda item 7.9**FCTC/COP/7/30**
13 July 2016**Maximizing transparency of Parties' delegations,
intergovernmental organizations, nongovernmental
organizations and civil society groups during sessions of
the COP and meetings of its subsidiary bodies****Report by the Convention Secretariat****BACKGROUND**

1. At its sixth session (Moscow, Russia, 13–18 October 2014), the Conference of the Parties (COP) adopted decision FCTC/COP6(25)¹ entitled “Maximizing transparency with regard to Party delegations to the Conference of the Parties and its subsidiary bodies”.
2. As mandated by the COP, the Bureau discussed, at its second and third meetings, in October 2015 and April 2016, measures to maximize transparency of delegations, and is now proposing recommendations for consideration by the COP.
3. The Convention Secretariat would like to inform the COP that it has carried out activities in the past intersessional period which ensured, with a high degree of probability, that meetings held under its workplan(s) were free of tobacco industry interference. It also initiated a consultative process with several experts² on Article 5.3 to gather material on the implementation of decision FCTC/COP6(14)³, including matters of transparency. Such contributions are also reflected in this paper.
4. Furthermore, the Convention Secretariat together with WHO during their participation at the sixth meeting of the UN Interagency Task Force on Noncommunicable Diseases (UNIATF) on 10–12 February 2016, proposed for the consideration of other UN agencies and intergovernmental agencies (IGOs), including some observers to the COP, the draft of a model policy to prevent interference by the tobacco industry. The draft policy seeks to “exclude any person employed by or providing consultancy or other services to the tobacco industry to be a member of any committee, advisory or expert group or governing board delegation”. Adopting a policy along these lines will ensure that UN system agencies act in the spirit of Article 5.3 of the Convention and its guidelines.

1 See Document FCTC/COP/6/27 that provided the background for the consideration of this matter at COP6.

2 First, on the sidelines of the 16th World Conference on Tobacco or Health and second, in a meeting jointly organized by the Convention Secretariat and SEATCA (an observer to COP) took place in Bangkok, Thailand, on 23–25 November 2015.

3 This decision concerns measures on the “Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry”, especially with regard to international forums. See document FCTC/COP/7/7.

Contributions to the draft policy from various members of the Task Force were accepted until the end of April 2016 and a final draft incorporating relevant comments will be proposed for adoption at the next UNIATF meeting in October 2016. The Convention Secretariat will also continue to guide IGOs which are part of UNIATF and have chosen to adopt individual policies.

5. The Convention Secretariat further analyzed the lists of participants from previous COP meetings in advance of the Bureau meeting in October 2015 and found that at least 11 Parties have sent representatives affiliated to the tobacco industry to one or more meetings of the COP, including from state tobacco monopolies, specialized tobacco agencies and associations, etc. This is likely to be an underestimate because it represents only delegates whose ties to the tobacco industry are easily identified through their titles. Additionally, the Convention Secretariat also analysed records from the last three COP meetings on the issuance of public badges to examine whether the relationship of applicants to the tobacco industry was recorded or not.

6. As such, this report aims to propose further measures to maximize the transparency of participating delegations at the seventh session of the Conference of the Parties to the WHO FCTC (COP7 and other subsidiary body meetings).

INVITATIONS TO GOVERNING BODY AND OTHER MEETINGS UNDER THE COP WORKPLAN

7. The Convention Secretariat initiated the inclusion of standard sentences aimed at preventing participation of delegates representing the tobacco industry or any entity seeking to further its interests in 2014, and tested such sentences in invitations issued in relation to technical meetings organized under the COP workplan. Furthermore, the Bureau discussed and agreed to this adopted practice, and worked on and agreed to the wording. Two sentences were approved by the Bureau, which are now brought to the attention of COP7. The two standard sentences are to be included in all letters of invitation originating from the Head of the Convention Secretariat for meetings of subsidiary bodies as well as technical meetings organized by the Convention Secretariat. The Bureau also agreed that these sentences are included, on a provisional basis, in the invitation letters and can be amended, if appropriate, upon consideration and adoption by COP7:

- in the case of statutory meetings: “In accordance with Article 5.3 of the WHO FCTC and the guidelines for implementation of Article 5.3 adopted by the COP in 2008, Parties should not nominate a person with a conflict of interest⁴ with the tobacco industry or its affiliates, or any beneficiary of the proceeds of the tobacco trade⁵.”
- in the case of technical meetings organized by the Convention Secretariat: “In accordance with Article 5.3 of the WHO FCTC, the guidelines for implementation of Article 5.3 adopted by the COP in 2008, as well as relevant decisions of the COP, Parties are urged not to invite persons who represent the tobacco industry or entities working to further the interests of the tobacco industry as part of their delegations.”

8. According to established practice for working group and technical meetings, when nominations are received from the Parties and there is evidence of an infraction, the Convention Secretariat will

⁴ WHO Guidelines for Declaration of Interests (WHO Experts): Meaning of “Conflict of Interest: I.2: In the context of these Guidelines, the term ‘conflict of interest’ means any interest declared by an expert that may affect or reasonably be perceived to affect the expert’s objectivity and independence in providing advice to WHO; I.3 WHO’s conflict of interest rules are designed to avoid potentially compromising situations that could undermine or otherwise affect the work of the expert, the committee or activity in which the expert is involved or WHO as a whole. Consequently, the scope of the inquiry is any interest that could reasonably be perceived to affect the functions that the expert is performing.”

⁵ This requirement could be related to recommendation 4.6 of the Guidelines for implementation of Article 5.3 of the Convention, i.e. “Parties should require government officials to declare and divest themselves of direct interests in the tobacco industry”. In addition, the Bureau felt it important to highlight the conflict of interest that may emerge if a delegate benefits from the tobacco trade in any other way, e.g. by operating a tobacco shop.

prevent the participation of tobacco industry-linked nominees through a refusal to issue an invitation letter to that participant. If the person with the conflict of interest nonetheless attends the meeting, access to the meeting room will be denied by Convention Secretariat staff. This practice could be extended to other statutory meetings, as relevant, should the Conference of the Parties so decide.

Signing of declaration of interest (DOI) forms

9. According to current practice, the Convention Secretariat requires nominees to expert groups, as well as contracted external consultants, to sign a declaration of interest (DOI) form to confirm their non-involvement with the tobacco industry.

10. In addition, an application form containing a DOI form has now been developed and is available for use by those applying for a public badge during the sessions of statutory meetings. This DOI form, as presented in Annex 1 to this document, will be used at COP7 to ensure transparency for those attending the sessions with public badges.

11. However, currently there is no requirement for Parties' and non-Parties' (observer) delegates to sign a DOI form for statutory body meetings. This matter is becoming more relevant following reports in the media and elsewhere that some individuals working as national focal points for WHO FCTC have accepted tobacco industry money⁶.

12. Additionally, there is no requirement at present to require accredited media representatives to sign such forms. Media representatives could be required to sign the DOI form used by the public, as presented in Annex 1.

13. The Bureau discussed the possibility of extending this practice to governing body delegates, such as COP and subsidiary body meetings such as working groups, expert groups and intergovernmental negotiating bodies, as well as for technical meetings organized under the COP workplan, but was unable to reach consensus. Subsequently, the Bureau proposed that extending the requirement to sign the DOI forms for the other meetings be presented to COP7 for further discussion and a decision. A DOI form that might be utilized by delegates to these meetings is presented in Annex 2.

14. When the COP addresses this matter, consideration should be given to the aims of the DOI form, in particular whether the intention is to ensure transparency of affiliations among delegates, or to prevent participation of those with a conflict of interest, or both. The Secretariat would support the latter: the review of DOI forms should allow the denial of access to the meeting. Nominees to governing body meetings could, if this proposal is endorsed by the COP, complete and submit the DOI forms during the Internet-based registration process. Members of the public seeking badges could complete the form on the spot and should they be representatives of the tobacco industry, or individuals with evident ties to entities furthering the interests of the tobacco industry, they could be denied access to the meeting venue and the sessions.

Issuance of badges at governing body meetings

15. The Bureau agreed, at its second meeting in October 2015, with the issuance of photo badges for delegates at governing body meetings, and this measure will be applied starting from the next session of the COP to be held in Delhi, India, in November 2016.

⁶ <http://www.bbc.com/news/business-34964603>

16. In relation to public badges, an application form (including a DOI as indicated in paragraph 10, above) is ready to be used at COP7 for the public sessions. This form asks the applicant to specify the type of organization he/she represents and declares any conflict of interest relating to the tobacco industry. In the past, the application form did not include a DOI. In the absence of a COP decision on the issue presented in paragraph 14, information in the form will serve to promote transparency rather than be used to exclude any member of the public based on the applicants' affiliation.

17. It should be noted that the COP6 report refers to discussions on the participation of the public in the COP and subsidiary body meetings. The report notes that "in spite of further informal consultations held in an attempt to reach consensus, Committee B remained divided on the subject of allowing members of the public, who might be affiliated to the tobacco industry, to attend the plenary meetings of the COP. It was agreed that discussions on the matter would be discontinued, and any Party wishing to raise the issue in future could propose it for inclusion on the agenda of a subsequent session of the COP".

Media accreditation to and media participation at governing body meetings

18. The Bureau acknowledged the importance of a dialogue with the media to counter tobacco industry arguments and suggested that the Convention Secretariat together with the host country engage with the media ahead of the COP meeting. Apart from press releases and press conferences at the beginning and end of COP sessions, there should also be bulletins with updates for the media to keep them informed of COP decisions.

19. To ensure transparency of the sessions of governing body meetings, the Bureau supported in general the idea that the media should be treated as a separate category and should carry separate distinctive badges. Accredited media representatives should have access to public and open sessions of the COP and the Meeting of the Parties (MOP) and will have to sign the same DOI as the public (Annex 1) during the accreditation process. Media should not be allowed to attend restricted meetings and drafting groups, the regional consultation meetings, etc.

FURTHER CONSIDERATION ON THE PARTICIPATION OF THE PUBLIC AT GOVERNING BODY MEETINGS

20. According the Rules of Procedure adopted at COP6, sessions of the COP shall be held in public, unless the COP decides that they shall be open or restricted (Rule 32). Sessions or meetings of the subsidiary bodies shall be held in public, unless the COP or the subsidiary body concerned decides that they shall be open or restricted (Rule 27.2).

21. During its consideration of this matter, the Bureau also reviewed the possibility of requesting the Convention Secretariat to seek applications for public badges in advance and establish a screening procedure to be carried out by the Secretariat to review applications, request additional information from the applicant if needed, and then issue public badges prior to meetings. The following arguments were considered when discussing this matter:

- The costs and benefits of the screening procedures. This would require significant effort on the part of the Convention Secretariat, for example hiring additional staff to review applications. In addition, senior Convention Secretariat staff would need to take part in the decision-making process. Although every effort would be made, the outcome could never be guaranteed, since any system relies to some extent on the truthfulness of information provided by the applicant.
- The last two COP sessions decided to close meetings to the public. Due to the high likelihood of another such decision by the Parties in the forthcoming COP sessions, there would be few gains from advanced screening compared with the human and financial effort invested by the Convention Secretariat in the procedure.

- When taking a final decision, the benefits of public participation at COP sessions should also be considered. Apart from the plenaries, where decisions are taken, the work in the committees involves negotiations, where Parties' positions are presented. Parties may not feel comfortable with presenting their views if the public is present, and this could provide opportunities for interference by the tobacco industry and its interests. The outcomes of the meeting are made public and are placed in the public domain, and include the report of the COP that features detailed information on negotiations.

22. The Convention Secretariat would therefore, in light of all the arguments and considerations above, argue against introducing an advanced screening procedure until Parties have agreed on any amendments of the Rules of Procedure (ROP) concerning open and restricted meetings, or have made decisions about any advanced screening procedure at forthcoming COP sessions. The COP should also decide, upon receipt of an estimate, the additional budget necessary to establish and operate an advanced screening procedure. So far, such administrative and budgetary cost for has not been included in the proposed workplan and budget for 2018–2019.

ACTION BY THE CONFERENCE OF THE PARTIES

23. The COP is kindly invited to address the items covered in this paper, as follows:

- Adopt the generic sentences to be included in the letters of invitation issued in relation to any governing body, subsidiary body or other technical meeting under the COP workplan, on the exclusion of representatives of the tobacco industry, state-owned tobacco industries, and any other individual or organization working to further the interests of the tobacco industry;
- Further consider and provide guidance to the Convention Secretariat on the participation of representatives of the media as a separate category to attend the public and open sessions in future COPs, including the issuance of special badges and allowing the participation of the media in line with paragraphs 18–19;
- Decide whether or not all nominees at governing body, subsidiary body and any other meeting implemented under the COP workplan are required to sign a declaration of interest form;

24. Advise and decide, as appropriate, about a procedure for the screening of applications for public badges submitted in advance, with reference to paragraphs 20–23.

Annex 1

Registration form for members of the Public⁷

**Seventh session of the Conference of the Parties to the WHO FCTC (COP7)
7-12 November 2016, Noida, India**

All fields below should be completed.

Date:		Badge n° ____
<i>(to be completed by the Registration Desk officer)</i>		
Title :	Family Name :	First Name :
Home address :		
E-mail:		
Tel:		
Fax:		
Address during session:		
Are you attending the meeting in a private capacity? (e.g. student)		
<input type="checkbox"/> Yes <input type="checkbox"/> No		
<u>If the reply is no, please provide further details below:</u>		
Type of the organization/institution with which you are affiliated (e.g. business and industry, nongovernmental organization, scientific and technical community, academic, etc.):		
Name and address of the organization/institution :		
Your position and title :		

DECLARATIONS
<ul style="list-style-type: none"> • I declare that I and/or the organization(s) which I am representing do/does not receive either directly or indirectly, any financial or other contribution or assistance from the tobacco industry ; • I declare that I am not affiliated with the tobacco industry.
Signed by: <i>(full name and title)</i>
Date:
Signature:

⁷ To be also applied to representatives of the media.

Annex 2

Proposed Declaration of Interest (DOI) form for delegates

**Seventh session of the Conference
of the Parties to the WHO FCTC (COP7)
7-12 November 2016, Noida, India⁸**

Declaration of interest for delegates to the COP7⁹

All fields below should be completed

Country / Organization:

Party, please specify:

Non State Party, please specify:

Intergovernmental Organization (IGO), please specify:

Nongovernmental Organization (NGO), please specify:

- I declare that I and/or the organization(s) which I am representing do/does not receive either directly or indirectly, any financial or other contributions or assistance from the tobacco industry
- I declare that I am not affiliated with the tobacco industry

Signed by: *(full name and title)*

Date:

Signature:

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⁸ This information will be updated at each session of the COP

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