



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

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Provisional agenda item 6.1

FCTC/COP/8/5
25 July 2018

Progress towards the entry into force of the Protocol to Eliminate Illicit Trade in Tobacco Products

Report by the Convention Secretariat

Purpose of the document

This report summarizes the main activities conducted by the Convention Secretariat in relation to the Protocol to Eliminate Illicit Trade in Tobacco Products (the Protocol) between the seventh and eighth sessions of the Conference of the Parties to the WHO FCTC. It includes: a) the status of the Protocol; b) the activities carried out to promote its entry into force; and c) the work of the Panel of Experts on the Protocol.

Action by the Conference of the Parties

The Conference of the Parties (COP) is invited to note this report and to consider adopting the annexed draft decision.

Contribute to the Sustainable Development Goals (SDGs), if applicable: Target(s) 3.a and SDG 3.

Link to the workplan and budget item: N/A.

Additional financial implications if not included in the COP workplan and budget: None.

Author team(s): Legal, Trade and Protocol Team.

Related document(s): FCTC/COP/8/6.

BACKGROUND

1. At its Seventh session (Delhi, India, 7–12 November 2016), the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) mandated the Convention Secretariat to promote the entry into force of the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) and to prepare and convene the First session of the Meeting of the Parties (MOP1) to the Protocol.
2. In decision FCTC/COP7(6) entitled “Status of the Protocol to Eliminate Illicit Trade in Tobacco Products”, the COP decided to intensify the work of the Panel of Experts on the Protocol (Panel of Experts), which should meet at least every six months and continue its work between meetings by electronic means.
3. Through decision FCTC/COP7(22), the COP, acknowledging that MOP1 would not take place during the 2016–2017 financial period, amended the workplan and budget and also decided to allocate US\$ 300 000 received through assessed contributions to activities related to the entry into force and implementation of the Protocol.
4. Similarly, through decision FCTC/COP7(24), the COP, acknowledging that in the preparation for the entry into force of the Protocol, a preparatory meeting of MOP (PreMOP) and MOP1 would take place in the 2018–2019 financial period, decided to allocate:
 - (a) US\$ 688 100 for the preparation for the entry into force of the Protocol from extra-budgetary contributions;
 - (b) US\$ 98 200 for the PreMOP from extra-budgetary contributions; and
 - (c) US\$ 796 500 for MOP1, and of these amounts, the COP decided that US\$ 306 000 would be financed from assessed contributions and US\$ 490 500 from extra-budgetary contributions.
5. In compliance with this decision, the Convention Secretariat has actively been raising funds to hold the PreMOP in July 2018 and MOP1 in October 2018.
6. In addition, the European Union (EU) pledged to support the work of the Convention Secretariat by providing a two-year grant, in the amount of €400 000, aimed at raising awareness among academic researchers as well as key decision-makers of the Protocol and accelerating its ratification and implementation by 11 EU Member States.
7. The activities undertaken in relation to the COP mandates are reflected in paragraphs 8–30 below.

ACTIVITIES SINCE THE SEVENTH SESSION OF THE CONFERENCE OF THE PARTIES

Status of the Protocol

8. In accordance with Article 45, the Protocol shall enter into force on the 90th day following the date of deposit of the 40th instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.
9. The Protocol was open for signature from 10 January 2013 until 9 January 2014. 54 Parties to the WHO FCTC signed it. Since the Seventh session of the Conference of the Parties (COP7),

22 additional Parties have ratified or acceded to the Protocol,¹ bringing the total number of Parties to the Protocol to the Protocol as of 22 July 2018 to 46 (45 countries plus the EU).²

10. On 27 June 2018, the conditions for the entry into force of the Protocol were met as 40 State Parties plus the European Union had deposited their instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary. Accordingly, the Protocol will enter into force on 25 September 2018.

Activities to promote the entry into force of the Protocol

11. To promote the entry into force of the Protocol, the Convention Secretariat organized and participated in several multisectoral, subregional workshops. These workshops brought together officials from various government sectors involved in the ratification and implementation of the Protocol, including health, foreign affairs, customs, justice, finance and trade, along with members of civil society and representatives of international intergovernmental organizations. Members of the Panel of Experts were invited as facilitators. At least 55 Parties to the WHO FCTC have attended these workshops.

12. The Convention Secretariat has organized two subregional workshops in the specified time period: The first one took place in Amman, Jordan, from 16 to 18 May 2017, with the collaboration of the WHO Regional Office for the Eastern Mediterranean (EMRO). Participants from 11 WHO FCTC Parties attended the meeting.³ Two members of the Panel of Experts also attended the meeting as facilitators. The second workshop took place in Tbilisi, Georgia, from 10 to 12 October 2017, with the collaboration of the WHO Regional Office for Europe (EURO). Participants from 11 newly independent states Parties to the WHO FCTC attended the meeting. One member of the Panel of Experts also attended the meeting as facilitator.⁴

13. In addition, the Convention Secretariat co-organized with the collaboration of the WHO Regional Office for the Americas (AMRO) and the McCabe Centre for Law and Cancer–WHO FCTC Secretariat Knowledge Hub on Legal Challenges, a subregional training session on law and noncommunicable diseases (NCDs) in Kingston, Jamaica, on 24–27 October 2017. During the training, specific sessions and bilateral meetings on the Protocol were held with delegates from 12 WHO FCTC Parties and one WHO FCTC State Non-Party.⁵

14. A further regional meeting on accelerating the increase in tobacco taxes and the ratification of the Protocol was organized by the WHO Regional Office for the Western Pacific (WPRO), in cooperation with the Convention Secretariat, in Manila, Philippines 27–29 November 2017.

¹ Benin, Brazil, Chad, Costa Rica, Cyprus, Germany, Guinea, India, Lithuania, Madagascar, Mauritius, Montenegro, Niger, Norway, Pakistan, Qatar, Samoa, Serbia, Slovakia, Togo, Turkey and the United Kingdom of Great Britain and Northern Ireland.

² Austria, Benin, Brazil, Burkina Faso, Chad, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Ecuador, Eswatini, European Union, France, Gabon, Gambia, Germany, Guinea, India, Iraq, Latvia, Lithuania, Madagascar, Mali, Mauritius, Mongolia, Montenegro, Nicaragua, Niger, Norway, Panama, Pakistan, Portugal, Qatar, Samoa, Saudi Arabia, Senegal, Serbia, Slovakia, Spain, Sri Lanka, Togo, Turkey, Turkmenistan, the United Kingdom of Great Britain and Northern Ireland and Uruguay.

³ The following 11 WHO FCTC Parties participated: Afghanistan, Egypt, the Islamic Republic of Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Sudan, the Syrian Arab Republic and Tunisia.

⁴ The following 11 WHO FCTC Parties participated: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Ukraine and Uzbekistan.

⁵ The following 12 WHO FCTC Parties plus one non-Party to the WHO FCTC participated (13): Antigua and Barbuda, Bahamas, Barbados, Belize, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Kitts and Nevis, Saint Vincent, Surinam, Trinidad and Tobago.

Participants from 20 WHO FCTC Parties attended the meeting.⁶ Two members of the Panel of Experts also attended the meeting as facilitators.

15. Moreover, the Convention Secretariat cooperated with the WHO on the following meetings on tobacco control issues where the Protocol was actively promoted: European Regional Meeting on the implementation of the WHO FCTC (Germany, 30 November to 1 December 2017); and the Regional Annual Meeting in the Eastern Mediterranean Region on the implementation of the WHO FCTC, (Tunisia, 6–7 December 2017).

16. The Convention Secretariat also promoted the Protocol at the national level during various meetings, such as the multisectoral Protocol meeting with government officials during the needs assessment in Tunisia 10–13 July 2017. A similar meeting was organized during the needs assessment mission in Chad on 23–26 October 2017, and a roundtable was held with government officials and representatives of the Parliament to discuss the relevance of becoming Party to the Protocol in Ukraine on 22 January 2018.

17. The Convention Secretariat took advantage of each country visit by its staff members including the following needs assessment missions to actively promote the accession or ratification of the protocol: Ukraine (26–29 September 2017), Nigeria (10–13 October 2017), Cabo Verde (5–8 December 2017) and Samoa (29 January to 2 February 2018).

18. Furthermore, the Convention Secretariat sent several notes verbales to all Permanent Missions of WHO FCTC Parties reminding them of the timelines for ratification, entry into force of the Protocol and convening of MOP1. The Convention Secretariat also provided guidance to the Permanent Missions of WHO FCTC Parties, which have made progress towards the ratification, on the steps required to become Party to the Protocol.

19. Similarly, the Convention Secretariat has supported the initiatives of the WHO Director-General to promote the entry into force of the Protocol by preparing letters to governments for his signature or by providing WHO with information about the status of the Protocol for the Director-General's direct engagement with governments.

20. The Convention Secretariat has also responded to requests from WHO FCTC Parties by providing and facilitating technical assistance directly or through the Panel of Experts. It has also continued to prepare and disseminate technical materials to support Parties engaged in the process of accession/ratification and implementation of the Protocol.

21. The Convention Secretariat also reminded Parties not to consider any proposal or assistance related to tracking and tracing from the tobacco industry, or submitted on the industry's behalf.

22. The Convention Secretariat updated its website page on the Protocol with the latest information.

Engagement with international intergovernmental and nongovernmental organizations

23. The Convention Secretariat has promoted the Protocol at high-level global events and raised the importance of customs, law enforcement and other relevant governmental sectors in supporting the work of the Protocol, especially with regard to the complementary benefits to public health, economics, crime prevention and security that would result from its implementation.

24. The Convention Secretariat participated in the following specific Protocol meetings: conference entitled "Towards an EU-wide traceability of tobacco products" in Brussels, Belgium, on

⁶The following 20 WHO FCTC Parties participated: Brunei Darussalam, Cambodia, Fiji, China, Kiribati, Lao People's Democratic Republic, Malaysia, Marshall Islands, Micronesia, Mongolia, New Zealand, Commonwealth of the Northern Mariana Islands, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Vanuatu and Viet Nam.

2 March 2017; Tobacco Tax Ministerial Summit in London, United Kingdom, on 22–24 March 2017; High-Level Conference on Illicit Trade of Tobacco Products organized by the Smoke Free Partnership at the European Parliament in Brussels on 27 June 2017; and Conference on fighting the illicit tobacco trade organized by the European Antifraud Office of the European Commission (OLAF) in Brussels, Belgium, on 23 March 2018.

25. In September 2017 and January 2018, the Convention Secretariat approached the World Customs Organization (WCO) to discuss collaboration and cooperation in promoting the entry into force of the Protocol.

26. The United Nations Office on Drugs and Crime (UNODC) was invited to present the UNODC-WCO Container Control Programme (CCP) experience during the second meeting of the Panel of Experts in Geneva, Switzerland, from 16 to 17 November 2017.

27. Similarly, the Convention Secretariat delegated a member of the Panel of Experts to facilitate a session on illicit trade at the Association of Southeast Asian Nations Sub-Forum on Excise Taxation, in Bohol, Philippines, on 23 October 2017.

28. The Convention Secretariat promoted the Protocol at the 17th session of the World Conference on Tobacco or Health (WCTOH) that took place in Cape Town, South Africa, on 7–9 March 2018. Thousands of global experts, scientists, activists, government officials, health-care professionals and public officials working on tobacco control from more than 100 countries attended the conference.

Work of the Panel of Experts on the Protocol

29. In accordance with decision FCTC/COP7(6), the Convention Secretariat organized three meetings of the Panel of Experts to agree on their priority actions, to develop proposals for consideration at MOP1, and to discuss a draft agenda and relevant documents for MOP1. Document FCTC/COP/8/6 summarizes the outcome of the work of the Panel of Experts on the Protocol.

Preparatory meeting for MOP1

30. In accordance with decision FCTC/COP7(6), the Convention Secretariat organized the preparatory meeting for MOP1 from 16 to 17 July 2018 in Geneva, Switzerland. More than 30 Parties to the Protocol representing the six WHO regions attended the meeting. They discussed and agreed on the draft agenda and relevant preparations for MOP1.

ACTION BY THE CONFERENCE OF THE PARTIES

31. The COP is invited to note this report and consider adopting the annexed draft decision.

Annex 1

Draft decision

The Conference of the Parties (COP),

Recognizing the work carried out by the Convention Secretariat to promote the entry into force of the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) since its adoption by decision FCTC/COP5(1);

Recalling Decision FCTC/COP6(6) mandating the Convention Secretariat to establish a Panel of Experts on the Protocol to Eliminate Illicit Trade in Tobacco Products (Panel of Experts);

Also recalling Decision FCTC/COP7(6) requesting the Panel of Experts to intensify its work and establishing priorities for its work;

Noting with satisfaction and appreciation the outcome of the work of the Panel of Experts and welcoming the reports in documents FCTC/COP/8/5 and FCTC/COP/8/6;

1. CALLS UPON all Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) that have not done so, to ratify, accept, approve, formally confirm or accede to the Protocol at the earliest opportunity, with a view to a more comprehensive membership of the Protocol;
2. CALLS UPON all Parties to the WHO FCTC to advocate and support the entry into force and implementation of the Protocol, including at appropriate forums of the World Customs Organization (WCO), the United Nations Office on Drugs and Crime (UNODC), the World Trade Organization (WTO), World Bank and other relevant international organizations of which they are members;
3. REQUESTS the Convention Secretariat:
 - (a) to continue to promote, as a priority, the entry into force of the Protocol; and
 - (b) to continue its engagement with relevant international intergovernmental and nongovernmental organizations in order to support the entry into force and the implementation of the Protocol.

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