

**FCTC**WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL**Meeting of the Parties to the  
Protocol to Eliminate Illicit Trade in  
Tobacco Products**First session  
Geneva, Switzerland, 8–10 October 2018  
Provisional agenda item 6.1**FCTC/MOP/1/15  
7 September 2018****Coordination among the governing bodies of the WHO  
Framework Convention on Tobacco Control and of the  
Protocol to Eliminate Illicit Trade in Tobacco Products****(Item proposed by a Party)****Report by the Convention Secretariat****Purpose of the document**

This agenda item examines the need for coordination between the governing bodies of both the WHO Framework Convention on Tobacco Control (WHO FCTC) and the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol). Areas of potential coordination between the governing bodies are presented.

**Action by the Conference of the Parties**

The Conference of the Parties (COP) to the WHO FCTC and the Meeting of the Parties (MOP) to the Protocol are invited to note this report and provide further guidance. The proposal contained in this document includes practical approaches to facilitate coordination between the respective governing bodies and will also be submitted to the MOP for its guidance, taking into account the deliberations and decision made by the COP.

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

Link to the workplan and budget item:

Additional financial implications if not included in the workplan and budget: N/A

Author team(s): Governance and International Cooperation

Related document(s): FCTC/COP/8/28

## **BACKGROUND**

1. The WHO Framework Convention on Tobacco Control (WHO FCTC) entered into force on 27 February 2005 and is governed by the Conference of the Parties (COP) to the WHO FCTC. Article 23 of the Convention establishes the COP and stipulates its mandates and functions. The COP is the highest-level governing body of the WHO FCTC.
2. Every two years, the COP elects a Bureau to guide the work of the Convention Secretariat during the period between sessions of the COP. The Bureau consists of six Bureau members and six regional coordinators representing the six World Health Organization (WHO) regions. Rule 24ter of the Rules of the Procedures (ROP) of the COP describes the functions of the Bureau.
3. The Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) is the first protocol to the WHO FCTC and is an international treaty in its own right. The Protocol was adopted by the Fifth session of the Conference of the Parties in 2012. The Meeting of the Parties (MOP) to the Protocol was established in accordance of Article 33 of the Protocol. The First session of the Meeting of the Parties (MOP1) will be held immediately after Eighth session of the Conference of the Parties as provided by Article 33(2) of the Protocol. Article 33(4) of the Protocol also stipulates that the ROP and the financial rules of the COP shall apply, mutatis mutandis, to the MOP unless the MOP1 decides otherwise.
4. According to the ROP of COP, MOP1 will elect its own Bureau with six members and six regional coordinators from among the Parties to the Protocol. The MOP and its Bureau will constitute the governing bodies of the Protocol.
5. Additionally, Article 24 of the Convention mandates the COP to establish a permanent Secretariat of the Convention and Article 34 of the Protocol provides that this same entity shall be the Secretariat of the Protocol.
6. Although established, functioning and governed as separate entities, there are shared aspects that generate the need for collaboration and cooperation between the governing bodies of the COP and the MOP.
7. This document identifies four main areas where coordination will be required: 1) technical matters; 2) administrative and personnel matters; 3) workplan, budget and fundraising initiatives; and 4) logistical arrangements for future COPs and MOPs. The document also addresses the possible need for the Head of the Convention Secretariat to consider restructuring the Convention Secretariat in order to accommodate its new functions.
8. Finally, the document will also propose practical approaches to facilitate the coordination between the respective governing bodies and will provide examples on how governing bodies of other conventions have approached the matter.

## **AREAS FOR COORDINATION**

### **Technical matters**

9. The Protocol builds upon and complements Article 15 of the WHO FCTC, addressing the means of eliminating illicit trade in tobacco products, a key supply-reduction measure and an important component of a comprehensive tobacco control policy. The COP and the MOP might consider establishing a mechanism for the exchange of information to ensure policy coherence in technical decisions taken by both governing bodies.
10. As the COP will take place before the MOP, it is important that the outcome of the deliberations of the COP and decisions made by the COP are communicated to the Parties attending the MOP to

ensure informed decision-making on complimentary issues. For example, a document with a summary of the decisions adopted by the COP that impact the work of the MOP or require a decision by it could to be shared with the MOP.

11. Coordination between the two Bureaus would also be required to ensure timely information sharing and synergy in developing and proposing the agendas of the COP and the MOP to ensure common agenda items that require guidance from both bodies are included and considered by the COP and the MOP.

12. The Convention Secretariat will also be called upon to build on the success and experience with the WHO FCTC to support the implementation and governance of the two treaties and maximize the public health gains. Coordination and collaboration between the two governing bodies would ensure that coherent guidance and mandates are given to the Convention Secretariat to serve the Parties to the WHO FCTC and the Parties to the Protocol in a more effective and efficient manner.

13. The Convention Secretariat will support the Parties to the Protocol in implementing its provisions and will continue to assist the Parties to the WHO FCTC to implement Article 15 with regard to illicit trade in tobacco products. Whenever possible, the Convention Secretariat should consider any developments in terms of technical guidance related to the implementation of the Protocol that can benefit implementation of Article 15, while also supporting the Parties to the WHO FCTC that are not yet Parties to the Protocol.

14. As the Parties to WHO FCTC make progress with the implementation of the Article 15 and note by the achievements of the Parties to the Protocol, it is it would be reasonable to assume that additional Parties to the Convention would also become Parties to the Protocol, with the ultimate goal of having all Parties to the WHO FCTC become Parties to the Protocol.

15. The reporting system is another technical area that entails legal obligations on Article 15 of the WHO FCTC and on the Protocol. The COP and the MOP should ensure coordination, whenever possible, in order to operate effectively and efficiently. Experience gained from the use of the Convention reporting instrument on Article 15 (core questionnaire and optional module) should inform decisions on reporting for the Protocol, and the reporting requirements should not overburden or involve a duplication of effort for the Parties to both treaties.

### **Administrative and personnel matters**

16. Shared institutional, budgetary, personnel and administrative matters will also need to be addressed by the COP and the MOP, and common decisions on such matters will need to be reached. As a single entity will serve as the Secretariat to both treaties, the COP and the MOP might decide to share the costs of core staff members from the Convention Secretariat who will be working both on the WHO FCTC and the Protocol. Based on the decisions of the COP and the MOP, the Head of the Convention Secretariat may need to consider restructuring the Convention Secretariat to accommodate its new functions.

17. Additionally, as the Head of the Convention Secretariat will lead the work to support the WHO FCTC and the Protocol, both the Bureau of the COP and the Bureau of the MOP will need to be involved in his or her selection and performance evaluation. This would require coordination in the recommendation made to the WHO Director-General regarding the appointment of the Head of the Secretariat. It also would require coordination of both Bureaus for the performance evaluation, which would be based on the delivery of treaty and technical activities and would inform the possible reappointment to another term of office, in accordance with arrangements that may be decided by the COP and the MOP.

### **Work plan and budget**

18. As provided in Article 33 of the Protocol and Rule 7(d) of the ROP, each ordinary session the COP and the MOP shall adopt a workplan and budget for the financial period until the next ordinary session. Efficient implementation of the workplans will require that the two governing bodies coordinate their respective workplans, with support from the Convention Secretariat, and seek agreement on issues that are common to both treaties. Such coordination will help identify opportunities to increase cost-efficiency and optimize available resources, utilizing the work and decisions taken by one governing body that can facilitate the work and decisions of the other. Coordination is required on matters that are applicable to both treaties, including governance, international cooperation, mechanism of assistance to the Parties, reporting requirements, etc. Having a coordinated approach between the two governing bodies would not only facilitate the work of the COP and the MOP, but it would also ensure better guidance to the Convention Secretariat.

19. The Convention Secretariat understands that the proposed workplans and budgets of the COP and the MOP, which would be aligned, must be considered by both governing bodies, which also must address the issue of shared staff costs. The Parties to the Protocol, which are necessarily Parties to the Convention, would be expected to support decisions taken by the COP and can be expected to take into consideration COP decisions when adopting the workplan and budget proposed to the MOP, especially in terms of proposed shared costs between the COP and the MOP workplans and budgets. The Convention Secretariat should also ensure that fundraising initiatives to support the implementation of the workplans and budgets approved by the COP and the MOP are in line with and complement each other.

#### **Logistic arrangements for future COPs and MOPs**

20. As required by Article 33.1 of the Protocol, the MOP will be held immediately before or after the COP. While it is up to the MOP to decide on the duration of the session, the starting time of the MOP needs to be linked to the decision on the dates of the COP. A coordinated decision of both governing bodies would also need to be taken regarding dates and venue of the COP and the MOP.

21. The COP and the MOP might also consider establishing a practice requiring that the two events be held at the same geographic location and ideally at the same venue. It would be logistically challenging and inefficient for delegates, staff of the Convention Secretariat, and other conference and logistical support staff to travel to another geographic location to organize the MOP immediately after the COP. Furthermore, the Convention Secretariat and the conference services unit would not have the capacity and resources to organize the two back-to-back events in separate locations, and potentially with two host countries.

22. Additional travel costs for staff and for the Parties eligible for travel support to another country or location would also need to be added to the workplan and budget. Therefore, the COP and the MOP might consider a decision, in light of logistical and administrative reasons, that requires the a country that wants to host the COP to also host the MOP, regardless of whether the potential host country is a Party to the Protocol. The Convention Secretariat could be requested to include this requirement in the call for interest to host the COP and ensure that this requirement is included in the memorandum of understanding signed with the host country.

#### **CONVENTION SECRETARIAT RESTRUCTURING**

23. A single Convention Secretariat will serve both treaties, the WHO FCTC and the Protocol, as well as their respective independent governing bodies: the COP and the MOP and their Bureaus. The existing process-oriented structure of the Convention Secretariat can provide the basis for effective and efficient support to all governing bodies and to the implementation of the workplans and budgets adopted by the COP and the MOP. This entails the existing core functions of the Convention Secretariat teams – on governance and international cooperation, implementation assistance, reporting and knowledge management, and legal and trade matters – all work under the guidance of the Head of the

Convention Secretariat. Strengthening the existing structure will provide more cost-effective and efficient management of the Convention Secretariat as opposed to establishing a totally new parallel structure for the Protocol. This would also have the benefit of taking advantage of the existing experience and capacity of the Convention Secretariat to better serve Parties in their implementation efforts.

24. As a consequence, the mutual cost for areas such as common human resources, administrative support and overall communications would be shared in the workplans and budgets adopted by the COP and by the MOP to ensure that core functions of the Convention Secretariat are fully covered and to enable the Secretariat to fulfil the mandates approved by the two governing bodies.

#### **EXAMPLES FROM OTHER CONVENTIONS**

25. There are various models of coordination of structures such as the COP to the WHO FCTC and the MOP to the Protocol. The Montreal Protocol on Substances that Deplete the Ozone Layer, a protocol under the Vienna Convention for the Protection of the Ozone Layer, has a separate MOP held in conjunction with the COP to the Vienna Convention, much like the COP to the WHO FCTC and the MOP to the Protocol. The United Nations Environment Programme Convention on the Conservation of Migratory Species of Wild Animals (UNEP-CMS) has seven agreements under the Convention, and each has its own MOP. The Secretariat of the UNEP-CMS provides Secretariat services for each agreement.

26. Some other international treaties have established integrated approaches to deal with their COPs and MOPs so they can jointly discuss common agenda items in parallel and organize both the conference and the meeting as a single event. This could be explored and considered at a later stage when the Protocol has more Parties or when most of the Parties to the WHO FCTC have become Parties to the Protocol.

27. The COP to the United Nations Framework Convention on Climate Change serves also as the MOP to the Kyoto Protocol. The same approach has been taken by the Convention on Biological Diversity, the Cartagena Protocol on Biosafety, and the Nagoya Protocol on Access and Benefits

28. Drawing on the experiences of secretariats to other conventions with shared roles and responsibilities, the Convention Secretariat could be mandated to explore potential best approaches to enhance coordination and ensure coherence in the policy-making process for future sessions, based on the experiences of other treaty governing bodies, and update the two Bureaus on its findings.

#### **POSSIBLE APPROACHES TO FACILITATE COORDINATION**

29. The COP to the WHO FCTC and the MOP to the Protocol might consider establishing mechanisms to ensure better coordination and collaboration between the two governing bodies that might include:

- Continuing the exchange of information between the two governing bodies that could be accomplished through a document summarizing the decisions taken by one governing body to be presented to the other governing body;
- Joint inter-sessional meetings between the Bureau of the COP and the Bureau of the MOP to address matters for which a coordinated decision of both Bureaus or of COP and MOP is required;
- Adoption of aligned workplans and budgets especially regarding activities that are common to both the WHO FCTC and the Protocol with shared costs between the two governing bodies, as appropriate to increase cost-efficiency;

- Deciding that COP and MOP must always be held at the same geographic location for logistical and administrative reasons and requiring that the Parties willing to host the COP also commit to host the MOP, regardless of whether or not they are Parties to the Protocol;
- Mandating both the Bureaus of the COP and of the MOP to collaborate on the selection of and performance evaluation of the Head of the Convention Secretariat, and jointly make recommendations to the WHO Director-General;
- Requiring the Convention Secretariat to coordinate technical assistance with regard to eliminating illicit trade in tobacco products to identify opportunities for mutual benefit and avoid duplication of efforts; and
- Requesting the Head of the Convention Secretariat to consider adjusting the Secretariat's structure to accommodate its new functions and requesting WHO, which is the Convention's hosting agency, to support the implementation of this restructuring, including any changes in post descriptions of current staff.

30. The establishment of these coordination mechanisms would require that decisions on these matters are taken by both the COP and the MOP, including but not limited to any necessary changes to the ROP of the COP and the MOP. A separate document is being submitted to COP (FCTC/COP/8/21) and to the MOP (FCTC/MOP/1/1) with the possible amendments to the ROP that might be necessary.

**ACTION BY THE CONFERENCE OF THE PARTIES AND THE MEETING OF THE PARTIES**

31. The COP and the MOP are invited to note this report, provide further guidance, review and consider adopting the draft decision in the Annex.

Annex

Draft Decision

The Eighth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) and the First session of the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol),

Recognizing the important role of the governing bodies of the WHO FCTC and of the Protocol to provide guidance and policy directions on the implementation of the two treaties,

Reaffirming the need to ensure policy coherence through a coordinated policy-making process between the governing bodies under the two treaties,

Acknowledging the need to restructure the Convention Secretariat to better serve the two treaties and their governing bodies, building on the existing structure of the Convention Secretariat,

Mindful that learning from the experience of other conventions and treaties on the coordination among governing bodies under the conventions and their protocols and agreements will be beneficial to governing bodies of the WHO FCTC and the Protocol,

Taking note of COP report FCTC/COP8/28 and MOP report FCTC/MOP/1/16,

1. CALLS ON the Parties:

- (a) to consider requiring Parties interested in hosting a session of the COP to also host a session of the MOP immediately following the COP at the same geographic location, regardless whether or not the potential host Party is also a Party to the Protocol;

2. REQUESTS the Convention Secretariat:

- (b) to gather experience from other treaty governing bodies of the conventions and their protocols and update Bureaus of the COP and MOP on the findings;
- (c) to explore and implement possible approaches to facilitate coordination as presented in the document under the guidance of the Bureaus elected by the COP and MOP;
- (d) to report on progress at the Second session of the MOP;

3. INVITES the Director General of the World Health Organization:

- (e) to note the recommendations of the Bureaus elected by the COP and the MOP and to facilitate the proposal for restructuring of the Convention Secretariat, including but not limited to human resource issues and related matters.

(XX plenary meeting, October 2018)

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