



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 1.5

FCTC/MOP/1/5
11 September 2018

**Attendance of observers to the First session of the Meeting
of the Parties and rules for its subsequent sessions**

Report by the Convention Secretariat

Purpose of the document

This document discusses the attendance of the following as invitees to the First session of the Meeting of the Parties (MOP1) to the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol): a) the Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) that have not yet ratified or acceded to the Protocol; b) State non-Parties to the WHO FCTC; c) regional economic integration organizations; d) international intergovernmental organizations; and (e) nongovernmental organizations.

Action by the Meeting of the Parties

The Meeting of the Parties is invited to decide on the status and the participation of observers at MOP1 and the following sessions of the Meeting of the Parties.

Contribute to the Sustainable Development Goals (SDGs): SDGs 3 and 16, Targets 3.a, 16.3, and 16.4
Link to the workplan and budget item: 2018–2019: 1.3(c) and 2020–2021: 1.3(c)
Additional financial implications if not included in the workplan and budget: None
Author team(s): Legal, Trade and Protocol Team

BACKGROUND

1. The Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) does not address the issue of the participation of observers to the sessions of the Meeting of the Parties (MOP) to the Protocol. Therefore, it would be advisable for the MOP to take into consideration the Rules of Procedure (ROP) of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) in order to assess their applicability to the MOP.
2. The ROP of the COP identifies various categories of observers in Rules 29, 30 and 31. The First session of the Meeting of the Parties (MOP1) is invited to adopt a decision that is specific to each category of observers so that these categories can be adequately reflected in the ROP of the MOP. These provisions are also reflected in the draft ROP for the MOP contained in document FCTC/MOP/1/1.
3. As MOP1 is expected to make a decision on the rules governing the procedure for applications for observer status for subsequent sessions of the MOP, MOP1 must recognize that those procedures might differ from the procedures being applied to the first session.

CATEGORIES OF OBSERVERS

(a) The Parties to the WHO FCTC that are not Party to the Protocol

4. MOP1 will decide on the observer status of the Parties to the WHO FCTC that are not a Party to the Protocol. These Parties will, however, be invited to attend the public or open meetings of MOP1.
5. For the Parties to the WHO FCTC that are not a Party to the Protocol, the MOP may wish to consider including these Parties as a separate category of observers for future reference. Rule 29 of ROP of the MOP would then read: "Any Party to the WHO FCTC which is not Party to the Protocol may attend the public or open sessions of the Meeting of the Parties or meetings of its subsidiary bodies as an observer."
6. This rule consequently gives these observers the right to participate without the right to vote in the public or open meetings of the MOP and its subsidiary bodies and may speak only after the Parties.

(b) States non-Parties to the WHO FCTC and the Protocol

7. Article 33 of the WHO FCTC stipulates that only Parties to the Convention can become Party to its protocols. State non-Parties therefore only refers to the State non-Parties to the WHO FCTC.
8. For its first session, the MOP may wish to consider to also inviting the States non-Parties to the WHO FCTC to attend its public or open meetings.
9. For its future sessions, the MOP has to decide on the observer status of Member States and any Associate Member of the World Health Organization (WHO) that are not a Party to the WHO FCTC or any other State which is not a Party to the WHO FCTC but is a Member of the United Nations or its specialized agencies, or of the International Atomic Energy Agency.
10. These observers will then have the right to participate in the public or open meetings of the MOP and its subsidiary bodies and may speak only after the Parties.

(c) International intergovernmental organizations

11. For its first session, the MOP may wish to consider inviting international intergovernmental organizations (IGOs) that already hold observer status for the COP of the WHO FCTC to attend the public or open meetings of the MOP.

12. Following the expressed intent on increased cooperation mentioned in Paragraph 21 of the preamble of the Protocol, the MOP may wish to expressly invite the United Nations Office on Drugs and Crime and the World Customs Organization to attend its first session.

13. From its second session onwards, the MOP may wish to examine applications of IGOs that apply for observer status. These organizations may apply, in accordance with their own internal rules, for observer status. As provided for in Rule 24ter of the ROP, the Bureau of the MOP would review these applications and make a recommendation to the MOP, taking into account Article 5.3 of the WHO FCTC.

14. IGOs may participate without the right to vote in public or open meetings of the MOP and its subsidiary bodies and may speak after the non-Parties to the Protocol and after the regional economic integration organizations.

15. To ensure that these observers are not associated with or influenced by the tobacco industry or from other industries with vested interests, the MOP will review applications for observer status and report on these applications at all consecutive sessions of the MOP.

(d) Nongovernmental organizations

16. For its first session, the MOP may wish to consider inviting international and regional nongovernmental organizations (NGOs) that hold observer status for the COP of the WHO FCTC to attend the public or open meetings of the MOP.

17. From its second session onwards, the MOP may wish to examine applications of international and regional NGOs that apply for observer status. Only these NGOs whose aims and activities are in conformity with the spirit, purpose and principles of the Protocol may apply for observer status. As provided for in Rule 31, the Bureau of MOP would review these applications and make a recommendation to the MOP, taking into account Article 5.3 of the WHO FCTC.

18. To ensure that these observers are not associated with or influenced by the tobacco industry or with other industries with vested interests, the MOP will review accreditation for observer status at all consecutive sessions of the MOP.

19. In conclusion, it is submitted for the consideration of the Parties at MOP1 to adopt the following amendments to the ROP as reflected in document FCTC/MOP/1/1 entitled Rules of Procedure and financial rules. These rules and the procedures they establish for granting observer status to the various categories of observers would be implemented between the first and second sessions of the MOP, allowing for the Bureau and the Parties to examine and decide on each case.

ACTION BY THE MEETING OF THE PARTIES

20. The MOP is invited to decide on the invitations to its first session and to decide on the rules concerning observers for subsequent sessions of the MOP to be found in Annex 1 of this document.

Annex 1. Rules of Procedure on observers as referenced in the Rules of Procedure of the Meeting of the Parties (FCTC/MOP/1/1)

OBSERVERS

Rule 29

1. Any Party to the World Health Organization Framework Convention on Tobacco Control which is not Party to the Protocol, any Member State of WHO which is not a Party to the Convention, any Associate Member of WHO, or any other State which is not a Party to the Convention but which is a Member of the United Nations, or its specialized agencies or of the International Atomic Energy Agency, and any regional economic integration organization, as defined in Article 1(b) of the Convention, which is not a Party to the Protocol, may attend the public or open sessions of the Meeting of the Parties or meetings of its subsidiary bodies as an observer.
2. Observers under this Rule may participate without the right to vote in the public or open meetings of the Meeting of the Parties and its subsidiary bodies and may speak only after the Parties. Regional economic integration organizations may speak only on matters within their competency.

Rule 30

1. Any international intergovernmental organization may apply, in accordance with its internal rules, to the Secretariat for observer status, which may be granted by the Conference of the Parties, based on the report from the Secretariat, taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention. Such applications, duly endorsed by the governing body of the organization concerned, should be submitted to the Secretariat not later than 90 days before the opening of the session.
2. Observers under this Rule may participate without the right to vote in public or open meetings of the Conference of the Parties and its subsidiary bodies and may speak after the observers referred to in Rule 29.

Rule 31

1. International and regional nongovernmental organizations whose aims and activities are in conformity with the spirit, purpose and principles of the Protocol, may apply for observer status, which may be granted by the Conference of the Parties, based on the report of the Secretariat, and taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention. Such applications should be submitted to the Secretariat not later than 90 days before the opening of the session.
2. The Meeting of the Parties shall review the accreditation of each nongovernmental organization at any of its regular sessions and thus determine the desirability of maintaining its observer status.
3. Observers under this Rule may participate without the right to vote in public or open meetings of the Meeting of the Parties and of its subsidiary bodies and may speak after the observers referred to in Rules 29 and 30.

The proposed amendments to the Rules of Procedure will be adopted as part of document FCTC/MOP1/1 and thus do not appear as part of the decision submitted for the consideration of the Parties on this matter.

Annex 2.

Draft decision: Attendance of States Parties to the WHO FCTC, States non-Parties to the WHO FCTC, regional economic integration organizations, international intergovernmental organizations and nongovernmental organizations to the first session of the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products

The Meeting of the Parties (MOP),

Recalling Rules 29, 30 and 31 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) on the status of observers,

1. DECIDES to invite the following categories of actors to attend its open and public sessions of its first session:

- (a) States Parties to the WHO FCTC not Parties to the Protocol;
- (b) Member States of WHO that are non-Parties to the WHO FCTC;
- (c) international intergovernmental organizations with observer status to the Conference of the Parties (COP) to the WHO FCTC;
- (d) nongovernmental organizations with observer status to the COP to the WHO FCTC;

2. FURTHER DECIDES to invite regional economic integration organizations, international intergovernmental organizations and nongovernmental organizations to apply for observer status to the second and subsequent sessions of the MOP, bearing in mind the following:

(a) any such organization must have the endorsement of its governing body in applying for observer status to the MOP;

(b) any such organization must be free of any association with or influence from the tobacco industry, in line with Article 5.3 of the WHO FCTC and its guidelines as adopted by COP, including not partnering with or receiving funds from the tobacco industry or any other commercial entity with a vested interest.

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