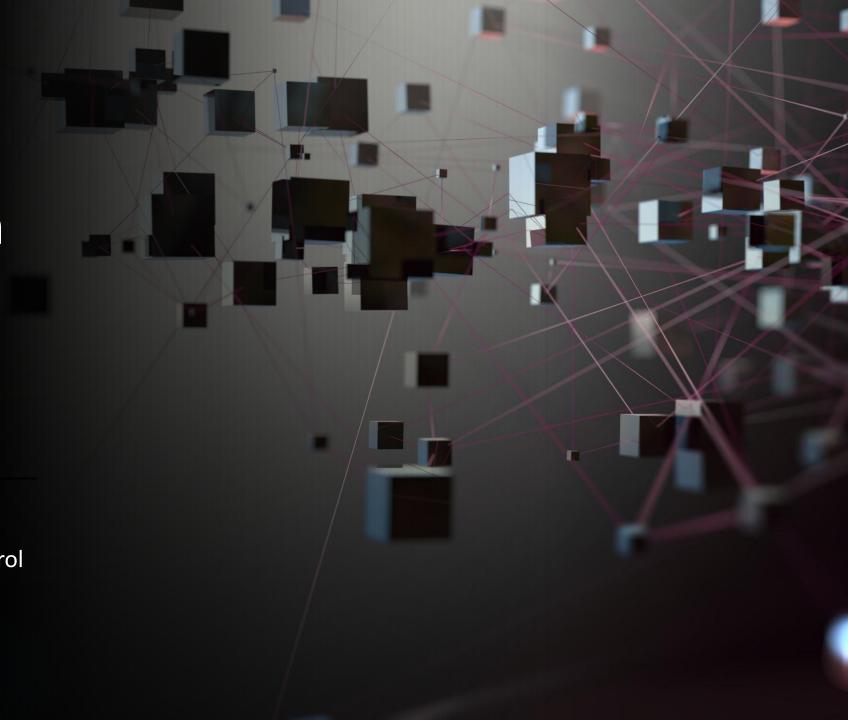
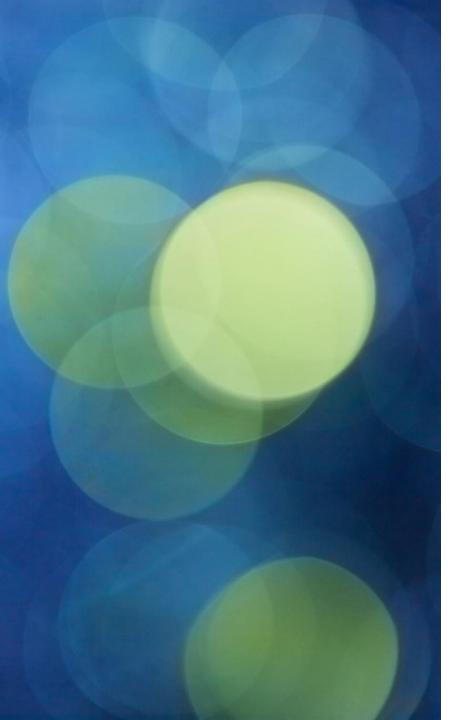
Draft Decision:
Implementation
of Article 19 of
the WHO FCTC
(Liability)

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Outline

Why Important?

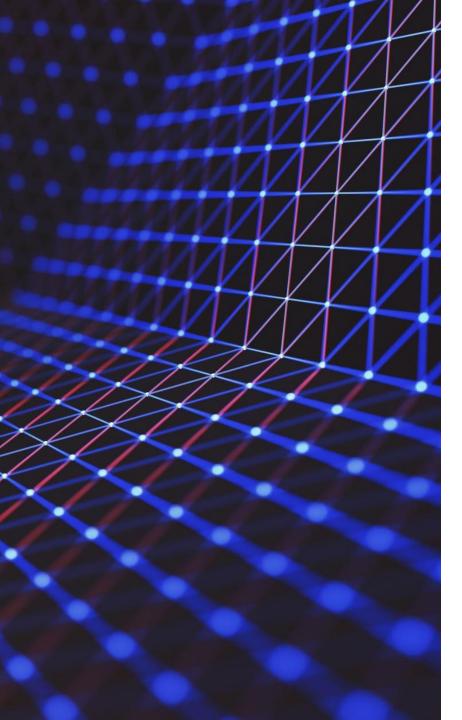
Why (Preamble)

What Does it Call For?

How Can It Help Save Lives?

Why Important?

- Tobacco industry interference growing increasingly bold and must be held accountable & liable
- Liability involves not just criminal and civil liability toolkits but covers compensatory regimes, developing liability regimes in relation to the environment, and administrative measures such as monitoring effectiveness of sanctions, etc..
 - These were not covered by the previous Expert Group
- Parties need guidance



Why? (Preamble)

Coherence with Art 5.3 (TI should act in a manner that is accountable and transparent)

• Tobacco practices of acquiring pharmaceuticals (evade liability)

POSSIBLE Art 19 approaches (COP/4/13 & COP/5/11) on liability & compensatory regimes including administrative or quasi-criminal liability

Liability of **business enterprises with respect to human rights**

Use of Liability to protect the environment from tobacco harms

1. Reminds Parties of their obligations under Art 19

Note:

One of the guiding principles of the Convention is that "issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control"

Art 19 requires Parties to "consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate".

2. Urges Parties to

- Apply best practices
- Strengthen liability regimes inc to facilitate compensation
- Apply effective, proportionate, dissuasive sanctions
- Exchange information on means to enforce liability
- Ensure policy coherence on industry liability (SDG, NCD, environment)
- Call on IOs, so that their work eg on environment and business regulation, supports tobacco control, not undermine it
- Monitor tobacco industry investments by transnational tobacco

3. DECIDES to

- a. establish an expert group
- Review the practices and provide recommendations on strengthening liability (inc administrative measures) to ensure accountability, deterrence, improve access to justice, and allow for effective remedies for those affected by tobacco harms
- Provide options to detect and counter evasion of liability regimes through corporate acquisitions
- Explore methodologies to estimate costs that arise from tobacco .. . As evidence for tobacco litigation

5. **REQUESTS THE CONVENTION SECRETARIAT**

- Raise awareness about Art 19 and tools available
- Participate in global for a to promote policy coherence between TI Liability and international law on environment, human rights & regulation of business conduct
- Include an item on Liability in each COP agenda



How Can It Help Save Lives?

Strengthen accountability of tobacco industry via

- increased sanctions
- new forms of surcharges to compensate for environment harms
- increased taxation to compensate victims
- charges for financial guarantees for future harms (inc. tobacco funds)