

FCTC COP7

Protection, Transparency, Exclusion





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

Seventh session
Delhi, India, 7-12 November 2016
Provisional Agenda item 6.6

**FCTC/COP/7/7
27 July 2016**

Implementation of Article 5.3 of the WHO FCTC

Protection of public health policies with respect to
tobacco control from commercial and other vested
interests of the tobacco industry



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FCTC/COP/7/20
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**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

Invitations to Governing Body and other meetings under the COP workplan

- in the case of statutory meetings: “... Parties should not nominate a person with a conflict of interest with the tobacco industry or its affiliates, or any beneficiary of the proceeds of the tobacco trade.”
- in the case of technical meetings organized by the Convention Secretariat: “... 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.”

Signing of declaration of interest (DOI) forms

9. According to current practice, the FCTC 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.

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 money.

DECLARATIONS

- 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.

Vienna convention on the representation of states in their relations with international organizations of a universal character

Delegations to organs and to conferences

Art. 43: the sending State may freely appoint the members of the delegation.

Art. 44: The credentials of the head of delegation and of other delegates shall be issued by the Head of State, by the Head of Government, by the Minister for Foreign Affairs or, if the rules of the Organization or the rules of procedure of the conference so permit, by another competent authority of the sending State. They shall be transmitted, as the case may be, to the Organization or to the conference

FCTC definitions

Article 1 (e) of the FCTC

“tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products

Article 1 (f) of the FCTC

“tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing

Article 1 (g) of the FCTC

“tobacco sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly



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FCTC/COP/7/21
29 July 2016

Trade and investment issues, including agreements, and legal challenges in relation to the implementation of WHO FCTC

Report by the Convention Secretariat

Policy options for treaty design

22. Parties have a number of policy options to ensure that new international investment agreements grant regulatory space, including for specific public health objectives such as tobacco control policies:

- a) Exclude tobacco products, tobacco-related economic activity and regulatory action from treaty scope. The most comprehensive option is a complete carve-out from the treaty's protection (and liberalization) commitments. ...
- b) Abandon or replace investor-State dispute settlements, e.g. replacing it with domestic dispute resolution ... or State-State dispute settlement.

Moving beyond the scope of FCTC – Trade

COPs should not discuss issues which are not covered in the treaty and therefore not agreed upon by government on ratification

Trade not included in the FCTC; however

COP4/COP5: cooperation with WTO to share information on trade-related tobacco control issues, to monitor trade disputes regarding WHO FCTC-related tobacco control measures and other trade-related issues of relevance

COP6: encouragement to jointly explore legal options to avoid undue use of international trade and investment instruments and to promote multisectoral collaboration in trade and investment to take tobacco consumption into account in the course of trade negotiations

COP7: Proposal to exclude tobacco products, tobacco-related economic activity and regulatory action from international investment agreements and to settle trade disputes in WHO and not in WTO

Secretariat's functions – Article 24 of the FCTC

- a) to make arrangements for sessions of COP / subsidiary bodies and to provide them with services as required;
- b) to transmit reports received by it pursuant to the Convention;
- c) to provide support to the Parties, on request, in the compilation and communication of information;
- d) to prepare reports on its activities under the Convention under the guidance of COP and submit them to COP;
- e) to ensure the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
- f) to enter, under the guidance of COP, into such administrative or contractual arrangements as may be required for the effective discharge of its functions;
- g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by COP.



The FCTC Secretariat has no authority

**The FCTC Secretariat
is transforming itself into a
GLOBAL REGULATOR**



**Parties' sovereignty
totally overruled**

Three requests for government

1. Explain the discrimination of tobacco against other agricultural productions which also are potentially harmful to health (sugar, alcohol) when data on obesity, diabetes and alcohol abuse are more worrying than those on tobacco
2. Local government together with national government must meet together and bring back dignity to tobacco production
3. Consistent message from leaf production point of view. Issues are the same in all leaf production countries.

**Tobacco has been cultivated
in Europe since 1560**



May it last another 450 years!