



**FCA AND GSP RECOMMENDATIONS:
PROPOSED GUIDELINES
FOR THE IMPLEMENTATION OF ARTICLE 8 OF THE
WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL¹**

The Framework Convention Alliance and the Global Smokefree Partnership strongly endorse the proposed guidelines for implementation of Article 8 of the WHO Framework Convention on Tobacco Control (A/FCTC/COP/2/7) and encourage the Conference of the Parties to adopt them without change.

Under Article 8 (Protection from exposure to tobacco smoke) Parties to the FCTC “recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability” and agree to take the necessary measures to provide protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places. Article 8 is among the most important provisions of the FCTC, yet is brief and broadly worded, so that Parties will require guidance to implement their obligations under this key treaty provision.

Article 7 requires the Conference of the Parties to the FCTC (COP) to propose appropriate guidelines for the implementation of the provisions of Article 8. At its first session, the COP decided “to accord the highest priority to guidelines on Article 8” and to request the Convention Secretariat, if possible, to present draft guidelines

¹ This document outlines the position of FCA and GSP that, at the second session of the Conference of the Parties, the draft guidelines on Article 8 (A/FCTC/COP/2/7) be adopted as proposed. Further information may be found in the FCA and GSP joint briefing paper ‘Proposed Guidelines for the Implementation of Article 8 of the WHO Framework Convention on Tobacco Control’, available online at www.fctc.org and www.globalSmokefreePartnership.org.

for consideration at the second session of the COP. The draft guidelines prepared by the guideline elaboration working group (A/FCTC/COP/2/7) provide very useful guidance to assist Parties with best practice implementation of Article 8, and should be adopted as proposed.

The proposed guidelines advance the effective implementation of Article 8 by offering thoughtful guidance and specific recommendations for applying the treaty's general language. The guidelines are the result of an open and transparent process. They reflect the consensus of a diverse group of Parties and experts, with the support of civil society. Moreover, they are amply supported by both current scientific evidence and the experience of Parties with legislation in this area, reflecting global best practices.

The **key elements of guidelines for implementation of Article 8**, which are reflected in the draft guidelines proposed for adoption by the COP, are as follows:

1: Acknowledge that Article 8 is grounded in fundamental human rights

Guidelines should affirm that the right to effective protection from exposure to tobacco smoke is implicit in the fundamental right of all persons to life, a healthy environment and the enjoyment of the highest attainable standard of health.

2: Legal protection, not voluntary measures

Guidelines should acknowledge that Article 8 requires Parties to adopt affirmative legal measures to protect people from exposure to tobacco smoke, and that voluntary agreement, which have repeatedly been shown to be ineffective, are not acceptable alternatives.

3: Protection for all

Guidelines should emphasize the duty of Parties to protect all persons from exposure to tobacco smoke, not just “special” or “vulnerable” populations.

4: Create 100% smoke-free environments

Guidelines should underscore that effective protection of health requires the creation of 100% smoke-free environments and that ventilation and designated smoking rooms — which have been conclusively shown to be ineffective in protecting against exposure to tobacco smoke — are not acceptable approaches.

5: Ensure comprehensive coverage

Guidelines should emphasize the need for smoke-free environments in all indoor public places, all indoor workplaces, and all public transport. Article 8 obliges Parties to provide for the fullest possible protection from exposure to tobacco smoke for the greatest number of people.

6: Draft carefully

Guidelines should assist Parties in developing legislative definitions of “*smoking*”, “*public places*”, “*workplaces*”, “*public transport*”, and “*indoor*” or “*enclosed*” areas that will help avoid loopholes and minimize enforcement problems.

7: Educate and involve the public

Guidelines should explain the importance of educating opinion leaders and the general public to build support for effective legislation, and should recognize the need to engage the public in developing, implementing and enforcing legislation. Where the public understands the health risks associated with exposure to tobacco smoke, and is included in the development of the legislative response to these risks, smoke-free laws are popular and well respected, and become largely self-enforcing.

8: Involve civil society

Guidelines should accord a central role to civil society in the development, implementation, enforcement and evaluation of smoke-free measures. Experience from many jurisdictions confirms that civil society has played a crucial role in building public support for smoke-free laws, in assisting with their implementation, and in promoting compliance.

9: Specify the duties of those responsible for compliance

Guidelines should emphasize that smoke-free legislation needs to specify who is responsible for ensuring compliance with the law, and to identify concrete steps these persons or entities must take to fulfil their obligations.

10: Set appropriate penalties

Guidelines should provide for monetary penalties and other sanctions sufficient to deter violations. Penalty amounts will vary, but should be large enough to deter violations, should be consistent with the country's treatment of equally serious offenses, and should increase for repeated violations.

11: Create an effective enforcement infrastructure

Guidelines should specify appropriate enforcement responsibilities and mechanisms. Lines of authority for enforcement of smoke-free legislation must be clear: where multiple ministries or agencies are involved, their authority and responsibilities must be clearly delineated. Monitoring should include a process for inspection of establishments covered by smoke-free legislation.

12: Enforcement should be strategic

Guidelines should explain the value of a strategic approach to enforcement and the importance of firm enforcement.

13: "Future-proof" the law

Guidelines should emphasize the importance of flexible legislation that can be strengthened and revised readily to reflect new scientific knowledge, global experience and emerging best practices.

14: Monitor and evaluate

Guidelines should encourage ongoing monitoring and evaluation to assess the impact of legislation, promote compliance with the FCTC, and build support for the most effective possible measures.