



FCA RECOMMENDATIONS:
MAXIMISING THE EFFECTIVENESS OF THE
WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL:
THE NEED FOR IMPLEMENTATION REVIEW MECHANISMS AND
PROCEDURES¹

Recommendation

At the second session of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (FCTC), the COP should request the Secretariat to prepare a report for the third session of the COP, outlining possible systems for implementation review that might be adopted by the COP. The report should:

- **draw on relevant precedents from other international agreements;**
- **outline in detail the various procedures and mechanisms that might be adopted, and discuss the merits of alternative approaches; and**
- **be designed to facilitate informed discussion at the third session of the COP about whether and, if so, how the COP might proceed with the establishment of such systems for implementation review.**

Background

The WHO FCTC is aimed at protecting present and future generations from the devastating health, social, environmental and economic consequences of the global tobacco epidemic (Article 3). Having negotiated the Convention and brought it into force, the next challenge for States Parties is to bring the provisions of the treaty to life through strong implementation of the substantive obligations they have assumed and further development of the Convention and its processes to allow its effectiveness to be maximised.

¹ This document outlines FCA's recommendations to the Conference of the Parties. Further information may be found in the FCA briefing paper 'Maximising the Effectiveness of the WHO Framework Convention on Tobacco Control: The Need for Implementation Review Mechanisms and Procedures', available online at www.fctc.org.

The FCTC COP is required by Article 23.5 to ‘keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation’, and may for this purpose undertake a number of activities, including the establishment of subsidiary bodies. In other areas of international cooperation, particularly under multilateral environmental agreements, States Parties to a treaty commonly establish ‘systems for implementation review’ (SIRs) to assist the COP in its efforts to monitor the effectiveness of the treaty and to identify ways in which its effectiveness may be enhanced.

SIRs commonly establish a standing implementation/compliance committee elected by the COP, which: engages in ongoing monitoring of the implementation of the treaty; facilitates implementation by working with Parties, the treaty Secretariat and relevant intergovernmental and non-governmental organizations to provide advice and assistance to Parties; addresses cases of possible non-compliance with treaty obligations, usually in consultation with the COP; and reports periodically to the COP to enable the COP to perform its ongoing implementation review role.

By establishing an appropriate system for implementation review under the FCTC, the COP will enhance cooperation between Parties to address the global tobacco epidemic by:

- facilitating information sharing and learning on effective ways of implementing the provisions of the Convention;
- facilitating the provision of assistance in implementation, including capacity building where required;
- identifying issues on which attention or action by the COP – such as the development of guidelines or protocols or the elaboration of international cooperative arrangements – can help facilitate implementation;
- assisting the informed and meaningful participation of civil society in international action on issues addressed by the treaty; and
- ensuring that the momentum for implementation is maintained between meetings of the COP.

The functions that could be performed by a standing implementation/compliance committee cannot be adequately performed either by the COP itself or by the Secretariat. Meetings of the COP are likely to be attended by a large number of countries – the FCTC already has 147 Parties – to be held only annually or biennially, and to have a number of issues packed into a tight time-limited agenda. The treaty Secretariat is likely to have limited resources and to be pressed in trying to meet the wide range of demands of inter-sessional work. It will also often find it difficult to address cases of non-compliance, which might challenge it in its role as Secretariat to the Conference of the Parties as a whole. The establishment of a standing committee would allow for the necessary ongoing, and often complex and detailed, work to be carried out through a transparent process in a targeted and geographically representative forum. Regular reporting by this group to the COP, and cooperative work undertaken with the Secretariat, would facilitate informed discussion on implementation issues by the larger body of Parties to the treaty, and play a significant role in ensuring that the effectiveness of the FCTC can be maximized.

In accordance with best practice examples from other international agreements, an FCTC SIR should include:

- a geographically representative standing Committee comprised of 10-20 individuals elected by the COP;
- provision for the Committee to meet at regular intervals, supported by the Secretariat;
- procedures for States Parties, and the Secretariat and/or other subsidiary bodies established by the COP, to bring implementation issues to the attention of the Committee;
- procedures to govern the Committee's powers to make decisions and recommendations regarding implementation of the provisions of the Convention and future development of the Convention, and to govern its interaction with the COP; and
- procedures allowing the Committee to consult with other relevant bodies, with particular recognition given to the essential role of civil society in achieving the objective of the Convention, as recognised in Article 4.7 and preambular paragraph (17) of the Convention.