



**REPORT OF THE FRAMEWORK CONVENTION ALLIANCE  
ON THE FIFTH SESSION OF THE INTERGOVERNMENTAL  
NEGOTIATING BODY TO DRAFT AND NEGOTIATE A PROTOCOL  
ON ILLICIT TRADE IN TOBACCO PRODUCTS**

**GENEVA, SWITZERLAND, 29 MARCH – 4 APRIL 2012**



## EXECUTIVE SUMMARY

The Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products (INB) was established by the second session of the Conference of the Parties (COP), the governing body of the Framework Convention on Tobacco Control (FCTC). The FCTC is the world's first international public health treaty negotiated under the umbrella of the World Health Organization (WHO). The aim of the FCTC, which came into force on 27 February 2005, is to reduce the toll of death and disease due to smoking. Currently, 5.4 million people a year die from smoking-related disease across the world, and this number is currently expected to grow to 8.3 million by 2030, with 70 percent of these deaths in the developing world.

Civil Society has played a key role in the adoption, ratification, and negotiations of the FCTC, particularly through the FCA, an umbrella organization of over 350 non-governmental organizations from more than 100 countries whose mission is to help develop and implement the FCTC as the basis for effective global tobacco control. The widespread support for the FCTC has been won through a long process of diplomacy and advocacy by many players, including the FCA and other NGOs.

FCA played a key role in developing a strong FCTC by working collaboratively with governments, providing educational material and tobacco control expertise, and helping to shape the public climate that has provided momentum for the international regulation of the tobacco industry. As noted in Article 4.7 of the FCTC, "the participation of civil society is essential in achieving the objective of the Convention and its protocols." Civil society continues to play a critical role in assisting the implementation of the FCTC at the national level.

In order to strengthen the FCTC, Parties to the convention have come to recognize the necessity of reducing the supply of tobacco products, and in particular to reduce illicit trade in tobacco products. As stated in Article 15 of the FCTC, Parties recognize that elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, sub-regional, regional and global agreements, are essential to effective tobacco control policy. Illicit trade in tobacco products undermines a policy that includes increasing the rate of tobacco taxation, which the evidence shows is one of the most effective ways to reduce tobacco consumption. It also deprives governments of billions of dollars in taxation, thereby reducing the funding available for public health and other policies.

The INB was therefore mandated to draft and negotiate a Protocol on Illicit Trade in Tobacco Products that would build upon and complement the provisions of Article 15 of the FCTC. As a basis for starting negotiations, COP2 recognized the template for a protocol on illicit trade, prepared by an expert group established by the first session of the COP.

The INB convened its fifth session on 29 March – 4 April 2012 in Geneva, Switzerland. The session was attended by representatives from 132 Parties and 7 non-Parties of the FCTC. Three intergovernmental and six nongovernmental organizations, including the FCA, attended the meeting as accredited observers. Representatives of Parties at INB5 included a mixture of officials from ministries of health, customs, law enforcement and finance, permanent missions in Geneva, and all important stakeholders in fighting the illegal tobacco trade.

The INB worked through a substantial portion of the draft protocol, working from the final INB4 text as well as the results of two intersessional drafting groups, and reached agreement on a final text for the draft Protocol to Eliminate Illicit Trade in Tobacco Products. The agreed draft will be presented for adoption to the Conference of the Parties at its fifth session on 12 - 17 November 2012 in Seoul, Republic of Korea.

FCA played a constructive and influential role both before and during the fifth session of the INB. 51 FCA members from 28 countries represented the Alliance at INB5. In preparation for the negotiations, FCA organized and provided a short overview of its positions on key issues of the Chairperson's text at the FCA AFRO Regional INB5 Pre-Meetings, which included 15 government representatives from the AFRO region. Further campaign efforts included the preparation and distribution of a series of detailed policy position and technical briefing papers that were used to inform and guide both tobacco control advocates and government officials of Parties to the FCTC on key issues with regards to illicit trade in tobacco products. FCA also developed a number of internal non-official technical papers and resource materials to further inform the FCA delegates and support their advocacy efforts. Alliance delegates to the INB also benefitted from a full-day preparatory meeting organized by FCA on the eve of the conference.

FCA also marked its presence at INB5 by organizing a lunchtime technical seminar to inform participants on specific issues of illicit trade, and by daily production of the FCA Bulletin, which provided a civil society perspective on the discussions and developments throughout the negotiations.

## **OUTCOME OF THE FIFTH SESSION OF THE INTERGOVERNMENTAL NEGOTIATING BODY**

At its fifth, extended session (six days, with four evening/late-night shifts), the INB reached agreement on a final text for the draft Protocol to Eliminate Illicit Trade in Tobacco Products. After editing and input from Parties on translations, this will be sent to COP5 for adoption in November 2012, presumably without any further modifications.

The final text includes most of the language proposed by the informal working group established by COP4, which met twice (June and September 2011). After lengthy discussion, the INB also reached consensus with respect to the difficult issues of criminal offences, mutual legal assistance and extradition, with language that should not impose a significant administrative burden on the FCTC Secretariat.

## **FCA ACTIVITIES IN PREPARATION FOR INB5**

Similarly to INB4, no official regional consultation meetings were organized between INB4 and INB5. Given the need to provide a platform for the regions to discuss the proposed revised draft text, the FCA organized one regional briefing meeting for officials from the AFRO region to inform them about FCA positions on key issues of an illicit trade protocol. This meeting took place on 28 March 2012. It was attended by 15 government representatives. FCA members, including the FCA AFRO Regional Coordinator, also participated in this meeting. Chaired by Vincent Kimosop, Executive Director, International Institute for Legislative Affairs, the briefing featured presentations from FCA experts on illicit trade in tobacco products. Ms. Rachel Kitonyo, Project Coordinator, African Tobacco Control Consortium, talked about issues of implementation, technical assistance and capacity-building needs of an agreed Protocol. Francis Thompson, FCA Policy and Advocacy Director, elaborated upon supply chain control issues (Part III) of the illicit trade protocol, including issues with regards to key inputs. And, Ms. Fiona Godfrey, European Regional Advisor, Tobacco Control International Union Against Tuberculosis and Lung Disease, talked about issues of offenses (Part IV) and international cooperation (Part V) and provided a case for institutional arrangements and transparency, especially with respect to interactions with the tobacco industry. Technical briefing papers were made available to the participating government delegates.

## **FCA ACTIVITIES AT INB5**

The FCA was represented at INB5 by a delegation of 51 members from 29 countries representing all six WHO regions. FCA sponsored 10 FCAers to the negotiations from 10 countries. Delegates were selected based on their experience and expertise on illicit trade in tobacco products as well as to reflect the regional distribution within the Alliance.

The campaign efforts undertaken by FCA consisted of a number of activities, including:

- a half-day pre-INB5 preparatory training meeting for FCA delegates,
- the unveiling of the Death Clock,
- daily FCA delegation morning and evening meetings,
- one technical lunch-time briefing to inform delegates on specific issues related to illicit trade,

- the development and distribution of FCA policy papers on key issues of illicit trade in tobacco products in the run up to and during INB5,
- maintaining a FCA booth,
- the FCA daily bulletins, and
- media advocacy and online updates.

### **1. Pre-event Preparatory Training Meeting for FCA Delegates**

The FCA conducted a half-day training meeting for its delegates to INB5, which was held on the eve of the conference, on Wednesday 28 March 2012, in Geneva, Switzerland. The preparatory meeting represented a unique opportunity for the Alliance delegation to gather in its entirety to share intelligence and discuss a common campaigning strategy for the week-long negotiations.

Open only to FCA delegates, this training was intended to provide a recap on where we are going as well as a discussion on the key FCA positions and advocacy strategies for INB5, and to discuss responsibilities, intelligence gathering and advocacy strategies. The format of the training allowed for interactive participant discussions on issues related to illicit trade, as well as for intelligence sharing between FCA representatives from different regions.

### **2. Unveiling of the Death Clock**

An FCA tradition over the years, the Death Clock, which tabulates the number of tobacco-related deaths, was unveiled in the main hall of the conference centre immediately preceding the opening session of the INB on the first day, Thursday 29 March 2012. Present at the unveiling ceremony were Dr. Douglas Bettcher, Director of the WHO Tobacco Free Initiative, Ms. Paula Johns, FCA Chair, and other FCA representatives. At the moment of the unveiling ceremony, an estimated 58,358,355 people had died worldwide due to tobacco use since the opening of the first working group for the FCTC on 25th October 1999, the date of reference for the Death Clock.

Since the inception of the Death Clock, the number of deaths has increased at an alarming estimated rate of one death for every six seconds. The Death Clock served as a constant reminder throughout the conference to government delegates and civil society participants of the death toll caused by tobacco related diseases and to urge everyone to dramatically reduce that number by implementing the FCTC.

Ms. Paula Johns, Chair of the FCA Board of Directors, opened the ceremony by highlighting the significance of the clock. She was followed by six Alliance members who, in each official UN language, urged government delegates to put forth the political will and pledge their support and commitment to continue to drive the FCTC forward by adopting a strong Protocol on Illicit Trade in Tobacco Products.

The Death Clock unveiling ceremony also featured a speech by Dr. Bettcher.

The unveiling ceremony was attended by INB5 government delegates and civil society participants.

### **3. FCA Delegation Daily Meetings**

The FCA delegation conducted daily morning and evening meetings to ensure effective communication between one another during INB5. Held prior to the first session of each day, FCA morning meetings briefed NGO delegates on the day's agenda and key messages.

Evening meetings provided a debriefing on the various events and activities that occurred during the day. The twice-daily meetings also provided an opportunity to coordinate production of the daily FCA Bulletin; share intelligence gathered from the attendance of regional committees of Parties, individual side-bar meetings and informal conversations with government representatives; discuss lobbying strategies; discuss and agree upon daily orchid and ashtray nominations featured in each of the FCA Bulletins and coordinate other FCA-related activities taking place each day.

#### **4. Technical Lunch-time Seminar**

As in past sessions of the INB, FCA held a one-hour technical briefing during the lunch break on Friday, 30 March 2012, to inform government delegates about FCA positions on key issues of an illicit trade protocol. Chaired by Paula Johns, Chair of the FCA Board of Directors, the lunch-time briefing featured presentations from FCA experts on illicit trade in tobacco products. Ms. Rachel Kitonyo, Project Coordinator, African Tobacco Control Consortium, talked about issues of implementation, technical assistance and capacity-building needs of an agreed Protocol, particularly from the perspective of a low resourced country, like Kenya. Mr. Francis Thompson, FCA Policy and Advocacy Director, elaborated upon supply chain control issues (Part III) of the illicit trade protocol, including issues with regards to key inputs. Mr. Neil Boister, Professor of Law, University of Canterbury, New Zealand, talked about issues of offenses (Part IV) and international cooperation (Part V). And, Ms. Fiona Godfrey, European Regional Advisor, Tobacco Control International Union Against Tuberculosis and Lung Disease, provided a case for institutional arrangements and transparency, especially with respect to interactions with the tobacco industry.

#### **5. FCA Briefing Materials**

FCA policy papers for INB5 were developed by the FCA Policy Committee, composed of issue experts and Alliance advocates. Along with the briefing papers, the FCA developed recommendations which were highly regarded by government delegates. Alliance briefing technical documents were made available to conference participants and government delegates prior to the INB, and translated into the 6 WHO official languages in order to reach non-English speaking delegates, advocates, and media.

FCA Briefing Documents for INB5:

- INB5: Offences (Part IV) and International Co-operation (Part V)
- INB5: Implementation, Technical Assistance and Capacity-Building
- INB5: Supply-Chain Control (Part III)
- INB5: Institutional Arrangements and Financial Resources
- INB5: Transparency

All documents can be found at:

[http://www.fctc.org/index.php?option=com\\_content&view=article&id=707:inb-5-meeting-resources-page&catid=222:meeting-resources&Itemid=581](http://www.fctc.org/index.php?option=com_content&view=article&id=707:inb-5-meeting-resources-page&catid=222:meeting-resources&Itemid=581)

#### **6. FCA Booth and Materials**

Strategically situated at the main hall of the conference centre, the 'FCA Booth' served during the week-long event as a permanent distribution point for FCA documents regarding the negotiations and other educational documents, multimedia and promotional materials

such as flash drives, slogan badges and FCA logo pins. FCA representatives were posted at the Booth to address inquiries and inform participants on the Alliance and its tobacco control efforts.

The Booth also provided opportunities to meet and develop further contacts amongst government delegates attending the INB5, as well as generally raising the profile and presence of FCA. As with past events, the Booth was frequently visited by conference participants, including delegates from various Parties, and members of civil society, who showed great interest in the positions and expertise of the FCA.

In preparation for the meeting, flash drives were prepared, tagged with the official FCA logo. These contained digital versions of Alliance position papers, factsheets and media materials on the subject of illicit trade in tobacco products. The literature available on each flash drive was featured in all six WHO working languages: Arabic, Chinese, English, French, Russian and Spanish. Other FCA promotional materials, including logo pins and slogan badges, were also distributed to delegates and members of civil society.

## 7. FCA Bulletin

Six issues of FCA's daily Bulletin conference newspaper were produced during INB5. Overall, it was very successful, with a Bulletin article even cited by one Party during negotiations – the first time that this has occurred. Because of budget constraints the newspaper was produced by a team that worked in two locations. The FCA Communications Manager, who acted as chief editor of the Bulletin, attended the INB and acted as liaison with the overall FCA team at the meeting, while an editor and layout person worked from their home base in Washington, DC. After some initial 'teething' problems this arrangement worked as well as could be expected, but it is not recommended as an alternative to having the Bulletin team work at the same location. Each issue of the Bulletin was emailed to FCA members, via the FCA All list-serv, and posted daily on the website. Articles were written primarily in English but also in French and Spanish. The front page articles of each issue were translated into French and Spanish, and these translations posted online.

- **Bulletin Issue 111:** Inside - Last chance; Procurement for tracking and tracing systems; Britain's shame in Panama; Counterfeiting also controversial with respect to medicines; Clear thinking about counterfeiting; Philippines seeks bids on tax stamp system.  
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- **Bulletin Issue 112:** Inside - Parties' Obligations Under Treaties Shouldn't Be Set By Agreements with Private Actors; The Tobacco Industry: Lies and Videotape; Accord Imperial Tobacco – Les Douanes Françaises : Un Partenariat et Une Communication à L'encontre des Obligations de la CCLAT; Research on Key Inputs, Duty-free Not to Be Available Until 2022.  
[Download issue](#)
- **Bulletin Issue 113:** Inside - Need to start thinking about implementing what we are agreeing here; The Codentify Agreement; El Mercado Pasivo Del Cigarrillo y el Argumento del "Incremento del Contrabando"; Japan Tobacco: Leopards don't change their spots; Protocol would boost Brazil's tentative steps towards cooperation to fight illicit trade; Maldives hikes tobacco import taxes by 200 Percent.  
[Download issue.](#)

- **Bulletin Issue 114:** Inside - Meeting of minds; Kenya reforms raise tobacco taxes 25 percent; Transparency obligations must apply to entire protocol; Why 'legally binding and enforceable agreements' should be deleted.  
[Download issue](#)
- **Bulletin Issue 115:** Inside - Counterfeiting: resisting the pressure to use a public health protocol to defend intellectual property rights, A concurrent COP and MOP, imagined, Big Tobacco's 'get out of jail free' card  
[Download issue](#)
- **Bulletin Issue 116:** Inside - Congratulations! (Now you'll have to work even harder) (page 1); In BAT 's own words: contraband has declined; It seemed like a good idea when we signed.  
[Download issue](#)

## 8. FCA Online

Information about INB5 was disseminated online via FCA's website and social media channels.

Since INB4, FCA has updated its website (<http://fctc.org>) to focus on its campaigns, including the illicit trade campaign. Information about INB5 was posted to this campaign section of the site. As well, a page dedicated to the INB was created on the homepage of the website. It included links to the policy papers created for the meeting – in the six official UN languages – to the daily Bulletins and to FCA press releases about INB5. All of this information was also disseminated via FCA's new social media channels: a Facebook page and Twitter account. Photos taken during the meeting were posted to Facebook.

## 9. Media Releases

FCA produced two media releases about INB5, one released [prior to the meeting](#) and the other [immediately afterwards](#). Both were distributed also in Spanish and French. The second release was reported on in an article written from Geneva by the Associated Press, which was reproduced in the Washington Post and the news section of the Yahoo website, among other locations.

FCA Press Releases can be found at:

[http://fctc.org/index.php?option=com\\_content&view=article&id=707:inb-5-meeting-resources-page&catid=222:meeting-resources&Itemid=581](http://fctc.org/index.php?option=com_content&view=article&id=707:inb-5-meeting-resources-page&catid=222:meeting-resources&Itemid=581)

**MEMBERS OF THE FCA DELEGATION TO INB5**

<b>Last Name</b>	<b>First Name</b>	<b>Title</b>	<b>Organization</b>	<b>Country</b>
Ahmed	Saifuddin	Mr.	World for Better Bangladesh	Bangladesh
Akinremi	Adeola	Mr.	FCA	Nigeria
Algouhmani	Hani	Dr.	FCA	Syria
Arnott	Deborah	Ms.	ASH-UK	UK
Asqueta	Miguel	Dr.	MOH	Uruguay
Beguilot	Emmanuelle	Ms.	CNCT	France
Bianco	Eduardo	Dr.	FCA	Uruguay
Boister	Neil	Mr.	University of Canterbury	New Zealand
Cagnat-Lardeau	Clémence	Ms.	Alliance contre le tabac	France
Cardenas	Maria Alejandra	Ms.	Les Droits des Non Fumeurs (DNF)	France
Colledge	John	Mr.	FCA	USA
Cox	Alison	Ms.	NCD Alliance	UK
Cunningham	Rob	Mr.	Canadian Cancer Society	Canada
Damphousse	François	Mr.	Non-Smokers' Rights Association (NSRA)	Canada
Daouda	Adam	Mr.	Association pour la défense des droits des consommateurs	Chad
Diethelm	Pascal	Mr.	FCA	France
Dorado	Yul	Mr.	Corporate Accountability International	Columbia
Dorotheo	Ulysses	Dr.	FCA	Philippines
Ebeh	Fabrice	Dr.	ATCA	Togo
Faircloth	TJ	Mr.	Corporate Accountability International	USA
Fouad	Fouad	Dr.	Syrian Center for Tobacco Studies	Syria
Godfrey	Fiona	Ms.	The Union	Belgium
Grainger-Gasser	Alice	Ms.	World Heart Foundation	Switzerland
John	Shoba	Ms.	FCA/HealthBridge	India
Johns	Paula	Ms.	ACT Brazil	Brazil
Joossens	Luk	Mr.	FCA	Belgium
Khaltourina	Daria	Ms.	Campaign for Tobacco Free Kids	Russia
Kimosop	Vincent	Mr.	International Institute for Legislative Affairs (ILA)	Kenya

Kitonyo	Rachel	Ms.	ATCA	Kenya
Lambert	Patricia	Ms.	The Campaign for Tobacco Free Kids	South Africa
Lencucha	Raphael	Mr.	Physicians for a Smoke-Free Canada	Canada
Lieberman	Jonathan	Mr.	UICC	Australia
Lindorff	Kylie	Ms.	Cancer Council Victoria	Australia
Logan	Marty	Mr.	FCA	Canada
Lyman	Annabel	Ms.	FCA	Palau
Mersmann	Hubertus	Mr.	German Cancer Research Center	Germany
Musavuli	Patrick	Dr.	LUCTAF/IMPACT	DRC
Ntiabang	Tih Armstrong	Mr.	FCA	Cameroon
Radu-Loghin	Cornel	Mr.	European Network for Smoking Prevention (ENSP)	Romania
Ratte	Sylviane	Ms.	The Union	France
Roa	Reina	Ms.	COPACET	Panama
Salgado	Laura	Ms.	FCA	Honduras
Saloojee	Yussuf	Mr.	National Council Against Smoking	South Africa
Singkouson	Annie	Ms.	FCA	France
Stewart	John	Mr.	Corporate Accountability International	USA
Thompson	Francis	Mr.	FCA	Canada
Torode	Julie	Dr.	UICC	U.K.
Vaite	Shailesh	Mr.	FCA	India
Verovic	Josef	Mr.	FCA	Germany
Villarreiz	Domilyn	Dr.	SEATCA	Philippines
Yu	Xiuyan	Ms.	The Campaign for Tobacco Free Kids	China