



This document relates to item 6.7 of the provisional agenda

Sixth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control,  
13-18 October 2014, Moscow

### *FCA Policy Briefing*

## **Attendance of members of the public in meetings of the Conference of the Parties to the WHO FCTC and its subsidiary bodies**

### **Key recommendations**

- For future sessions of the COP, Parties should adopt the recommended screening process for members of the public, so as to reduce the risk of tobacco industry interference.
- For COP6, members of the public should be required to declare that they are not affiliated with the tobacco industry in order to be eligible to attend COP meetings.
- The proposal to create a third type of meeting, “open” meetings (alongside the existing “public” and “restricted”) should be accepted.

### **Introduction**

The continuing work of the FCTC Conference of the Parties – notably the development and adoption of new guidelines – has been a key driver for global progress in stemming the tobacco epidemic. As a result, the tobacco industry has made repeated efforts to delay or water down action by the COP.

Public health journals,<sup>1</sup> and tobacco industry publications<sup>2,3</sup> document ongoing efforts by the tobacco industry and its front groups to infiltrate COP sessions. The industry seeks to manipulate and intimidate delegates, while collecting information about potential regulation in order to devise strategies to undermine progress.

The most direct way in which tobacco industry and front group representatives gain access to COP sessions and FCTC meetings is to register as members of the “public”. At present, public badges have no indication of an individual’s affiliation. Thus, when these individuals approach delegates, the delegates have no way of knowing who they’re talking to.

<sup>1</sup> Mary Assunta. Tobacco industry's ITGA fights FCTC implementation in the Uruguay negotiations. *Tobacco Control* 2012;21:563-568. Online at:  
<http://tobaccocontrol.bmj.com/content/early/2012/05/26/tobaccocontrol-2011-050222.abstract>

<sup>2</sup> “A Cop Too Far?” In: *Tobacco Reporter* (January 2013).

<sup>3</sup> Jeannie Cameron, “Lifting the Lid”. In: *Tobacco Reporter* (October 2012). Online at:  
[http://www.jcicinternational.com/wordpressjc/wp-content/uploads/2012/07/LIFTING\\_THE\\_LID-October2012.pdf](http://www.jcicinternational.com/wordpressjc/wp-content/uploads/2012/07/LIFTING_THE_LID-October2012.pdf).

Public badges are meant to uphold the COP's commitment to transparency. For example, they allow academics and students who are not affiliated with an official delegation or observer to attend FCTC meetings.

The issue of tobacco industry access to public badges came to a head during negotiations for the illicit trade protocol, at INB3 in 2009. The overwhelming majority of people seated in the public gallery were reported to be affiliated with the tobacco industry.<sup>4</sup> Delegates complained of efforts to interfere with negotiations. After a lengthy debate (in private), Parties decided to eject the public from the rest of the meeting – a practice which has since become the norm for non-plenary meetings.

In our view, this step was necessary under the circumstances. However, it created two difficulties.

First, the Rules of Procedure do not explicitly provide for observers to be present at FCTC meetings when the public is excluded – there are only two categories of meetings, “public” (anybody allowed, subject to seating availability) and “restricted”, i.e. for Parties only. Yet Parties have repeatedly decided that, for some meetings, they would like to have observers present but not members of the public.

Second, while there is no legal obligation to hold FCTC meetings in public, transparency is a key element of good governance. It seems unfortunate that academics and ordinary citizens who are not acting on behalf of the tobacco industry should be excluded from meetings because of efforts by the industry to undermine the FCTC.

### **The Secretariat's proposal on amending the Rules of Procedure and instituting a screening process for public badges**

In FCTC/COP/6/27, the Secretariat presents its proposal for dealing with both of these problems, a proposal that we understand has been discussed in detail with the Bureau.

To deal with the first problem – the lack of an intermediate category of FCTC meetings open to observers but not to the public – the paper (along with FCTC/COP/6/28) proposes amendments to the Rules of Procedure to create a new category of “open” meetings. This amounts to a codification of existing practice, and in our view is an excellent idea.

To deal with the second problem – filtering out persons acting on behalf of the tobacco industry, while admitting other, unaffiliated persons with a legitimate interest in attending FCTC meetings – the proposal would create a screening procedure for applicants for public badges, similar to the process that NGO observers have to go through in order to attend the COP. The application would have basic questions that would vet the applicant for affiliations with the tobacco industry or front groups. The Secretariat would then bring a list of approved applicants to the COP, which would be cross-referenced when people request public badges at the COP.

Moreover, in future, “public” badges would provide some idea of the category to which a given person belongs (e.g. academic, student etc.). Also, public badges would be issued for the duration of a meeting, which would eliminate the need to issue badges daily.

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<sup>4</sup> Corporate Accountability International asked people in the gallery to identify themselves – 23 of 28 who were willing to state their affiliation (i.e. more than 80 percent) had a tobacco industry link.

FCA welcomes this approach, which should increase public access to FCTC meetings (as seats in the public gallery will no longer be occupied by the tobacco industry).

### **Transitional issues**

The screening system proposed for those who apply for public badges cannot be instituted in time for COP6, as the Secretariat report notes. This means that in Moscow, members of the public will need to apply for a public badge every day, as was the case in the past, and it is likely that persons affiliated with the tobacco industry will again occupy most of the limited seating in the public area of the meeting room(s).

As an interim step just for COP6, we understand some Parties are suggesting that applicants for public badges should be required to declare that they are not affiliated with the tobacco industry. Clearly this will not filter out all representatives of the industry – some may just lie – but it should at least increase access to limited seating for non-industry persons.

FCA urges Parties to adopt this approach, and to do so as early as possible in plenary so that is in effect for as much of COP6 as possible.

### **Outstanding issues**

The Secretariat's report mentions that special accreditation procedures exist for members of the media. (See paragraph 17.) Parties may wish to clarify two issues:

1. Should members of the media have access to "open" sessions? The proposed amendments to the Rules of Procedure would not allow this, and to date media representatives have also been ejected from the room when the public was barred.
2. Do media accreditation rules effectively screen for representatives of the tobacco industry? With the rise of blogging and the like, lines between journalism and occasional commentary on the Internet have become somewhat blurred.

The FCA does not have a strong view on these two matters, except to point out the need to balance two important values: freedom of the press, and protection of the COP decision-making process from tobacco industry interference.

### **Conclusion**

FCA commends the Bureau and the Secretariat for their considered proposal on the issue of how best to protect FCTC decision-making from tobacco industry interference.

We believe the proposal strikes the right balance between the desire for transparency and the need to protect the integrity of COP decision-making. If accepted, it should reduce the need for lengthy, ad hoc debates on whether to allow the public into a particular meeting.