



Guide to FCA's COP6 documents

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

The Framework Convention Alliance (FCA) has prepared the following policy briefing papers* to assist the deliberations of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (FCTC) at its sixth session (COP6):

FCA Policy Briefing: Women cannot be left behind

FCA recommends:

- In fulfilment of FCTC Article 4.2(d), which until now has not been a focus at any meetings of the Conference of the Parties, COP6 should request the Convention Secretariat, together with WHO TFI and in consultation with civil society group – particularly those that work in gender and tobacco control – to develop an expert report on gender and tobacco control.
- The report should include measures to address gender-specific issues when developing tobacco control policies and strategies as well as the development and utilisation of women's leadership in tobacco control. The report should be considered at COP7 with the aim of strengthening gender specific implementation of the FCTC at global and country level.

(Related to documents FCTC/COP/6/3 and FCTC/COP/6/4): FCA Policy Briefing: INTERPOL'S application for observer status

FCA recommends:

- INTERPOL's application should be rejected on the basis that, as long as its agreement with Philip Morris International (PMI) is in force, its participation in FCTC discussions would be inconsistent with the FCTC and the ITP.
- As the police have a crucial role to play in ITP implementation, INTERPOL should be invited to re-apply for observer status in 2015, once it has ended its agreement with PMI and as long as it rejects further partnership agreements with tobacco companies.
- Parties should consider adopting application and periodic review processes for observer status for intergovernmental organisations (IGOs), similar to those which already exist for NGOs.
- Should the Conference of the Parties decide to mandate intersessional work on Article 5.3, this work could include developing criteria for observer status.



(Related to Document FCTC/COP/6/6): **FCA Policy Briefing: The Protocol to Eliminate Illicit Trade in Tobacco Products**

FCA recommends:

1. Parties are urged to have a frank discussion of the reasons for the relatively low number of signatories to the ITP, as well as the slow pace of ITP ratifications/accessions to date. Possible reasons could include, amongst others:
 - a. The multi-sectoral nature of the Protocol, leading to slow ratification processes;
 - b. Lack of financial resources for promotion of the Protocol;
 - c. Failure to clarify sources and types of technical assistance for ITP implementation;
 - d. Lack of clarity on technical aspects of the Protocol;
 - e. Concerns about the financial implications of the Protocol.

2. Taking into account the results of the discussion, Parties should give the Secretariat a clear mandate:
 - a. To organise awareness-raising activities;
 - b. To commission further research on technical aspects of the Protocol;
 - c. To strengthen co-operative arrangements with relevant international organisations;
 - d. To raise funds for more concerted preparation of ITP entry into force and implementation;
 - e. To counter tobacco industry claims on how to implement the Protocol, and in particular its promotion of the Codentify system.

(Related to FCTC/COP/6/7): **FCA Policy Briefing: Article 6 draft guidelines**

FCA recommends:

- The draft Article 6 guidelines proposed by the drafting group should be adopted without change at COP6.
- The draft guidelines fully respect national sovereignty.
- Parties should give thought to the data collection and technical assistance needs for implementation of Article 6, as well as to possible changes to the FCTC reporting instrument; the Secretariat should be requested to work further on these topics, for example via an expert report.

(Related to FCTC/COP/6/8): **FCA Policy Briefing: FCTC Article 19 – liability**

FCA recommends:

- COP should adopt the recommendation of the Expert Group to request the Convention Secretariat to:
 - Enable and encourage the voluntary sharing of relevant information, experience and expertise among the Parties through a protected website;
 - Develop a database of legal and scientific experts with experience in tobacco litigation, including liability, and establish a mechanism for the recommendation of experts on request of Parties engaged in relevant actions; and
 - Prepare, maintain and make available to Parties a comprehensive list of the existing resources that may assist Parties in dealing with civil and criminal liability and other legal challenges where necessary.

- COP should extend the mandate of the Expert Group created in accordance with its decision FCTC/COP5(9) to continue its valuable work and in particular to:
 - Include additional criminal and international expertise;
 - Complete research into the remaining areas of law, including criminal liability; and
 - Based on existing best practices identified in Annex 3 of the Expert Group’s report, elaborate essential legal elements and/or model laws that could be adopted by the widest possible range of Parties to advance Article 19 implementation.
- As Article 19 is a complex technical area of the treaty that stretches beyond public health expertise, Parties will need to work closely with an array of domestic and international legal experts. Parties should be encouraged to identify experienced lawyers within Ministries of Justice to participate in the work of the Expert Group in conjunction with the Secretariat. This will ensure multisectoral coordination and the capacity-building of those in government who might be tasked with engaging in legal actions on behalf of their governments.

(Related to FCTC/COP/6/10): **FCA Policy Briefing: Electronic Nicotine Delivery Systems**

FCA recommends:

- Parties should take careful note of the WHO report to COP on ENDS.
- Because of differences in regulatory systems and national circumstances, it will be difficult to reach consensus at COP6 on specific regulatory approaches to ENDS.
- Some overarching concerns and principles may be widely shared, and could be noted in a COP decision.
- Careful monitoring of new evidence and national regulatory experience is essential.
- An expert report on emerging scientific evidence and lessons learnt from national regulatory experience should be prepared for COP7.

(Related to FCTC/COP/6/11): **FCA Policy Briefing: Control and prevention of waterpipe tobacco products**

FCA recommends:

- Waterpipe tobacco products raise a number of unique regulatory issues, cutting across several FCTC articles, and Parties need guidance on how to deal with them.
- Parties should request that an expert report on policy options be prepared for COP7.

(Related to FCTC/COP/6/12): **FCA Policy Briefing: Report of the Article 17/18 Working Group**

FCA Recommends

- The draft policy options and recommendations submitted to COP6 are a substantial improvement over the draft submitted to COP5, but should not be adopted in their present form for a number of reasons:
 - One key concern is the nature of growers’ involvement in the policy development process, in particular the wording in Principle 2.
 - Other major concerns include the failure to provide guidance on when substantial efforts to implement Articles 17 and 18 may be needed, and the question of funding for transition to sustainable alternative livelihoods.

- There are also a number of recommendations in the draft that are unlikely to be implemented in their current form, because of expense or for other reasons, as well as a reduced but still considerable number of drafting problems.
- FCA recommends that the Conference of Parties acknowledge the valuable work done by the Working Group and note with appreciation the Working Group's report, but without formally adopting the draft policy options and recommendations. Based on the experience and divergent views to date, FCA does not believe that consensus can be reached at COP6 on the full content of the Working Group report nor that concerns with its contents can feasibly be remedied at COP6.
- In view of the lengthy work that has already gone into this difficult topic, renewing the Working Group's mandate would not be appropriate. The Working Group report would nonetheless remain available to assist interested Parties, and COP should highlight some key lessons learnt and identify future action, such as cooperation among Parties.

(Related to FCTC/COP/6/13 and FCTC/COP/6/14): **FCA Policy Briefing: Report of the Working Group on Articles 9 and 10 of the WHO FCTC**

FCA Recommends

The Working Group on Articles 9 and 10 has provided the Conference of the Parties with a progress report. There are no proposed guidelines for consideration at COP6. Accordingly, the only decision for COP concerning Articles 9 and 10 is potential future work of the Working Group.

If the Conference of the Parties decides to extend the mandate of the Working Group on Articles 9 and 10, FCA recommends that the COP:

- 1a.** Request the Convention Secretariat to invite WHO to prepare a report on design characteristics of cigarettes, including ventilation, slim and superslim cigarettes and specialised filters of cigarettes, to inform the work of the Working Group on product attractiveness and false, misleading or deceptive conduct and/or representations and product design characteristics.
- 1b.** Mandate the Working Group to consider developing guidelines or a progress report on product design characteristics regarding ventilation, slim and superslim cigarettes and specialised filters, as well as related characteristics.
- 2.** Decide not to develop guidelines for the testing and measuring of cigarette emissions at this time. In particular, the flawed ISO test method (or equivalent) for cigarette emissions should not be included in the Article 9 and 10 guidelines. Similarly, the modified ISO "intense" test method for cigarette emissions should not be included in the Article 9 and 10 guidelines.
- 3.** Consider requesting the Convention Secretariat to invite WHO to monitor ongoing research and prepare a report on nicotine content in order to inform future Working Group discussions on this issue.
- 4.** Continue to monitor and research dependence liability and toxicology. However, the drafting of guidelines in these areas would be premature at this time.
- 5.** Request the Convention Secretariat to invite WHO to prepare a report on the definition of the term "constituents" in the context of the partial guidelines on Article 9 and 10, in order to inform future Working Group discussions on this issue.

(Related to FCTC/COP/6/15): **FCA Policy Briefing: Impact assessment of the FCTC**

FCA Recommends

- Before deciding to undertake a global impact assessment of the FCTC, the COP will need to address several issues, particularly the purpose of the exercise and the primary use of its results.
- Once these issues have been resolved, further scoping of the exercise and refinement of the methodology should take place. The Convention Secretariat should be requested to undertake this work.
- Parties that may decide to undertake an FCTC impact assessment individually should be encouraged to share their respective approaches with the Convention Secretariat in advance, and collaborate with each other to develop a common methodology if at all possible.

(Related to FCTC/COP/6/16): **FCA Policy Briefing: Thai Proposal: Implementation of Article 5.3 of the WHO FCTC: evolving issues related to interference by the tobacco industry**

FCA Recommends:

- Parties should support Thailand's draft decision, which would mandate the Secretariat to support Parties in addressing international-level tobacco industry interference and accelerating Article 5.3 implementation, as well as establishing an expert group to develop model policies for international organisations and produce a report that looks into, inter alia, best practices and barriers to Article 5.3 implementation globally.
- Parties should ensure that there is enough time to discuss this agenda item.

(Related to FCTC/COP/6/17): **FCA Policy Briefing: Reporting & Implementation Review**

FCA Recommends

- To strengthen implementation of the Convention, COP6 should establish an implementation review committee and finance its operations.
- A clear mandate for the committee and guiding principles for its work should be also adopted at COP6.
- To finalise the terms of reference for the committee, specific methods of its work should be further considered and adopted by the COP.
- Among its initial tasks, the implementation review committee could test several methods of work or review FCTC reporting arrangements.

(Related to FCTC/COP/6/18): **FCA Policy Briefing: Non-communicable Diseases, sustainable development and the FCTC**

FCA Recommends

- COP6 should welcome the proposal to include the FCTC in future development goals and targets, and agree to take specific steps to promote the Convention during negotiations on the post-2015 development agenda.
- COP6 should review recent global efforts on prevention and control of NCDs, and declare its commitment to support them.

- The COP should also agree to regularly review progress on the NCD target to reduce prevalence in global tobacco use by 30 percent by 2025, and provide recommendations for action to meet this target.
- Parties should formally recognise the COP as the primary international, intergovernmental forum for negotiating the global response to the tobacco epidemic.

(Related to FCTC/COP/6/19): **FCA Policy Briefing: Sustainable measures to strengthen implementation of the FCTC**

FCA Recommends

- COP6 should endorse all recommendations proposed by the working group and encourage Parties and other stakeholders to take concrete actions in line with these recommendations.
- The COP should also establish a coordination platform among all stakeholders that provide or could provide assistance and resources for implementation of the FCTC. The key objective of the platform should be to address gaps in existing mechanisms of assistance.
- The mandate of the working group should be extended so that it can develop an FCTC strategy on implementation assistance for discussion at COP7, such that Parties' needs can be met. COP6 should also request the working group to propose an implementation assistance framework at COP7.
- Work to strengthen implementation of FCTC Article 5.2(a) needs to continue. The UNDP and the Convention Secretariat should be requested to provide options for the establishment of functioning national multisectoral coordination mechanisms for consideration at COP7.

(Related to FCTC/COP/6/20): **FCA Policy Briefing: Tobacco Control in Future Trade and Investment Agreements**

FCA Recommends:

- The COP should encourage Parties to enact policies precluding government resources, including embassies, from being used to encourage the export of tobacco products or to challenge another Party's tobacco control measures, including launching state-to-state challenges under trade treaties.
- When negotiating or renegotiating new or expanded trade and investment agreements, Parties should ensure that they protect their ability to implement the FCTC without interference from the tobacco industry, and that they do not give privileges, benefits or incentives to the tobacco industry. Any such agreements, including any provision related to the settlement of disputes between governments and investors, should be designed to ensure that the tobacco industry cannot use them to delay or prevent implementation of tobacco control measures. The tobacco industry should not be able to use the provisions of such agreements to impose substantial costs on governments, for example by requiring them to spend scarce time and resources defending against investor and foreign state actions directed at tobacco control measures.
- The COP should request the Secretariat and WHO to provide guidance and tools that will assist parties in exercising their sovereign right to exclude the tobacco industry from the benefits and privileges provided by trade and investment agreements while in the course of negotiating or renegotiating them.

- Given the impending threat created by future trend-setting trade and investment treaties (such as the Trans-Pacific Partnership Agreement, or TPPA) and the vast difference in approaches to be employed between existing (comply) and future (negotiate) trade agreements, COP should ensure that this matter is discussed in an agenda item that is separate from Item 5.4, which primarily focuses on existing trade and investment agreements and disputes, and preferably in Item 4.8, to be discussed in Committee A, as it involves more substantive matters than institutional concerns.

(Related to FCTC/COP/6/23): **FCA Policy Briefing: Voluntary Assessed Contributions**

FCA Recommends

- Methods of payment currently offered to Parties should be clarified.
- The COP should encourage the Convention Secretariat and WHO to coordinate and regularly remind Parties about the contributions to the FCTC budget, their due date and available methods of payment. Further positive incentives for Parties should be considered at COP6.
- COP6 should align the terminology used in the Financial Rules for the Convention and the name of the contributions requested from Parties, one option being to update the name of the contributions to “Assessed Contributions”.

(Related to FCTC/COP/6/24, FCTC/COP/6/INF.DOC./1 and FCTC/COP/6/INF.DOC./2): **FCA Policy Briefing: Budget & Workplan 2016-2017**

FCA Recommends

- The budget and the workplan that will be adopted by the COP must show a balanced and efficient use of funds for the advancement of the implementation of the FCTC and Protocol-related activities.
- Before agreeing to the FCTC budget, Parties should ensure that all decisions adopted by COP6 are reflected in the workplan and projected to the budget.
- COP6 should also ensure that activities related to treaty governance, including travel support for all low-resource Parties, are funded through the Convention’s core budget.
- The 2016-2017 budget should prioritise the work of the following four subsidiary bodies, which is of equal importance:
 - A working group on sustainable measures to strengthen implementation;
 - An expert group on Article 19 (liability);
 - An expert group on Article 5.3 (industry interference);
 - An implementation review committee to review Parties’ reports and encourage implementation.

(Related to FCTC/COP/6/27): **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**

FCA Recommends

- 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.

** The note in the small box at the top of each FCA document indicates which item in the provisional agenda the document is related to. The COP6 provisional agenda is available on the FCTC website: http://apps.who.int/gb/fctc/E/E_cop6.htm.*

FCA media and advocacy documents are not included in the above list, but are available on the FCA website: www.fctc.org