FRAMEWORK CONVENTION ALLIANCE

POLICY BRIEFING

This document relates to item 5.8 of the provisional agenda

COP-4/17

Policy Briefing: Report by the Convention Secretariat on control and prevention of smokeless tobacco products and electronic cigarettes

Fourth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control 15-20 November 2010, Punta del Este, Uruguay

Recommendation

The Framework Convention Alliance (FCA) invites Parties to give careful consideration to the Secretariat report and the various scientific studies and reports to which it refers, particularly the second and third reports[1] of the WHO Study Group on Tobacco Product Regulation (TobReg).

FCA recommends against referring the matter of electronic cigarettes to the working group on Articles 9 and 10, as the issue of e-cigarettes is largely unrelated to the matters which the working group was mandated to deal with.

Smokeless tobacco

There are many different varieties of smokeless tobacco, with wide variation in patterns of use, type of manufacture (industrial or artisanal), marketing, composition and toxicity. The WHO Study Group on Tobacco Product Regulation (TobReg) has examined these complex issues in some detail and formulated some initial recommendations, notably in its second report proposing further research on many related topics, and in its third report proposing limits on levels of selected carcinogens per gram of dry weight of smokeless tobacco.

Circumstances vary widely between Parties and there remain significant gaps in research and in national regulatory experience. Parties are encouraged to consider these and other reports in detail and to provide each other with mutual assistance in the development of regulatory approaches.

Electronic cigarettes (electronic nicotine delivery systems)

Legislation in many countries distinguishes between tobacco products on the one hand and nicotine-containing medication for smoking cessation (or temporary abstinence) on the other. In recent years, there has been a rise in so-called “e-cigarettes” that are purported to deliver nicotine in a vaporised mixture, without smoke. These devices might be eligible for consideration as medical devices or drugs if manufacturers submitted them for regulatory approval, but in some countries are commonly sold without such approval, frequently accompanied by unproven

[1] WHO Study Group on Tobacco Product Regulation. Report on the scientific basis of tobacco product regulation: second report of a WHO study group. 2008; and Report on the scientific basis of tobacco product regulation: third report of a WHO study group. 2010.

health claims. They could also be considered tobacco products, in which case restrictions on tobacco advertising, promotion and sale would apply. In practice, some manufacturers of electronic cigarettes behave as if no regulatory regimes apply to their products.

The Article 9/10 working group has asked for clarification from the Conference of the Parties as to whether electronic cigarettes fall within the scope of “tobacco products” as defined by the Convention and as to whether it should examine the issue and formulate recommendations.

In FCA’s view, regulatory difficulties surrounding electronic cigarettes have little to do with Article 9 (which deals with the regulations of contents and emissions) or with Article 10 (with deals with product disclosures). It is not necessary at this time for the Conference of the Parties to make a decision as to whether electronic cigarettes fall with the scope of the FCTC’s definition of “tobacco products” or otherwise fall within the scope of the FCTC.

Given the regulatory consultation process described in the Secretariat report, which is already underway, we recommend Parties not refer this issue to the Article 9/10 working group.