BRIEFING PAPER:

GUIDELINES ON ARTICLE 9 (REGULATION OF THE CONTENTS OF TOBACCO PRODUCTS) AND ARTICLE 10 (REGULATION OF TOBACCO PRODUCT DISCLOSURES)

Second Session of the Conference of the Parties to the WHO FCTC
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Key recommendations

At the second session of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (FCTC):

1. **The COP should request that the public health rationale for implementing Articles 9 and 10 be explored further and clearly articulated before further work on the elaboration of guidelines on the testing, measuring and regulation of the contents and emissions of tobacco products is undertaken.**

2. **The COP should prioritize the elaboration of guidelines for the implementation of Article 11 (Packaging and labelling of tobacco products) over the elaboration of guidelines on Articles 9 and 10.**

Executive summary

Article 9 of the FCTC deals with the testing, measuring and regulation of the contents and emissions of tobacco products, and Article 10 with disclosure to governments and the public of such contents and emissions. These are important components of tobacco control policy, but the issues raised by each are complex.

A working group established by the first session of the COP has begun work on the development of guidelines for the implementation of Articles 9 and 10, and has submitted a progress report for consideration by the second session of the COP. In accordance with the decision by which it was established (FCTC/COP1(15)), the initial focus of the working group has been the testing and measuring elements of Article 9.

While the working group has performed valuable work, considerable further work is required before the public health benefits of implementing Articles 9 and 10 become clear, and before guidelines on the implementation of these Articles can be adopted by the COP.

Testing, measuring and regulating tobacco products represent large undertakings for governments, requiring substantial investment of resources, even where the financial costs are borne by the tobacco industry. These measures should not be undertaken at the expense of other proven, effective tobacco control strategies. Implementing Articles 9 and 10 will have opportunity costs, diverting significant capacity and resources away from the implementation of other Articles which have clear, proven public health benefits. While some FCTC Parties that have already implemented laws governing aspects of tobacco product testing, measuring regulation and/or disclosure may benefit from the development of an effective, internationally agreed, strategy in this area, which they could then adopt domestically, most Parties will need to prioritize the implementation of other Articles.

At its second session, the COP should:

- request that the public health rationale for implementing Articles 9 and 10 be explored further and clearly articulated before further work on the elaboration of guidelines on product testing, measuring and regulation is undertaken;

- state that Articles which have clear, proven public health benefits (particularly Articles 6, 8, 11, 12, 13, 14, 15 and 16) should be implemented in priority to Articles 9 and 10. In particular, Article 11 (Packaging and labelling of tobacco products), which, among other requirements, obliges Parties to ensure that "tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions" should be implemented in priority to measures dealing with testing, measuring and regulating the contents and emissions of tobacco products;
- prioritize, in accordance with the criteria for the prioritization of work on guidelines adopted at its first session (FCTC/COP1(15)), the elaboration of guidelines for the implementation of Article 11, which are needed more urgently than guidelines on Articles 9 and 10. Effective guidelines for the implementation of Article 11 will assist Parties in ensuring that tobacco packaging and labeling do not mislead, deceive or create an erroneous impression about characteristics, health effects, hazards or emissions, for example by recommending that Parties require that ISO emission yields not be displayed on tobacco product packaging and labelling;[1]
- decide that, in light of the connection between disclosure of contents and emissions by the tobacco industry to government and the effective testing and measuring of these contents and emissions, guidelines on Article 10 should be elaborated in parallel with guidelines on Article 9;
- endorse the establishment of a global data repository that could minimize the costs of elaborating guidelines on, and implementing, Articles 9 and 10, if work on Articles 9 and 10 is to continue;
- state that any work on the development of guidelines on Articles 9 and 10 should focus not only on cigarettes but on as many different types of tobacco products as is feasible;
- state that "contents and emissions" when used in Articles 9 and 10 should be understood to comprise the characteristics, including design features, of tobacco products;
- not endorse the involvement of the International Organization for Standardisation (ISO) in the development of tobacco testing standards unless and until the relevant ISO committee is substantially overhauled in such a way as to ensure that it can serve public health interests rather than tobacco industry interests. In the meantime, any work that the COP wishes to undertake towards standardization of testing and measuring methods should be undertaken with the WHO Tobacco Laboratory Network and with other scientific, regulatory, technical and public health expertise, both government and civil society; and
- not endorse any specific emissions testing regimen. Any process undertaken towards the eventual endorsement of an emissions testing regimen should include broad scientific, regulatory, technical and public health expertise, both government and civil society.

[1] For further information, see the FCA briefing paper 'Guidelines on Article 11 (Packaging and Labelling of Tobacco Products)', available online at www.fctc.org.

Background

Article 9 of the FCTC concerns the testing, measuring and regulation of the contents and emissions of tobacco products. Article 10 concerns the disclosure of information about the contents and emissions of tobacco products to governments and the public. The objectives of Articles 9 and 10 are not explicitly stated in the Convention, though, in the Preamble, the Parties recognize that "cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic". While not explicitly stated, it is implicit that the primary objective of Articles 9 and 10, and any action taken to implement them, should be to reduce the mortality and morbidity caused by tobacco use.

Product testing, regulation, and disclosure are important components of tobacco control policy, but the issues raised by each are complex. Considerable work is required before the public health benefits of implementing Articles 9 and 10 become clear, and before guidelines can be adopted by the Conference of the Parties.

At its first session (COP-1) the COP decided, by decision FCTC/COP/1/15, to commence work on the elaboration of guidelines for the implementation of Articles 9 and 10, with priority to be given to what was described as the "first phase" of this work, namely the testing and measuring of the contents and emissions of tobacco products. Addressing the regulation of tobacco products, and disclosure to governments and the public, were identified as the second and third phases of this work, with the order of future work on these phases to be considered by the COP at its second session (COP-2).

COP-1 established a working group to commence work on the elaboration of guidelines on Articles 9 and 10, and requested that it prepare either draft guidelines or a progress report for COP-2. The working group opted to produce a progress report (A/FCTC/COP/2/8).

Whilst agreeing with the overall cautious approach taken in the working group's progress report, the Framework Convention Alliance (FCA) is concerned that many of the key issues relating to work on Articles 9 and 10 have not yet been adequately addressed by the COP (and consequently the working group, which receives its mandate from the COP).

The FCA is particularly concerned that insufficient attention has been given to how far action taken to implement Articles 9 and 10 (and also the elaboration of guidelines for the implementation of Articles 9 and 10) would contribute to a reduction in the mortality and morbidity caused by tobacco use. It is notable that guidelines on Articles 9 and 10 do not appear to meet a number of the criteria for prioritization of the work related to guidelines with respect to Articles 9 to 13, 5.3 and 14, adopted in decision FCTC/COP/1/15, particularly criteria 4 (public health impact), 5 (cost and ease of implementation) and 8 (maintaining momentum in implementing the FCTC) (see table below). The following sections of this briefing paper explain the concerns of the FCA in further detail.

Given that the public health impact of implementing Articles 9 and 10 is not yet clear, it is the FCA's position that the priority currently being afforded to progressing the elaboration of

guidelines on the first phase of Article 9 is unwarranted. The FCA's concerns on this matter have been discussed in three previous FCA briefing papers.[2] This briefing paper revisits some of these concerns in relation to the progress report to be presented by the working group at COP-2.

Criteria for prioritization (FCTC/COP/1/15)	**Article 9 (phase 1) Testing and measuring the contents and emissions of tobacco products**	**Article 9 (phase 2) Regulation of the contents and emissions of tobacco products**	**Article 10 (phase 3) Regulation of tobacco product disclosures**
4. Are the measures known to be effective at reducing the impact of tobacco?	No	No	No
5. Are the measures easy to implement (including cost)?	No	No	No
8. Will the measures contribute to maintaining momentum in implementing the FCTC?	No	No	No

Public health impact of implementing Articles 9 and 10 and opportunity costs

Cigarettes and other tobacco products are virtually unregulated, with little public or government knowledge of, or control over, what goes into and comes out of them. The FCA acknowledges that this knowledge and regulatory vacuum should be filled, but the process of doing so must have a clear goal: to reduce the mortality and morbidity caused by tobacco use.

It is not yet understood how tobacco products can best be regulated to reduce the harm they cause. For example, there are no existing regulations or scientific consensus on measures that result in significant reductions in the health risks of inhaling cigarette smoke or in the addictiveness of cigarettes. Until this fundamental question is addressed, work by the COP on product testing, measurement and regulation cannot proceed in a coherent way. Lack of clarity as to what aspects of tobacco products need to be tested, measured and regulated and how best to do so will prevail until a clear public health goal is articulated and judged to be attainable.

[2] 'Developing effective product regulation under the FCTC' (Briefing Paper prepared for the first session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control, Geneva, February 2006); 'Developing effective product regulation under the FCTC' (Briefing Paper prepared for TobReg Kobe Meeting, Kobe, June 2006); Briefing Paper prepared for the meeting to develop guidelines for the implementation of the tobacco product regulation provisions of the WHO Framework Convention on Tobacco Control (Ottawa, October 2006), all available online at www.fctc.org.

The working group's progress report contains a short section entitled "Public health rationale for tobacco product testing and measuring". In this section, the report states "that the main objective of testing and measuring tobacco product contents and emissions would be for the purposes of allowing Parties to characterize and monitor cigarettes and other tobacco products. As tobacco product regulation is still an emerging issue, other purposes may be identified by the working group in the future" (para 10).

Characterizing and monitoring tobacco products is a worthwhile exercise, but the resulting public health benefits are limited. Characterizing and monitoring tobacco products can, for example, serve to restrain the tobacco industry from misleading consumers about the contents and emissions of products and assist governments to enforce legislation concerning the communication of misleading information. It can also ensure manufacturers do not change their products without informing regulators. However, characterizing and monitoring tobacco products is best seen as a step towards regulation, which must have its own clear objective. An explicit acknowledgement of this is critically important, given that testing and measurement of the contents and emissions of tobacco products are considerable undertakings for regulators, requiring substantial investment of resources by governments and regulators, even where the financial costs are borne by the tobacco industry. Testing and measurement of tobacco products should not be undertaken at the expense of other effective tobacco control strategies. Implementing Articles 9 and 10 will have opportunity costs, diverting significant capacity and resources away from the implementation of other Articles which have clear, proven public health benefits. The FCA recognizes that some Parties that have already implemented laws governing aspects of tobacco product regulation and/or disclosure may benefit from the development of an effective, internationally agreed, strategy in this area, which they could then adopt domestically. However, most Parties will need to prioritise the implementation of other Articles of the Convention.

The report goes on to state: "Although some Parties have implemented testing and measuring regulations, this type of control measure has been fairly limited on a global scale. This may explain why there has been little assessment of the effects of such measures on public health. Parties are invited to evaluate their future interventions in this area and to share their results with other Parties" (para 11).

It is the FCA's position that rather than focusing on evaluating future interventions, Parties that have already implemented such regulations should be supported in examining the impact of the measures they have undertaken and sharing their experience and intelligence with other Parties. This needs to be done before all Parties are expected to implement Articles 9 and 10, and, indeed, at the beginning of the guideline elaboration process. The first priority for the working group should be to clarify the potential public health impact of implementing Articles 9 and 10 (and elaborating guidelines on these Articles), with a view to providing a clear framework for future work by the COP in relation to these Articles. Hence, in answer to the working group's first question in the progress report: "In consideration of the preceding information, does the Conference of the Parties agree that the working group's first priority should be development of guidelines in analytical chemistry?", the FCA recommends that the COP answers "No. The working group's first priority should be to articulate the potential public health benefit of implementing Articles 9 and 10. This articulation should form the basis for future work by the

COP in relation to Articles 9 and 10."

Recommendation:
COP-2 should request that the public health rationale for implementing Articles 9 and 10 be explored further and clearly articulated before further work on the elaboration of guidelines on product testing, measuring and regulation is undertaken. This should be the first priority for the working group. This will require study of the potential impact of regulating tobacco products, which does not fall within the workplan that has been adopted in relation to the first phase of Article 9.

Complexity of product regulation and the need to prioritize the implementation of other Articles above Articles 9 and 10

The working group's progress report states that "the area covered by Articles 9 and 10 is one of the most challenging fields of tobacco control" (para 14). The FCA strongly agrees with this statement and recognizes that there are considerable scientific and practical challenges to be overcome before Articles 9 and 10 can be implemented.

The progress report goes on to state: "While it is clear that Parties must act rapidly to develop much-needed guidelines, the complexity of the issues faced calls for considerable prudence. … Parties will therefore need to consider the relative importance of tobacco product regulations in their overall tobacco control strategy. Guidelines for Article 9 will have to be implemented within a broad strategy to bring added value to each Party's tobacco control efforts. This could mean that a higher priority may be given by a Party to the implementation of selected guidelines, which could be carried out in a staged process in accordance with its tobacco control strategy".

The FCA welcomes this call for prudence but believes that the point should be stated more explicitly. The FCA's view is that the COP should clearly state that other Articles (particularly Articles 6, 8, 11, 12, 13, 14, 15 and 16) should be implemented in priority to Articles 9 and 10. In particular, the implementation of Article 11 should precede implementation of Articles 9 and 10, and the elaboration of guidelines on Article 11 should precede the development of guidelines on Articles 9 and 10.

Recommendation:
The COP should state that Articles of the FCTC which have clear, proven public health benefits (particularly Articles 6, 8, 11, 12, 13, 14, 15 and 16) should be implemented in priority to Articles 9 and 10. In particular, Article 11 should be implemented in priority to Articles 9 and 10.

The need for guidelines on Article 11 as a matter of priority

Article 11 requires Parties to ensure that tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions. In many countries, the tobacco industry continues to market its products using descriptors – such as

"light" and "mild" in relation to cigarettes – to imply reduced harm, and it continues to print numerical emission data on packaging which imply that some brands are less harmful than others. It is critically important to have regulations in place to prevent these harmful practices from continuing. In addition to the current need to prevent such conduct by the tobacco industry, it is the FCA's position that clear guidance is needed to control the communication of any information gathered pursuant to action taken by Parties under Articles 9 and 10 of the FCTC.

The progress report acknowledges some concerns in this area. It states that: "The working group acknowledges that the communication of results derived from analytical methods to the public can create misunderstanding about differences in individual exposure and health risks" (para 42). However, it goes on to say that "[t]o prevent such misunderstandings, the Parties may want to consider, at a later stage, the adoption of guidelines pursuant to Article 10 concurrent with the adoption of guidelines pursuant to Article 9". While it is understandable that the working group focused on Articles 9 and 10, and not Article 11, given its mandate from the COP, it is imperative that action is taken on Article 11 now, because the tobacco industry is currently communicating precisely the kind of information identified by the working group as a cause for concern.

Recommendation:
The elaboration of guidelines for the implementation of Article 11 should be prioritized. These are needed more urgently than guidelines on Articles 9 and 10. Effective guidelines on Article 11 will assist Parties in ensuring that tobacco packaging and labeling do not mislead, deceive or create an erroneous impression about characteristics, health effects, hazards or emissions, for example by recommending that Parties require that ISO emission yields not be displayed on tobacco product packaging and labelling.

Phasing of work on the elaboration of guidelines for the implementation of Articles 9 and 10

The progress report comments that "[i]t is anticipated that Parties would eventually require that cigarette manufacturers perform the testing and measuring of contents and emissions as per the guidelines to be adopted pursuant to Article 9" (para 39). It goes on to state: "The working group recognizes that some Parties may want to verify the data obtained from industry by performing their own testing and measuring" (para 40).

The FCA agrees that Parties, having limited resources, will not be able to test and measure all products marketed within a country and may therefore require the tobacco industry to do this and then verify the resultant information using independent laboratories. For a Party to assume responsibility for all the testing and measuring would be extremely demanding of human and financial resources, and the initial cost outlay needed to set up the infrastructure to do this would be prohibitive for most countries. Most countries that currently test tobacco products therefore contract independent laboratories to do this.

As Article 10 governs what information the tobacco industry should be required to disclose to regulators and the public, it is appropriate that guidelines on the part of Article 10 dealing with disclosure to governmental authorities be developed in parallel with guidelines governing the first

phase of Article 9. These guidelines would govern what data the tobacco industry is required to provide and in what format it should be provided to governments.

Regarding the part of Article 10 dealing with disclosure to the public, any guidelines adopted for Article 11 on misleading information on packaging and labelling should also be adopted under Article 10, as misleading information should not be disclosed to the public through any channels. However, it may be necessary, in elaborating guidelines on Article 10, to expand on guidelines elaborated on Article 11 to cover the disclosure to the public of information disclosed to governments under Article 10.

Recommendations:
Guidelines on Article 10 should be developed in parallel with guidelines on Article 9 phase 1 (testing and measuring). Guidelines for the implementation of Article 11 should be used as a starting point for elaboration of guidelines for the public disclosure element of Article 10.

The cost of implementation and the need for a data repository

The FCA has previously suggested that an international centralized data management system and repository be developed, independent of the tobacco industry, to support the collection, analysis and assessment by countries of product data. Without such a repository, lack of capacity will result in poor implementation and enforcement of Articles 9 and 10 and the diversion of scarce regulatory resources away from implementation of other Articles of the FCTC which have clear, proven public health benefits. The first task of a data repository could be to examine regulations that have been implemented to date, their cost and any public health impacts in comparison to countries without such regulations.

The working group's progress report acknowledges calls for such a "global data repository" and recognizes that this could provide "an opportunity to achieve a uniform means of collecting data, a central repository for the data and a coherent protocol for analyzing the information" (para 62). It goes on to comment: "The working group considers that this is an interesting avenue to explore in more detail in the future" (para 63). It is the FCA's position that, if work by the COP on Articles 9 and 10 is to continue, a data repository should be established as a priority. Such a repository should be financed by, though at arms length from, the tobacco industry, perhaps through a licensing system for tobacco manufacturers, importers and distributors.

Recommendation:
If work on Articles 9 and 10 is to continue, a global data repository should be set up as a priority. Options for the funding of the repository should be considered.

The need to consider characteristics of tobacco products, including design features

The progress report asks: "Does the Conference of the Parties agree that 'contents and emissions' is understood to comprise the characteristics, including the design features of the tobacco product itself?"

Although Articles 9 and 10 do not explicitly mention design features, the mandate that COP-1 gave to the working group did specifically include design features. Different product characteristics, including the design of tobacco products – such as the amount of filter ventilation used, the length of the filter, the type of paper used, and the pH of the smoke – can affect how they are used and what constituents are absorbed. For example, elements of the design of cigarettes such as the proportion of filter ventilation have an important influence on the profile of smoke and puffing behaviour. In addition, regulation of at least one design feature, the propensity of cigarettes to cause fires, has resulted in a positive public health impact. Therefore, in answer to the working group's question, the FCA recommends that the COP answers "Yes. 'Contents and emissions' should be understood to comprise the characteristics, including the design features of the tobacco product itself."

The FCA recommends that design features of tobacco products be tested and measured at regular intervals, using technical standards that have already been developed and used. FCA supports the working group's proposal to work with the WHO Tobacco Laboratory Network to identify suitable methods to qualify and quantify such product characteristics.

Recommendation:
The COP should answer "Yes" to the working group's question "Does the Conference of the Parties agree that 'contents and emissions' is understood to comprise the characteristics, including the design features of the tobacco product itself?".

The need to include tobacco products other than cigarettes

The mandate given to the working group in decision FCTC/COP/1/15 required that it "start with cigarettes (because most commonly used tobacco product)". However, in some countries, other forms of tobacco, such as smokeless tobacco, waterpipe and hand rolling tobacco are prevalent, and cause enormous harm to their users. It is important that work on Articles 9 and 10 encompasses these products as well. Testing, measuring and regulation of some products, such as smokeless tobacco, are, in fact, easier than they are for cigarettes, given the difficulties involved in assessing the over 4000 different emissions in cigarette smoke.

Recommendation:
In any work to elaborate guidelines on Articles 9 and 10, the COP should focus not only on cigarettes but on as many different types of tobacco products as is feasible. For example, testing and measuring of contents can easily be performed for all tobacco products, not just cigarettes.

Standardizing testing and measuring methods

The working group's progress report acknowledges that guidelines adopted by the COP pursuant to Article 9 would have the effect of standardizing testing and measuring methods, and seeks direction from the COP on how the COP intends to exercise its standardization competence (para 64). The report identifies two options: the COP acts as a standardization body itself by requesting

and funding the WHO Tobacco Laboratory Network to develop and validate tobacco emissions testing methods; or the COP backs WHO in its work with the International Organization for Standardization (ISO) to develop and validate tobacco emissions testing methods.

In its report, the working group indicates that it proposes to work with the WHO Tobacco Laboratory Network to review existing methods for testing and measuring contents and emissions, and to support the development of new methods where they are lacking (para 32). The review process is expected to take at least two years and to depend on the availability of funds. The working group's report indicates that it has also initiated discussions with the Network about the development of a suitable validation process (para 36). The report indicates that this process still needs to be costed (an estimate of up to $US2.2 million is provided) and is expected to take several years, again depending on the availability of funding (paras 37-8).

The FCA believes that the question of whether the COP acts as a standardization body is a very important one, although consideration of it at this stage may be premature given the broader concerns about undertaking work on Articles 9 and 10 outlined above. As identified by the working group and stated above, standardization will be a very costly process. However, as the working group states in its progress report, there are concerns about endorsing the development of standards through the ISO: "historically, the International Organization for Standardization development process in the tobacco product area has not always been in support of public health objectives" (para 66). This is due to the domination of the relevant ISO committee and its processes by the tobacco industry. ISO/TC126 is the technical committee which manages the development of standards for tobacco products, with most of the technical work carried out by the Cooperation Centre for Scientific Research Relative to Tobacco (CORESTA). Both bodies are tobacco industry dominated. Indeed, CORESTA is completely under the control of the tobacco industry. The current chair of ISO/TC 126 was previously a long-term employee of a tobacco company.

Therefore, it is the position of the FCA that before the involvement of the ISO in developing and validating methods could be considered, the current composition of the relevant committee would need a major overhaul to ensure that it could serve public health rather than tobacco industry interests. This would require a sufficient number of public health representatives and the appointment of a chair with no connections to the tobacco industry. Until this happens, any work that the COP wishes to undertake towards standardization should be undertaken with the WHO Tobacco Laboratory Network and with other scientific, regulatory, technical and public health expertise, both government and civil society, rather than with the ISO.

Recommendations:
The working group raised the following question in this regard: "In consideration of the preceding information, how does the Conference of the Parties want to exercise its competence to adopt international tobacco testing standards? Does it intend to act as a standardization body itself by requesting and funding the WHO Tobacco Laboratory Network to develop and validate tobacco emissions testing methods? Or, does it want to back WHO in its work with the International Organization for Standardization to develop and validate tobacco emission testing methods?" In answer, the FCA recommends that the COP should not endorse the involvement of the ISO in the development of tobacco testing standards unless and until the relevant ISO

committee is substantially overhauled in such a way as to ensure that it can serve public health interests rather than tobacco industry interests. In the meantime, any work that the COP wishes to undertake towards standardization of testing and measuring methods should be undertaken with the WHO Tobacco Laboratory Network and with other scientific, regulatory, technical and public health expertise, both government and civil society. In addition, the question as currently worded refers only to emissions testing methods, whereas the question of standardization (and indeed the text in the progress report) applies also to methods covering contents, and the FCA would also recommend including design features as stated above.

Standards for emissions

On emissions testing, the progress report comments: "The working group appreciates that the selection of a smoking regimen is a contentious issue. It acknowledges that smoke emission data from machine measurements are not intended to be nor are they valid measures of human exposure. At this point, the working group believes that methods to test and measure emissions should provide for the machine smoking of cigarettes under conditions of different intensities in the collection of mainstream smoke (mouth-level smoke exposure); however the working group has not yet decided to propose a specific smoking regimen. The working group is aware of the work being done on this issue by the WHO Tobacco Laboratory Network and intends to study it at one of its next meetings" (paras 30-1).

The FCA believes that it is important to understand better the purposes to which such smoking regimen results will be put, and agrees with the working group that no specific regimen should be adopted at this time. A consensus does not exist within the tobacco control field as to which would be the most appropriate regimen to use and it will be important to develop that consensus as broadly as possible involving scientific, regulatory, technical and public health expertise, both governmental and civil society.

Recommendations:
The COP should not endorse any emissions testing regimen at this time. Any process undertaken towards the endorsement of an emissions testing regimen should include broad scientific, regulatory, technical and public health expertise, both government and civil society.

Other concerns and issues raised in the progress report

Until the issues raised above are addressed, it is the FCA's position that the other comments and questions raised by the working group in the progress report are premature.