

This is FCA document 1 of 2 relating to item 7.9 of the provisional agenda

Seventh Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control,
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FCA Policy Briefing

Maximizing transparency of Parties' delegations during sessions of the COP and meetings of its subsidiary bodies

Key recommendations

- FCA fully supports FCTC Article 5.3 and its guidelines and believes Party delegations should not include individuals having affiliations with the tobacco industry or any entity advancing its interests;
- At COP7, Parties should bring future meetings of the COP in line with Article 5.3 and its guidelines by advancing a policy to ensure that Parties are in compliance with Recommendations 4.9 and 8.3 of the Article 5.3 guidelines.

Why is this important?

Industry representatives have been present on Parties' delegations to the COP and other FCTC-related meetings over the past several years.

Since the sixth session of the Conference of the Parties (COP6) to the FCTC in 2014, a British American Tobacco (BAT) employee-turned-whistleblower exposed evidence of BAT bribing FCTC delegates from multiple countries in East Africa. One official allegedly received a bribe of US\$3,000 specifically for representing BAT's interests at the final negotiating round for the Illicit Trade Protocol (ITP).¹ This is likely just the tip of the iceberg in terms of the tobacco industry using bribes to infiltrate governments and advance its agenda.

According to an analysis carried out by the FCTC Secretariat, at least 11 Parties have sent representatives affiliated with the tobacco industry to at least one COP session. Tobacco industry infiltration of Party delegations directly threatens outcomes of discussions at COP about how to implement the FCTC and achieve effective results for public health.

The guidelines for Article 5.3 of the FCTC provide clear guidance on how Parties should act to ensure that the public health policy-making process is insulated from tobacco industry influence. In particular, Recommendations 2.1 and 2.2 outline that Parties should minimize interactions with the industry to only those that are strictly necessary for effective regulation, and should ensure the transparency and accountability of those interactions which do occur.

¹ <http://www.bbc.com/news/business-34944702>

Furthermore, Recommendations 4.9 and 8.3 explicitly state that Parties should not nominate any person employed by the tobacco industry, or any entity working to further the industry's interests, to serve on delegations to COP or other FCTC meetings, nor should any representatives of state-owned tobacco industries be present on government delegations. As such, the participation of the tobacco industry in COP and other FCTC meetings in this manner is contrary to the spirit of the FCTC, and is a clear violation of Article 5.3 and its guidelines.

After some discussion at COP6 on the issue of industry infiltration of the COP via Parties' delegations, the Bureau was mandated to provide COP7 with some options for maximizing transparency with regard to Party delegations to the COP. These options are presented in a report to COP7 (see FCTC/COP/7/30).

FCA recommendations for action at COP7

FCA strongly supports the guidelines for Article 5.3. It is important that government delegations to meetings of the COP, its subsidiary bodies or any other bodies established pursuant to the decisions of the COP do not include representatives affiliated with the tobacco industry or any entity working to further the industry's interests. FCA commends the Convention Secretariat for addressing this issue of importance in its report to COP7, and supports the establishment of a mechanism to enforce adherence to FCTC guidelines on this issue.

Should COP7 wish to give further consideration to the type of process best suited to bring COPs in line with Article 5.3 and its guidelines, FCA offers the following: The COP delegation nomination process could include Declaration of Implementation of Article 5.3 forms. These would require Parties to confirm that their nominated delegates are in compliance with Recommendations 4.9 and 8.3 from the Guidelines.