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EVENTS

WEDNESDAY, 9 NOVEMBER, 13:30 - 14:30

• WHO FCTC: A POWERFUL TOOL FOR PROMOTING THE IMPLEMENTATION AND FINANCING OF SUSTAINABLE DEVELOPMENT GOALS
• HEALTHIER AND ENVIRONMENT-FRIENDLY ALTERNATIVES TO TOBACCO CULTIVATION

IF NOT NOW, THEN NEVER

Declaring that a lack of resources is one of the key obstacles to implementation of the FCTC is a familiar complaint, often repeated at this and previous sessions of the COP. True though this statement may be for many Parties, the commitments made in 2015 at the United Nations to recognise FCTC implementation as a global development priority mean that there are new ways to unlock resources. But it will take action by governments to make this a reality.

The FCTC is one of only three Conventions explicitly referenced in the Sustainable Development Goals (SDGs) to be achieved by 2030. Furthermore, tobacco control and the FCTC are also explicitly mentioned in the Addis Ababa Action Agenda on Financing for Development, in the sections on mobilising domestic and international public resources.

Day 3 of COP7 is the time when Parties must seriously discuss how to take advantage of these 2015 achievements. Committee B will start with an agenda item that is ideal for this purpose: the Convention Secretariat will present its report on fundraising efforts and collaborative work (FCTC/COP/7/26). The Secretariat is rightly concerned about mobilising around US$9 million for its own budget to deliver the workplan for the next two years. But it would be a mistake to spend Wednesday morning talking only about the FCTC budget.

It would be an even bigger mistake if a proposed Financing Dialogue organised within several months after COP7 does not spotlight Parties’ implementation needs, and how to address them. Therefore, what we need on Wednesday is a healthy discussion on how to promote the investment case for FCTC implementation at country level through the Financing Dialogue. The fact that the FCTC is cited in the SDGs won’t bring new donors rushing to the Secretariat, or to tobacco control focal points, to offer support. The SDGs include 168 global targets on a wide range of development issues so tobacco control is facing tough competition for development funding.

So how can we get the donors’ attention focused on the FCTC target as a means to achieve the health goal (SDG3)? First, it will be important to communicate what exactly is needed to advance tobacco control, in language that development partners can easily understand. In order to generate this information, we need the Secretariat to map implementation needs in a systematic way immediately after COP7, in advance of the proposed Financing Dialogue.

All these tasks are actually proposed in a COP7 report - but in a completely different one (FCTC/COP/7/18) which is not going to be discussed in Committee B. To initiate action or resource mobilisation for FCTC implementation, delegates in Committee B will need to closely coordinate with their colleagues in Committee A. There is hardly a better reason to do so.
BE A PART OF THE FCTC’S FUTURE: HELP BUILD THE ‘WALL’

A GENDER TOOLKIT: ITS TIME

The FCTC can be a critical tool for achieving the Sustainable Development Goal on health (SDG 3). But there is a risk that this tool will not be used to its potential. Without including gender-specific considerations in development and implementation of tobacco control policies and programmes the treaty will not be living up to its promise in preventing, death and suffering, particularly for women and girls.

Although rates of male smoking in most countries have peaked and are in slow decline, the rates for girls and women are still rapidly rising. Research predicts that while 12 percent of the female population currently smokes, this number will rise to 20 percent by 2025. This does not take into account other forms of tobacco use which are also increasingly used by women.

A gender-focused approach to the global tobacco epidemic has been widely neglected and the tobacco industry has taken advantage of this gap. It is timely that measures to support sustainable implementation of the Convention include gender-specific considerations. As Parties lack guidance and practical approaches to develop gender specific tobacco control policies developing a first-ever toolkit would be a huge step forward. And there is more to this idea.

Integrating tobacco control interventions in development programmes, particularly those on maternal and child health or gender equality, provides additional opportunities and advantages. This way, additional experts, UN agencies, and resources will contribute to addressing the tobacco epidemic. The FCTC has been included in the SDGs. Now is the time to provide practical suggestions on how to build on this success.

Committee B is set for round two of discussions on Voluntary Assessed Contributions (VACs) which are in no way voluntary as they represent the only predictable cash for the FCTC budget. The discussion will be around two points: whether to remove the term ‘voluntary’ and what penalties if any should be imposed on Parties that do not pay on time.

As of 31 October, 133 Parties are in arrears, owing in total $6,026,380. As the regional breakdown shows, Parties from the European region are responsible for nearly 2/3 of this amount. Most Parties, in arrears from the middle-income category.

It would be interesting to know how many of these Parties have chosen not to pay up and which of them are either not aware of their dues or, despite a number of efforts by tobacco control focal points, were not able to convince their treasury to send payment to the Convention Secretariat. No matter the case, it is time that all Parties make these payments and stop referring to them as ‘voluntary’.

Notwithstanding confusion about whether these payments are mandatory the term ‘voluntary’ should be dropped. This is a matter of principle. After 10 years, a growing evidence of the Treaties effectiveness and countries:

The FCTC is already a success—set to the next level it needs predictable resources, not to hope that the check is in the mail.

Michal Stoklosa
Senior Economist Taxation and Health, American Cancer Society

Anca Tom Friedlander
Senior Policy Advisor, Smoke-free Partnership
El Protocolo todavía está en etapa de ratificación, pero se anticipa que este próximo año de 2017 se alcancen las 40 ratificaciones para el comienzo de la implementación. En el documento FCTC/COP/7/5 el Secretariado adelanta los problemas del largo período desde el comienzo de la implementación y el Meeting of the Parties (MOP, reunión de las Partes) que debe coincidir con la propia realimentación COP8 a fines de 2018. Por tanto, la FCA apoya la creación de un grupo de trabajo inter-gobiernos (IGWG) para adelantar discusiones técnicas previas a la MOP y también apoya la extensión del mandato del Grupo de Expertos creado en la COP6 sobre aspectos técnicos del Protocolo. Las discusiones sobre el avance de la implementación del Protocolo han girado en gran medida en torno al art.8, sobre rastreo y trazabilidad (tracking and tracing). La industria a través de Philip Morris Internacional y luego a través de una corporación que reúne a las principales multinacionales del tabaco, ha tratado de convencer a los Gobiernos sobre un sistema (denominado CODENTIFY) desarrollado por sus técnicos que implicarían un control directo o indirecto de la industria sobre los sistemas de trazabilidad. Las Partes necesitan que los sistemas de rastreo y trazabilidad que se obtengan para avanzar en el control del comercio ilícito sean controlados por las agencias especializadas de los Gobiernos y la información compartida con un sistema global a crearse que será desarrollado por la COP. Sin embargo, además de impedir el acceso de la industria en esta área es necesario estar atento a otros problemas. La adquisición de los sistemas de rastreo y trazabilidad involucra decisiones importantes sobre aspectos técnicos y sobre la aplicabilidad y costo beneficio de las soluciones a adoptar. Ninguna tecnología sustituirá el esfuerzo por cumplir otros artículos del Protocolo como los artículos sobre diligencia debida, (art.7), sobre licenciamiento de oferentes (art.6) y el resto de los artículos de la Parte III sobre controles de la oferta. Asimismo, es fundamental que las Partes avancen para adecuar la legislación penal vigente para el castigo de los comerciantes ilícitos (Parte IV), desarrollen sistemas de cooperación (Parte v) en aspectos de intercambio de información, controles policiales, extradición y demás aspectos claves del Protocolo. Respecto de los aspectos técnicos, se hace notar que diversas tecnologías de marcado y estampillado de los cigarrillos pueden ser compatibles con el art. 8 y con las posibilidades de compartir información como es necesario. No existen aún estándares, pero tampoco es deseable que los Gobiernos de los países Parte realicen compras apresuradas empujados por oferentes agresivos de los sistemas. En este sentido, será importante tener una medida y análisis del problema del comercio ilícito en el propio país y en la región a través de un análisis de riesgo y amenazas evaluando las reales necesidades, y adquiera un sistema que sea adecuado a su propia realidad. Algunos países en la región AMRO han realizado esfuerzos y gastos considerablemente adquiriendo un sistema de estampillado y trazabilidad que no ha logrado tener impacto en disminuir el contrabando desde países vecinos.

Alejandro Ramos
Economista y miembro de la junta directiva de la FCA

In 2015, the government of Thailand and the FCTC Secretariat convened a group of experts on Article 5.3 and tobacco industry interference from around the world to discuss the best way to advance national-level implementation. The conclusions of this group are articulated in the Secretariat’s report Implementation of Article 5.3 of the WHO FCTC (FCTC/COP/7/7).

At COP7, Parties are invited to note this report’s recommendations and mandate the Secretariat to carry out many of them. Some are commonsense and simple— such as creating a dedicated and user-friendly page on the Secretariat’s website where public health officials can find all of the existing tools and resources for Article 5.3 implementation. However, as any public health official knows, simply making resources available is not nearly enough. There needs to be a dedicated knowledge hub to house the resources, experiences and expertise on Article 5.3 from around the world, and guide Parties through the often difficult process of implementing these policies. This knowledge hub would essentially be the Dream Team of Article 5.3 and would jump into action when needed. The Dream Team’s work needs to be done in coordination with increased investments in national and regional workshops with policymakers on Article 5.3.
HOW LONG WILL WE LET PEOPLE GET AWAY WITH MURDER?

How would you respond to this scenario? A cosmetics company releases a new line of fragrances that promises to “make life wonderful.” The product is a hit, and millions of consumers world-wide begin using it daily. But researchers soon find that the fragrances contain a very addictive chemical that is absorbed through the skin. Worse, the chemicals that make the fragrances alluring are found to be toxic and carcinogenic, and the cancer rate of users skyrockets. How would you respond?

CIVIL SOCIETY CAN HELP PARTIES USE ARTICLE 19

The Article 19 Expert Group has produced an excellent civil liability toolkit to help Parties strengthen their laws to hold tobacco companies legally accountable for the deaths, disease and health care costs that their products and misbehaviour produce. But the toolkit won’t do any good in the closet. First, it needs to be used by the Parties to strengthen their laws. Second, the Parties, or civil society, need to use these laws to actually bring litigation against the industry. Non-governmental organizations (NGOs) can provide critical assistance at both stages.

Tobacco litigation has been demonstrated to contribute powerfully to achieving tobacco control goals. In the United States, health care litigation has:

1. Produced billions of dollars of annual payments to the states.
2. Forced manufacturers to raise prices sharply—greatly reducing smoking, especially among youth.
3. Funded the counter-advertising campaign, Truth, and
4. Revealed millions of internal industry documents that have made the industry politically toxic, making strong national tobacco control legislation possible for the first time.

FORCING THE TRUTH

Individual litigation, brought by private attorneys, has forced the industry to stop pretending that “light” cigarettes are less dangerous than other cigarettes, drawn media attention to the fact that cigarettes kill real people (as opposed to dry statistics), and redirected the industry’s PR machinery from denying the dangers of cigarettes to blaming plaintiffs for being foolish and weak-willed for actually using them. In France however, the tobacco control law known as the Loi Evin authorised civil society to bring litigation against tobacco companies that violate advertising restrictions. This has resulted in effective enforcement of the law, along with substantial fines that have helped fund tobacco control organisations.

Why do Parties need help from NGOs? Principally because not many people in the world – and few or none in most Parties – have experience bringing litigation against tobacco companies. Why do Parties need help from NGOs? Principally because not many people in the world - and few or none in most Parties - have experience bringing litigation against the tobacco industry. Health ministers certainly don’t have that expertise, but neither do justice ministries. Such litigation has only been attempted in a few countries, with even fewer chalking up successes to date.

EXPERIENCE NEEDED

The challenges and opportunities this litigation presents are quite different from other litigation. Consider some examples. Much of the industry’s misbehaviour has taken place in the US or Britain and while there are millions of internal documents—many of which are incriminating— it’s not obvious how to find the right ones or get them admitted into evidence. Many of these documents are publicly available at http://truthinstitute.org. Tobacco defendants will also try to complicate the proceedings by insisting that each victim’s case is so unique that it must be tried separately, making personal injury litigation prohibitively expensive to bring. This experience needs to be presented to legislators and judges to persuade them to rationalise and simplify procedures. And of course, tobacco defendants are smart: it needs to be made up reasons for delays and pre-trial appeals. Successful efforts to limit these possibilities in advance, and to debunk claims that have been refuted elsewhere will also need the assistance and perhaps testimony from veterans of prior tobacco litigation battles.

Fortunately, help is readily available. The Tobacco Products Liability Project, part of the Public Health Advocacy Institute of Northeastern University School of Law in Boston, US, has been addressing these issues since its founding in 1984. We have held more than 20 conferences with multi-national participation in Boston and have participated in multiple tobacco litigation conferences in each region designated by the World Health Organization. Since the purpose of the project is to encourage tobacco litigation as a public health strategy, we are happy to share our experience and expertise with Parties and civil society seeking to implement Article 19. Experienced attorneys are also available for technical assistance at the McCabe Centre for Law and Cancer in Melbourne, Australia and the International Legal Consortium at the Campaign for Tobacco-Free Kids in Washington, DC.
Tobacco control is a development issue. It directly contributes to multiple Sustainable Development Goals (SDGs) including Good Health and Well-being. Additionally, strengthening the implementation of the WHO Framework Convention on Tobacco Control (FCTC) in all countries is one of the SDGs’ targets to achieve the goal of health for all. Parties identified lack of resources, such as staff and funding, as the major obstacle to implementing FCTC measures and stressed that country-level information on the cost of implementation is lacking.

The needs assessment exercise undertaken by the FCTC Convention Secretariat during 2009-2015 reveals that Parties most frequently reported lack of human and financial resources to implement the Treaty (WHO Framework Convention Secretariat, FCTC/COP/7A). The available resources are reported to be insufficient, while Parties find it hard and challenging to access long-term and sustainable financing for enhanced implementation of the Convention (WHO Framework Convention Secretariat, FCTC/ COP/7/10). With this backdrop, a group of tobacco control advocates, including public health researchers, government officials, lawyers and economists, attended the Emerging Leaders Think Tank Seminar organised by the World Heart Federation and held 13-18 March 2016 in Bangalore, India. They proposed to update the country-level information on the cost of action (FCTC implementation) and the cost of inaction (the current costs of tobacco control).

The revised estimates (2016) for implementation of the four best buys indicate that estimated funds needed to implement the four FCTC measures rose slightly from US$ 0.81 per capita per year in 2011 to US$ 1.05 per capita per year in 2016. The cost is still miniscule compared to what countries collect in tobacco tax revenue. In 2014, the per capita tobacco tax revenue in low-income countries amounted to US$ 743, while in middle-income countries the revenue was US$ 3744 per capita. A preliminary analysis of the other key indicators presented at the lunchtime seminar on “WHO FCTC: A powerful tool for promoting the implementation and financing of sustainable development goals” to be held on Saturday, November 5, 2016. Further details on the study and its outcomes are available at the World Heart Federation (WHF) Exhibition Booth.

We request COP7 delegates to guide us with feedback and suggestions on the study, since, based on the above updated costs, we plan to draft and discuss factsheets for selected countries during the COP7 here in Delhi, with experts and country delegates during the session. The team also plans to pilot test the tool and the factsheets in selected countries.

UN-SDGS - GOAL 3

Goal: Ensure healthy lives and promote well-being for all at all ages.

Target: 3.4. By 2030, reduce by one-third premature mortality from non-communicable diseases through prevention and treatment, and promote healthy mental and well-being.

Action: 3a. Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries, as appropriate.

The meeting of the UN Interagency Task Force (UNIATF) on Non-Communicable Diseases discussed a model policy for UN organizations on how to prevent tobacco industry interference. COP should ensure that it seeks updates on this policy before discussing its own IGO review process. The meeting of the UN Interagency Task Force (UNIATF) on Non-Communicable Diseases discussed a model policy for UN organizations on how to prevent tobacco industry interference. COP should ensure that it seeks updates on this policy before discussing its own IGO review process. The meeting of the UN Interagency Task Force (UNIATF) on Non-Communicable Diseases discussed a model policy for UN organizations on how to prevent tobacco industry interference. COP should ensure that it seeks updates on this policy before discussing its own IGO review process.

$ FOR FCTC AT COUNTRY LEVEL VITAL FOR ACHIEVING SDGS

Some intergovernmental organizations (IGO) observers, again, contributed to rekindle the issue. Some of the tobacco industry on an ongoing basis. This is not only unacceptable, but illustrates policy incoherence within the UN system towards the Framework Convention on Tobacco Control (FCTC) and may undermine global efforts on tobacco control. IGOs play an important role in contributing to and supporting implementation of the FCTC. Their attendance at meetings of the Conference of the Parties (COP) is critical.

To make sure that IGOs attending the COP really support the advancement of the Convention, there should be a procedure to regularly review the accreditation of these organizations with the status of observers to the COP.

The Secretariat’s report to COP7 outlines a potential review process for IGO observers every two years. They would be required to complete and return a survey that would seek to obtain information on IGOs’ participation in FCTC meetings, their contributions to other tobacco control events, details on how IGOs work to support FCTC implementation, and information pertaining to each organization’s adherence to the FCTC, its involvement with IGOs, its adherence to the FCTC, and its involvement with IGOs.

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Mr. Amit Yadav (India), Dr. Anna Kontsevaya (Russia), Dr. Ce Shang (Philippines), Dr. Eduardo Bianco Stoklosa (USA), and Atty. Irene Reyes (Philippines), Dr. Adam Pana (Romania), Dr. Fabian B. Lewis (Lomutio), Mr. Michel Stoklosa (USA), and Atty. Irene Reyes (Philippines), Dr. Eduard Have (Uuguay), Ms. Alice Grabner Gasser (Switzerland).

All authors attended the World Heart Federation (WHF), Emerging Leaders Think Tank Seminar held in Bangalore, India, March 2016. This research project is funded by WHF.

Given the complexities of this process, COP7 may wish to consider some of the procedural details of how follow-up to the survey would proceed. When a process to review the observer status of non-governmental organizations (NGOs) was established at COP6, the Bureau was given the mandate to review NGO reports and to make recommendations to the COP (with relevant justifications) about whether to maintain, suspend, or discontinue observer status. COP7 may wish to decide whether a similar measure and criteria should be enacted as part of the proposed IGO review process.

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TI RESPONSIBILITY FOR HARMFUL IMPACTS TO OUR GLOBAL ENVIRONMENT

For decades now, with cigarette sales having increased to more than six trillion in 2016, tobacco producers have refused to accept any significant responsibility for the serious, global environmental damage resulting from the production, use and disposal of tobacco products. It’s time for new regulations that hold the tobacco industry (TI) responsible for contaminating the environment, humans, and animals throughout tobacco’s lifecycle.

Tobacco leaf growing and processing involves heavy pesticide and petroleum-based fertilizer use, land degradation and deforestation. Added waste concerns arise from tobacco manufacturing, packaging, distribution and consumption. These concerns include production of greenhouse gases (CO2 and methane), released by manufacturing, transport and smoking of tobacco products, environmental toxins found in secondhand smoke newly described toxic residuals known as thirdhand smoke found attached to surfaces in homes and other enclosed environments where smoking has occurred and post-consumption toxic tobacco product waste (TPW).

Given experience involving the pesticide, paint and pharmaceutical industries, among others, a strong case can be made for making the TI responsible for serious environmental problems throughout the tobacco product lifecycle. With butt waste being the most visible lifecycle harm, the TI clings to its long held view that smokers and local communities are responsible for post-consumer waste. The industry tries to bolster its image by funding some beach cleanups. Keep America Beautiful, and ash trays. These downstream actions are miniscule compared to the up-to-four billion butts polluting the globe annually. The tobacco industry has designed a product that is not only deadly when used as directed, but its cultivation, production, distribution, consumption, and post-consumption management also causes substantial and dangerous environmental contamination.

Extended Producer Responsibility (EPR) is a policy principle that promotes environmental protection by extending the responsibilities of the producer across the products entire life cycle. As set out in a Swedish doctoral thesis on corporate responsibility by Thomas Lindqvist in 2000, EPR addresses two core tenets that are highly applicable to tobacco:

1. Internalizing the environmental cost of products into the retail price and
2. Shifting the economic burden of managing toxicity and other environmental harms associated with post-consumer waste from local governments and taxpayers to producers.

While EPR is put forward as a legislative approach, it asserts, in the context of tobacco, that the producer would be strictly liable for TPW. There are several legal theories pertaining to liability, involving potential legal causes of action that could be applicable. Public nuisance may be the strongest approach, although product liability or hazardous waste laws could also successfully hold tobacco producers liable for TPW.

Raising awareness about the environmental consequences of tobacco use and the responsibility of the TI for those consequences will require media messaging, PR skills, donors to help advance our agenda, and actions by governments at national and subnational levels, in order to succeed. For the FCTC, the WHO is currently developing a Monograph on Tobacco and the Environment, with publication in 2017. The foundation for the Monograph is a scientific article co-authored by WHO, the Secretariat and other authors that appeared in the WHO Bulletin, December 2015, available at http://dx.doi.org/10.247/BLT15152744 More broadly, these and other initiatives will provide opportunities to motivate and collaborate with a diverse array of stakeholders in ways that will benefit environmental protection, as well as quality of human health, while increasing the cost of tobacco and reducing tobacco use.

By Clif Curtis, ASH US Consultant Advisor; President, Cigarette Butt Pollution Project;