Since the opening of the first Working Group for the Framework Convention on Tobacco Control on 25 October 1999

62,988,012

People have died from tobacco-related diseases. (As of 9am Seoul time on 17 November 2012)

THE ROLLER-COASTER RIDE ENDS WELL (PROBABLY)

At the end of a COP session, all that really matters is the decisions that were reached. On that score, barring last-minute surprises in plenary today, COPS yielded a good crop.

Marathon negotiations about Article 6 didn’t produce full guidelines, but the “set of guiding principles and recommendations” finalised in Committee A yesterday evening provide a solid basis for better tobacco tax policies around the world. And it is a relief to hear that intersessional work will not be blocked by financial constraints.

At the start of the week, of course, we had adoption of the Protocol to Eliminate Illicit Trade in Tobacco Products. Preparatory work for implementation will be a challenge, but at least the issues got a fair airing in Committee B.

Speaking of implementation, the decision to start work on setting up an implementation review mechanism – starting with a report to COP6 – is welcome indeed and can only help make the official reporting process more useful.

On mechanisms of assistance, we’ll see what happens in plenary this morning, but there seems now to be a shared understanding that Parties are not getting the technical support and financial resources needed to implement the FCTC as rapidly as they should.

On travel policy, discussions were lengthy, but the final product is a considerable improvement on the COP4 decision. But the attendance of low-resource countries will depend in part on the Secretariat’s success in raising extra funds.

continued on page 5

APPROVE THE WORKING GROUP ON SUSTAINABLE IMPLEMENTATION

The latest draft of a proposed Working Group on strengthening FCTC sustainable implementation, that was basically agreed in committee B last night, should be adopted in plenary this morning.

Implementation of the FCTC has not kept up with the magnitude of the tobacco epidemic. It has been almost eight years since the Convention entered into force, but while a number of Parties have successfully implemented elements of the FCTC, many others face several challenges when it comes to turning the Convention’s text into effective tobacco control policies on the ground. In part, this is due to a lack of awareness about the FCTC outside of health ministries, which has led to insufficient resources and capacity at the national level.

The proposal by the COP to set up this Working Group has the potential to reverse this trend. A decision at COP5 would build on previous decisions and declarations by the COP, the UN General Assembly, the UN Economic and Social Council and the UN Ad Hoc Inter-agency Task Force on Tobacco Control, as well as the recent mandate of the UN Development Programme and the Convention Secretariat to push integration of FCTC implementation into countries’ health and development plans.

The working group has great potential to help governments in their quest to achieve sustainable implementation of the FCTC. Once the Working Group is set up, it will be critical that resources are allocated for its work and to fulfil its mandate.
This year, WHO acknowledged that tobacco industry interference in the implementation of the FCTC is the greatest threat to its lifesaving potential. As most delegates know, the FCTC contains a critical provision that addresses this very issue — Article 5.3 — which establishes the tobacco industry’s irreconcilable conflict of interest with public health.

Article 5.3 is the backbone of the FCTC — the treaty cannot succeed if tobacco industry interference is not rooted out. In order to give the Article more power, Parties also unanimously adopted Guidelines to Article 5.3 that encourage governments to establish, among other safeguards, measures that limit tobacco industry interactions with government activities, and to put in place public disclosure measures.

Parties elaborated these Guidelines based on WHO investigations of internal tobacco industry documents and decades of experience from the public health community to challenge Big Tobacco’s efforts to sink public health policies. Some of the industry’s dirty tricks include:

- Lobbying political decision-makers, and even drafting legislation and regulations;
- Making direct gifts to governments to gain favour with lawmakers;
- Mounting aggressive litigation in countries around the world that are beginning to implement the treaty;
- Promising self-regulation and offering voluntary initiatives, some supposedly designed to prevent youth smoking;
- Offering to “partner” with governments;
- Demanding a seat at the table when tobacco control policies are being developed, claiming rights as a “stakeholder”;
- Promoting so-called “corporate social responsibility” through donations and other initiatives to avoid marketing restrictions;
- Hiding behind workers, farmers, retailers and front groups;
- Gaining influence through financial relationships with governments.

The Guidelines have already paid huge dividends for public health, encouraging parties to refuse to treat tobacco corporations as “stakeholders” in public health policy, partner with the tobacco industry in any capacity, or accept so-called corporate social responsibility schemes.

For example, in the Philippines, civil society worked with the government to pass a specific cross-ministerial policy in line with the Article 5.3 Guidelines. This policy has already been invoked by the Department of Education to reject contributions from Big Tobacco, by the Bureau of Internal Revenue to reject Codentify, a well-known tobacco industry-patented tracing system, and to kick the National Tobacco Administration off of the Philippines’ delegation to the COP.

But Big Tobacco is more aggressive than ever. Even this week, there are delegations that include tobacco industry representatives working to supplant our life-saving agenda with their deadly distractions on at least four delegations: Zambia, Vietnam, Japan and China. This is strictly prohibited by the Article 5.3 Guidelines, which state in paragraph 4.9: “Parties should not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.”

As the COP turns its focus from drafting and negotiations of the FCTC to implementation, Parties need to focus their attention on safeguarding from tobacco industry interference implementation of all measures required by the Convention. This starts with implementation of the Article 5.3 Guidelines.

John Stewart
Corporate Accountability International
EXPOSED – INDUSTRY REPS AS DELEGATES, PUBLIC...

When the COP broke into committees A & B this week, the public was excluded in order to keep out the tobacco industry. However, was the industry truly excluded? Here is a quick audit of the industry’s interference at COP5.

It appears the industry had many ways to exert influence on government officials and the negotiations themselves. BAT, for example, is alleged to have written to governments prior to the COP recommending its positions for COP5. Two Vietnam Tobacco Association executives joined the delegation and a suspiciously industry-friendly intervention was heard from the floor.

On Thursday, the Brazilian Government recalled members of its delegation who represent the Health Ministry. Four health delegates were ordered to return to Brazil immediately while those representing the Ministry of Agriculture remained. With the sudden recall, the Brazilian delegation is left with more people representing other ministries (mostly Agriculture) to finalize negotiations. Industry representatives lingering outside the negotiation rooms were sending a lot of misinformation to the Brazilian media on developments here.

Brazil is not the only country whose delegation received communiqués from senior officials. BAT Kenya seems to have obtained detailed information about the negotiations which they used to file a complaint with the Kenyan government. A former BAT-UK executive, now a consultant to the industry was spotted moving around talking to people to elicit information. Zambia had a delegate affiliated with the International Tobacco Growers Association. Both Japan and China had their customary tobacco industry representatives on the delegations, though China increased the number to four representatives at this COP.

A 12-year former executive of the Italian Tobacco Producers’ Association, who only recently joined the government service, is on the delegation to COP5. Needless to say, having a delegate with clear ties to the tobacco industry posed challenges during negotiations.

However, acknowledgement must be given to all Parties that made efforts to prevent industry interference. FCA recognized the Philippines on the first day with an Orchid for excluding the National Tobacco Administration from its official COP delegation.

Throughout the week several Parties, including Australia, Costa Rica and Djibouti, reminded the COP of Article 5.3 and the need to be wary of the tobacco industry. Surely, the crown belongs to WHO DG, Dr Margaret Chan, who continues to inspire and lead the way in industry watch.

While the COP acted quickly to boot the industry out of the public gallery, the loudest message on this issue was sent via the COP decision to defer approval of INTERPOL’s application for observer status in view of the fact that it was “appreciative of the financial support provided by PMI.”

It has been four years since the Guidelines to Article 5.3 were adopted and governments have an obligation to address industry interference. Was enough done to keep the tobacco industry away from the COP and the negotiations? Probably not!

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IT APPEARS THE INDUSTRY HAD MANY WAYS TO EXERT INFLUENCE ON GOVERNMENT OFFICIALS AND THE NEGOTIATIONS THEMSELVES.

"
COP 5 À SÉOL, LES MANOEUVRES CLANDESTINES DE L’INDUSTRIE DU TABAC

Les mesures restrictives, les exigences de traçabilité et la grande responsabilité qu’imposent le protocole contre le commerce illicite des produits du tabac tant aux industries qu’aux producteurs ainsi qu’aux États- Parties agitent la quiétude des industries jusque-là gros bénéficiaires des nombreuses vies en danger sous la fumée du tabac.

De Genève à Séoul en passant par Bangkok, Durban et Punta Del Este, les sessions de la Conférence des Parties sur la lutte antitabac enregistrent aussi, en dehors des officiels, les représentants des industries de tabac et leurs alliés-producteurs de tabac ou ingénieurs agricoles-qui s’infiltrait dans la masse pour espionner ou tenter de manipuler les délégués officiels dans les prises de décisions.

La 5ème conférence des parties qui se tient à Séoul depuis le lundi 12 novembre ne fait exception. Ici comme ailleurs, les clandestins suivent discrètement sans pour autant se faire connaître les travaux ou compte-rendu de travaux dans les allées de la conférence. Japan Tobacco, BAT une ingénieure agricole représentant des producteurs de tabac de 32 pays sont aussi présents. Mieux, contrairement aux producteurs et alliés des pays de l’Amérique Latine qui se sont manifestés publiquement devant le site de la conférence à Punta del Este il y a deux ans, ce sont les espions de certains pays producteurs du tabac et représentants des industries de tabac comme la Tanzanie, la Zambie et le Zimbabwe pour ne citer que ceux-là qui côtoient ici les délégués de ces pays pour avoir la primeur de leurs interventions en vue d’orienter leurs actions futures. Etant donné qu’ils sont admis dans les allées de la conférence comme « public », ils ont la possibilité d’aborder qui ils veulent et quand ils le veulent pour faire passer des messages ou pour un éventuel lavage de cerveau.

Mai jusqu’à quand vont-ils continuer à se comporter ainsi ? N’est-il pas mieux pour eux de se convertir dans d’autres domaines d’activité comme l’aurait fait tout récemment un grand fonctionnaire de la BAT que nous avons rencontré à Durban en 2008? N’est-il pas plus intéressant pour eux d’abandonner ce domaine d’activité ou l’étouf ne fait que se resserrer contre les travailleurs de la mort, chaque jour au lieu de continuer à manipuler les paysans et les autorités contre les intérêts publics?

Quant aux Parties dont les délégués officiels se laissent manipuler, on peut se poser la question de savoir si ces pays veulent en finir un jour avec le tabagisme. Pour les uns et les autres, il est utile de savoir que la lutte antitabac ne fait que s’intensifier avec des mesures plus rigoureuses en vue de la protection des citoyens et des politiques publiques de développement. À chacun de choisir : disparaître ou vivre.

Charles Dossou Ligan, Journaliste.

PARAGUAY Y EL CONTROL DEL TABACO: UN FUTURO PREOCUPANTE

Paraguay es un país latinoamericano de ingresos medio-bajos, con una fuerte industria tabacalera nacional, que mayoritariamente está involucrada en fabricación ilegal. Dicho país es responsable de producir el 10% de los productos de tabaco que se comercian ilícitamente a nivel mundial.

A pesar de esta situación, de escasos recursos y ausencia de compromiso político, Paraguay ha intentado enfrentar la actual epidemia de tabaquismo en base a esfuerzos del Ministerio de Salud y la cooperación con la sociedad civil nacional e internacional.

El anterior Gobierno de Paraguay intentó, por vía decreto, implementar varias de las medidas principales del CMCT, como los ambientes libres de humo y las advertencias sanitarias, pero la interferencia de la industria tabacalera impidió la aplicación de dichas medidas.

En los últimos años, habría habido un aumento de la producción y venta ilegal de productos de tabaco, destinada principalmente al mercado regional e internacional. Los tímidos esfuerzos desarrollados por el Ministerio de Hacienda, y las acciones de la sociedad civil nacional e internacional, no han sido tenidos en cuenta por el actual Gobierno.

Paraguay ha sido informado, reiteradamente, de la importancia de aplicar los controles adecuados al negocio del comercio ilícito del tabaco originado en dicho país, para la región y el resto del mundo.

Es de destacar que el actual presidente, Dr. Federico Franco, es médico y a pesar de haber sido informado de los compromisos internacionales adquiridos por Paraguay bajo el CMCT, no ha demostrado “voluntad política” para cumplir con dichos compromisos.

Pero la situación puede aún empeorar. Paraguay se enfrentará en muy corto plazo a un proceso electoral, y el candidato con mayor probabilidad de ganar las elecciones sería el Sr. Horacio Cartes, quien es uno de los principales tabacaleros, bajo sospecha de vinculaciones con el narcotráfico 2. De ocurrir esto, es muy probable que se facilite el comercio ilícito del tabaco desde Paraguay, hacia la región y el mundo. Pero además, como “empresario” podría desarrollar acuerdos con sus actuales “compitidores,” las multinacionales tabacaleras, y constituirse en “cabeza de puente” para sabotear los avances en control del tabaco que actualmente está desarrollando la región.

La comunidad internacional vinculada al control del tabaco y el CMCT, y en especial los países afectados por el comercio ilegal originado en Paraguay, deberían tener en cuenta esta potencial situación política, y pensar en monitorear y contrarrestar el daño que esta eventual situación política pudiera causar.

Nos veríamos enfrentados a la inédita situación de que un Estado Parte del CMCT tiene como Presidente a un “tabacalero.”

Paraguay surte el 10% del contrabando mundial de cigarrillos. Diario ABC (Paraguay), http://archivo.abc.com.py/2009-06-30/articulos/535665/paraguay-surte-el-10-del-contrabando-mundial-de-cigarrillos

Dichos de Mujica generan conflicto dentro del Partido Colorado Paraguayo. La República (Uruguay) http://www.diariolarepublica.net/2012/07/dichos-de-mujica-generan-conflicto-dentro-del-partido-colorado-paraguayo/

Dr. Eduardo Bianco, CIET Uruguay
A RAY OF SUNSHINE FOR USE OF REVENUES FOR TOBACCO CONTROL

DEDICATING REVENUES TO TOBACCO CONTROL PROGRAMMES

While Committee B was faced with the huge problem of financing FCTC implementation and the work of the COP, the Article 6 Guidelines Working Group had a golden opportunity yesterday morning to agree to compromise language to assist low and middle income countries with an evidence-based funding option: “dedicating revenues, for example from tobacco taxation.”

CONGRATULATIONS ARE CERTAINLY IN ORDER FOR THE MANY PARTIES THAT STOOD FIRM TILL CONSENSUS WAS ACHIEVED ON GETTING THAT IMPORTANT RECOMMENDATION IN.

By mid-afternoon, however, it became evident that there was a standoff on “Use of Revenues – Financing of Tobacco Control” between the EU, China, and Japan on the one hand, not wanting even a weak recommendation, and on the other hand all other Parties that had agreed to the compromise text.

INTERNATIONAL EXPERIENCE ALREADY SHOWS THAT MANY JURISDICTIONS HAVE BENEFITED FROM HAVING SUSTAINABLE FINANCING MECHANISMS FOR TOBACCO CONTROL AND HEALTH PROMOTION.

Fortunately, with marching orders from the Committee A Chair to arrive at consensus, Parties finally (after two separate small groupings) came to agree to adopt a recommendation that said: “Parties could consider, while bearing in mind Article 26.2 of the WHO FCTC and in accordance with national law, dedicating revenues to tobacco control programmes, such as those covering awareness raising, health promotion and disease prevention, cessation services, economically viable alternative activities, and financing of appropriate structures for tobacco control.”

Congratulations are certainly in order for the many Parties that stood firm till consensus was achieved on getting that important recommendation in. We are extremely grateful to Thailand, Kazakhstan, Kyrgyzstan, Oman, India, South Africa, Panama, etc., (apologies for any unintentional omissions of names) and entire regions that made it clear that this was a crucial measure in the fight against the tobacco industry.

International experience already shows that many jurisdictions have benefited from having sustainable financing mechanisms for tobacco control and health promotion. Consensus to recommend this policy option at an international level is a historic landmark.

Special mentions also go to the Working Group Chair, and to Australia that has generously volunteered to provide financial support for completion of work on a full set of Guidelines on Article 6.

Dr. Ulysses Dorotheo
Southeast Asia Tobacco Control Alliance

THE ROLLER-COASTER RIDE ENDS WELL (PROBABLY)

continued from page 1

The expert group on liability and the additions to Article 9&10 guidelines are also welcome progress.

MATURE RESPONSE

Noteworthy also is the COP’s mature response to draft policy options and recommendations on Articles 17&18. Industry-funded groups had painted the document as a looming disaster for the world’s tobacco growers. The reality was the draft needed further work, but the working group never had the intention of denying anybody their livelihood. The working group leaves this COP with a renewed mandate, which should deliver results at COP6.

There were moments of intense frustration during the week – as there frequently are in international negotiations. It seems to be an iron rule of such sessions that many hours will be wasted debating minor points or sorting out muddled wording, while some important issues get short shrift.

Fortunately for all of us, our memories of the more difficult moments in the week will fade, but the decisions the COP takes will remain. Delegates can be proud of the results achieved, of their ability to overcome linguistic and cultural barriers and to put the global public interest above all.

Moreover, as we have seen since FCTC talks first got started in 2000, the links forged in seemingly eternal negotiating sessions are strong – foreign colleagues become known quantities, then friends, then indispensable allies in the global effort to roll back the tobacco epidemic.

ADOPT A STRONG DECISION

To finish off the week on a high note, Parties are encouraged to finish and adopt a strong decision this morning on setting up a working group on mechanisms of assistance.

On that note, we wish all delegates safe travels back to their home countries, and look forward to seeing you again at COP6!
Kenya signed and ratified the WHO Framework Convention on Tobacco Control (FCTC) in June 2004 and subsequently enacted the Tobacco Control Act in October 2007.

The country’s commitment to tobacco control has been steadfast despite the unwavering opposition from the tobacco industry. This has earned it admiration and currently Kenya represents the AFRO Region in the COP Bureau. The delegation to COP5 has remained true to the spirit and letter of the FCTC. This has attracted the wrath of the tobacco industry, which has resorted to threats, intimidation and manipulation as they seek to derail the work of the delegation.

In a letter addressed to the Permanent Secretary, Ministry of Foreign Affairs, BAT-Kenya called upon the Minister to prevail upon the Kenyan COP Delegation to stick to the national position.

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Prior to COP5, the tobacco industry convened a meeting that was aimed at developing a consensus national position. To their credit, the Ministry responsible for Health shunned this meeting since the industry cannot and should never be engaged in tobacco control.

In a letter addressed to the Permanent Secretary, Ministry of Foreign Affairs, BAT-Kenya called upon the Minister to prevail upon the Kenyan COP Delegation to stick to the national position.

Kenya’s position on some of the FCTC proposals was as follows:

**Article 6**
Kenya supports the prioritization of tobacco control within the National budget and in similar jurisdictions. MOH is working closely with the MOF to ensure that the objectives of Article 6 are achieved. Under the Tobacco Control Act 2007, Section 7 provides for the Tobacco Control Trust Fund.

**Article 17 (B)**
"We will appreciate the work done and recommend that a WG be extended. Kenya will want to continue being a member of the group and officially upgraded to the position of Key Facilitator representing the AfriCan Region. On 12 November 2012, it has come to the attention of our industry representatives in Seoul that the Kenya delegation has deviated from the agreed Kenya position and are now pushing for the adoption of a minimum limit of 70% excise on RSP. This undermines the sovereignty of Kenya to determine its own fiscal policy and could also have serious unintended consequences. Moreover, there was no discussion or agreement at national level on this recommendation. Hence the Kenya delegation has no mandate to propose adoption of this recommendation as a country position.

In addition, the Kenyan delegation during a session on financing that was conducted on the sideline of the COP deliberations, callously invited the delegations from other countries by alleging that the tobacco industry is having drawers for turning to alternative crops. This was grossly depicted through pictures which was neither presented nor verbalized at the national level. Further, the Kenyan delegation made uncondemned invitations with respect to the control of the tobacco industry, which are inappropriate to its regulation and which were not discussed at the national level.

Taking into account the contributions of the tobacco industry in the economy, the industry takes great exception at the derogatory remarks made by the Kenya delegation at the Conferences in addition to the deviation from the agreed country positions.

In this regard, Sir, we humbly seek the intervention of your esteemed office to urgently contact the Kenyan delegation in Seoul and instruct them desist and refrain from taking personal positions on matters that have clearly agreed positions and urge them to articulate the agreed country positions as expected." Without shame, they write in the letter that “it has come to the attention of our industry representatives in Seoul that the Kenya delegation has deviated from the agreed Kenya position…”

Prior to COP5, the tobacco industry convened a meeting that was aimed at developing a consensus national position. To their credit, the Ministry responsible for Health shunned this meeting since the industry cannot and should never be engaged in tobacco control. This is clear; their commercial interests are irreconcilable with public health. They resort to name calling in their communication to the government about the very representatives that have been sent to represent the government at such a meeting. This should be condemned by actors of goodwill who want to see a better and healthier world. The Kenyan authorities should remain steadfast and focused on the provision of its Constitution that guarantees all its citizenry the right to the highest level of attainable health and the right to be informed. This right includes the protection from harmful products from the tobacco industry, which are the number one cause of preventable death.

We urge all parties to the FCTC to remain vigilant and take measures to protect their populace from these hazardous products that have been proven to kill if consumed as prescribed by the manufacturers. Their economic justification for their existence does not give them a platform to undermine governments’ steps to put the lives of many before profit.

Vincent Kimosop, Executive Director, Institute for Legislative Affairs Kenya
The striking power differences between developed and developing countries were again made evident in Friday’s Committee B discussion on the issues of travel and per diem support. The EU’s insistence on maintaining the decision taken at COP4 has resulted in a deadlock despite support from the majority of Parties to adopt a new resolution at COP5.

Parties that strongly support allocating the necessary financial resources to provide full travel support offered the following reasons:

- We need to secure full, inclusive participation for low and lower-middle income countries that are Parties to the FCTC;
- Lower participation of low-resource Parties would disrupt the effective implementation of the FCTC;
- If a vacuum is created, the tobacco industry might offer to fund Parties deprived from FCTC travel support;
- The FCTC is the heart of tobacco control, but if it does not pump blood strongly the body will not function properly.

Parties speaking in support of revising the COP4 decision demonstrated solidarity for the right of all Parties to participate in the next COP with equal dignity and choice. However, after a tough debate that lasted several hours, in the face of EU opposition and threat to spend even more hours discussing the topic, Parties agreed to accept a text that continues to only partially support 40 Parties and, in the longer term, aims to align FCTC travel support with that of the WHO.

Shanta Lall Mulmi, FCA Nepal
THANK YOU KOREA FOR YOUR HOSPITALITY

The FCA would like to say a big thank you to the Republic of Korea for its hospitality in hosting COP5. It has been an honour for us to spend a week in this beautiful and unique city along with the representatives of Parties from across the world that have negotiated and taken decisions which will assist in the effective implementation of the Framework Convention on Tobacco Control.

The Korean Government has recently taken strong action to promote FCTC policies indoor smoking throughout the city. With this new action, Seoul has emerged as a leader in tobacco control among Korean cities, paving the way for the entire country to follow suit.

To those who donated their own time and money to the FCA this week, we thank you.

Korea, your hospitality has been exemplary. This brief introduction to the rich cultural history of your nation and the soul of Asia has been a truly great experience for us all. We thank you for your warm welcome, kindness and showing us true “Geum Yeon Style.”

Thank you!

FCA member Korean Action on Smoking and Health organized two “Geum Yeon” style performances at COEX during COP5, attracting many photographers.

Photo by KASH

We would also like to thank the Korean Government for being so accommodating, inclusive and constructive. We very much admire and appreciate its strong relationship with the nation’s civil society, in particular Korean Action on Smoking and Health, whose members have been so much help to FCA this week. We would also like to thank all of our FCA members for their work to make COP5 a success. A special thank you for their invaluable support for FCA COP activities to:

- American Cancer Society
- Campaign for Tobacco-Free Kids
- Non-Smoker’s Rights’ Association
- Global Bridges
- Heart and Stroke Foundation of Canada
- Cancer Council Victoria, the World Lung Foundation
- Action on Smoking and Health, and
- The Statistical, Economic and Social Research and Training Centre for Islamic Countries.

To Australia, a high income country consistently standing up in Committee B for participation of low- and middle-income countries.

To the EU, for wasting everyone’s time and money by holding entrenched positions on Committee B issues.

Framed Convention Alliance (FCA) is a global grouping of NGOs working to achieve the strongest possible Framework Convention on Tobacco Control (FCTC). Views expressed in signed articles in the Bulletin are those of the writers and do not necessarily represent the views of the FCA. Front-page articles are unsigned as they do represent the consensus of the FCA membership at COP5.

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