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ON TOBACCO CONTROL**Conference of the Parties to the
WHO Framework Convention
on Tobacco Control**Sixth session
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**Reporting arrangements under the WHO FCTC:
Establishment of a mechanism to facilitate
review of Parties' reports****Report of the Convention Secretariat****Introduction**

1. This document has been prepared in response to the request made by the Conference of the Parties (COP) to the Convention Secretariat to prepare recommendations, for consideration by the sixth session of the COP, on the establishment of a mechanism to facilitate review of Parties' implementation reports (decision FCTC/COP5(11)). The COP requested that such recommendations should help to define the composition, scope, timing, desired outcomes, administrative and financial implications of an efficient and effective mechanism.

2. As stipulated in Article 23.5 of the Convention, the COP "*shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation... Towards this end, it shall... consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention*". Furthermore, the COP may establish subsidiary bodies, as required, by virtue of the power invested in it by Article 23.5(f) of the Convention.

3. The present report also takes account of the input provided by the Parties at the fifth session of the COP on this matter, in which the Parties articulated proposals for the establishment of an intergovernmental or expert-led mechanism, or one which combines elements of both. Parties envisaged a mechanism which is "light, effective and efficient", and does not pose an additional burden on the Parties.

Relevant international experiences

4. An examination of the practices employed by various international treaties to review their parties' implementation reports was presented in the report of the Convention Secretariat submitted to the COP at its fifth session (document FCTC/COP/5/14, paragraphs 22 to 33).

5. Several treaties contain provisions on the establishment of bodies (in most cases committees) to review parties' reports and progress made in implementation.¹ In other cases, the conference of the parties of the treaties concerned have established review mechanisms on their own authority.

6. Most of the **environmental treaties** have established committees to consider reports received from parties and assist the respective conferences of the parties to regularly review implementation. Additionally, some of the committees also address issues of non-compliance.² In most cases these are intergovernmental bodies composed of representatives of the parties. The reports of committees, including conclusions and recommendations on further steps in implementation, are submitted for consideration to the governing bodies of the respective treaties.

7. The pertinent standing committees established under **human rights treaties** are composed of independent experts. These committees consider the parties' reports and follow a "constructive dialogue" approach emphasizing their non-judgemental nature. Nevertheless, these committees formulate and formally adopt "concluding observations", "conclusions and recommendations" or "concluding comments", which are brought to the attention of the concerned parties.

8. The **International Labour Standards** are supported by a two-tiered supervisory system: one to supervise implementation of standards and another consisting of special procedures in case of submission of a complaint about the application of ratified conventions. The former is an expert-based mechanism, while the latter is a mixed structure, composed of representatives of governments, employers and workers. Both prepare their reports on the basis of governments' reports, the comments of employers and workers, and selected observations by the respective committees; the report of the second tier, the Tripartite Committee on the Application of Standards, which also incorporates the observations of the expert group, is submitted for adoption by the governing body (the International Labour Conference).

9. The number of members of such review bodies varies from 10 to 25; the members are nominated by the parties to the respective treaty taking into account balanced geographical representation. In most cases they consider reports of the parties and, in some cases, also address cases of non-compliance; formulate recommendations to the parties; and report back and make recommendations to the respective conference of the parties. Most of them meet two or three times a year, others meet less often, for example once in the intersessional period and once during the session of the conference of the parties.

Current arrangements for the review of reports of the Parties to the WHO FCTC

10. In line with relevant decisions of the COP (decisions FCTC/COP1(14) and FCTC/COP4(16)) the reports of the Parties are currently reviewed by the Convention Secretariat upon submission by Parties in the intersessional period.

11. Based on the review of reports, the Secretariat provides technical feedback to Parties, through the Parties' reporting focal points. This feedback generally concerns information and data that require clarification or that are missing, inconsistent, etc. The feedback does not include a general assessment of implementation progress or compliance; such matters could be under the mandate of an appropriate

¹ Such as the Convention on the Rights of the Child (Article 43, on establishment of the Committee on the Rights of the Child), the United Nations Framework Convention on Climate Change (Article 10, on establishment of a subsidiary body for implementation), and the Stockholm Convention on Persistent Organic Pollutants (Article 19, on establishment of the Persistent Organic Pollutants Review Committee).

² For example, the Implementation and Compliance Committee of the Basel Convention, which reviews implementation and at the same time deals with submissions concerning compliance-related matters; and the Montreal Protocol on Substances that Deplete the Ozone Layer, which has a permanent non-compliance mechanism that receives and considers reports of non-compliance. The Compliance Committee of the Kyoto Protocol also has an extensive mandate on compliance matters.

intergovernmental review mechanism, should the COP decide to establish one following consideration of this agenda item.

12. Based on the review of the Parties' reports, the Convention Secretariat also prepares and submits a global progress report on implementation of the Convention for the consideration of the COP. Five such reports have been presented to the COP, starting from its second session in 2007. The global reports were considered by Committee A at the second, third and fourth sessions of the COP. At the fifth session of the COP, consideration of the global progress report was allocated to the opening plenary session (to inform the general debate at the start of the COP) and a similar arrangement has provisionally been made for the sixth session of the COP.

13. In addition, Parties' reports are made available through the WHO FCTC website at http://www.who.int/fctc/reporting/party_reports/. The information contained in those reports is also reflected in the implementation database of the Convention, which is maintained by the Secretariat at <http://apps.who.int/fctc/reporting/database/>. The database is searchable by Party and by provision of the Convention.

Enhancing the review mechanism

14. The request made by the COP for additional arrangements to facilitate the review of Parties' reports reflects the need to enhance the process after the initial years of implementation of the Convention; several other international treaties established or enhanced such procedures after the initial years of implementation experience.

15. The request also reflects the recognition that the functions such a mechanism could cover cannot adequately be performed either by the COP during its regular sessions or by the Convention Secretariat alone. Regular sessions of the COP are held every two years, and many items must be considered in the limited time available at each session; the establishment of a mechanism that would allow the intergovernmental review to start in the intersessional period, with a further consideration of its outcome by the COP, would strengthen the process.

16. The enhancement of the review mechanism would allow for the necessary ongoing and often complex and detailed work to be carried out in the intersessional period, through an intergovernmental process in a geographically representative forum. The report presented by such a body to the COP would facilitate informed discussion and the taking of decisions by the Parties on implementation issues. Based on the review of international practices, an intergovernmental expert committee would be an appropriate body to carry out this work with the support of the Convention Secretariat and the guidance of the COP.

The proposed intergovernmental expert committee

Composition

17. The proposed committee could consist of three members from each WHO region. Alternatively, the composition could follow the principle of equitable geographical representation, to reflect the number of Parties in each region.

18. Parties could be requested to provide nominations within a time frame to be established by the COP (see below). The Bureau of the COP would review the nominations and establish the composition of the committee, based on the geographical distribution established by the COP and taking into account the need for balanced representation of technical expertise. In addition, the Convention Secretariat could be mandated to invite up to six experts to participate in the work of the committee as observers (preferably from organizations accredited as observers to the COP), to promote the utilization of relevant international expertise. Similar arrangements were recently established by the COP for the expert group on Article 19 of the Convention.

19. A provisional list of areas of expertise required for the members of the proposed intergovernmental expert committee is presented in the Annex.

Mandate

20. The mandate of the intergovernmental expert committee could be as follows:

- review implementation reports submitted by the Parties, based on an initial technical review to be completed by the Convention Secretariat;
- inform reporting Parties of any issues identified concerning insufficient implementation or non-compliance, and encourage the utilization of relevant resources and mechanisms of assistance available internationally;
- provide input to the development of the global progress report on implementation of the Convention, prepared by the Convention Secretariat for submission to the COP;
- report to the COP on its work, including challenges identified and recommendations, as appropriate, with regard to implementation of the Convention.

Time frame

21. A possible time frame could be as follows: the Parties would be requested to provide nominations for membership of the committee within the five months following each regular session of the COP, through the Convention Secretariat. The Bureau would be mandated to review the nominations and establish the composition of the committee within three months of that deadline. The Secretariat would then inform the appointed members and provide a briefing in writing on the mandate, timeline and expected organization of the work not later than 15 months before the next regular session of the COP. The committee could then start to work electronically through a protected website (including, for example, consideration of the lessons learnt during the previous reporting cycle and an initial review of the new, incoming implementation reports), which would be followed by a face-to-face meeting shortly after the deadline of submission of Parties' implementation reports (which is not later than six months before each regular session of the COP).

22. The face-to-face meeting of the committee would be of five working days' duration. The committee would also further utilize electronic means of communication to the extent required to ensure the completion of its work. If necessary, a second face-to-face meeting could be convened in the margins of the COP session. The Convention Secretariat would provide the necessary arrangements and assistance for the efficient work of the committee.

23. If the COP decides to establish such a review mechanism, the committee could be established according the above timeline in 2015, to review the next implementation reports expected in 2016.

Cost

24. The cost of one five-day meeting of an 18-member intergovernmental committee would be approximately US\$ 170 000 (including travel, documentation, short-term additional technical support, interpretation and logistics).¹ Should additional meetings or related work be required, as identified by the committee, the Convention Secretariat would seek extrabudgetary resources to cover the costs.

ACTION BY THE CONFERENCE OF THE PARTIES

25. The COP is invited to note this report and provide further guidance, in particular, in relation to the arrangements proposed in paragraphs 17 to 24 of this report.

¹ Without the programme support cost of 13% payable to WHO.

ANNEX**PROVISIONAL LIST OF AREAS OF EXPERTISE FOR THE MEMBERSHIP OF THE
PROPOSED INTERGOVERNMENTAL EXPERT COMMITTEE FOR THE REVIEW OF
PARTIES' IMPLEMENTATION REPORTS**

The experts nominated to the intergovernmental expert committee would be expected to possess substantial expertise in one or more of the following areas, in combination with sound knowledge of matters related to implementation the WHO FCTC at national and international levels:

1. public health policy;
2. epidemiology, surveillance and monitoring;
3. health law, international treaties and national legislation;
4. health economics, tax and price policies for health;
5. matters related to the intersection between health and trade and investment policies;
6. international and development cooperation, multisectoral coordination for health;
7. public policy evaluation and assessments;
8. specific areas covered by the WHO FCTC, such as product regulation, cessation support, agricultural diversification, and illicit trade.

For each proposed expert, a short curriculum vitae and contact details should be provided, along with an indication of the relevant area of expertise. Each nomination should also contain confirmation of the candidate's willingness and availability to serve on the committee, as well as confirmation of the absence of any conflict of interest and non-involvement with any activity of the tobacco industry or its affiliates, whether gainful or not.

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