
Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15))

Article 11: Packaging and labelling of tobacco products

Article 12: Education, communication, training and public awareness

Article 13: Regulating cross-border advertising

1. In deciding to elaborate guidelines for implementation of the WHO Framework Convention on Tobacco Control (decision FCTC/COP/1(15)), the Conference of the Parties at its first session considered Articles 7 and 9 of the WHO Framework Convention, which require them to propose guidelines on the implementation of the provisions of Articles 8 to 13 at the national level. Recognizing the assistance that such guidelines may provide to Parties in the development and implementation of policies and programmes related to the non-price measures for tobacco control set out in Articles 8 to 13, the Conference of the Parties decided:

- (a) to adopt the templates for the elaboration of guidelines on Articles 8 and 9;
- (b) to take note of the templates for the elaboration of guidelines on Article 9, phases 2 and 3, and Articles 10 to 13 as examples for the elaboration of guidelines for these Articles (see attached Annexes 1 to 3);
- (c) to accord the highest priority to guidelines on Article 8 and the first phase of Article 9, and to request the Convention Secretariat to initiate work on these guidelines, on the basis of the templates, and to present draft guidelines to the second Conference of the Parties, if possible, or progress reports;
- (d) to adopt certain enumerated criteria for prioritization of the work related to the guidelines with respect to Articles 9 to 13, which are mandated specifically by the WHO Framework Convention;
- (e) to request the Convention Secretariat to utilize these criteria in preparing a workplan for the elaboration of guidelines on the relevant articles, for consideration by the Conference of the Parties at its second session.

2. Article 8, on protection from exposure to tobacco smoke, and Articles 9 and 10, in a first phase, on the testing and measuring of tobacco product contents and emissions, have mandates and budget allocations for the development of guidelines. Pursuant to this, draft guidelines for the implementation

of Article 8 and a draft progress report on the guidelines development for Articles 9 and 10, which gives an overview of the work done so far and an outline for future work, are being presented to the second session of the Conference of the Parties.

3. However, pending work remains on guidelines for Articles 11, 12, and 13, for which templates for their development have already been adopted (decision FCTC/COP1(15)).

4. The expert group convened to draft a template for a possible protocol on cross-border advertising, promotion and sponsorship has indicated that the elements for such a protocol go substantially beyond the obligations set out in Article 13 of the WHO Framework Convention. In this regard, although a template for a protocol on cross-border tobacco advertising, promotion and sponsorship is being considered by the Conference of the Parties, developing guidelines for Article 13 should also be pursued, in accordance with Article 7 of the Convention and decision FCTC/COP1(15). The expert group stated that consideration would need to be given to whether these are necessarily required to be included in a protocol and they noted that there are arrangements other than a protocol that could be considered, including the development of guidelines in accordance with Article 7 of the Convention. Such guidelines would have the benefit of providing guidance to all Parties to the Convention, who have already assumed substantial obligations with respect to cross-border tobacco advertising, promotion and sponsorship. The expert group has agreed that it would be difficult to discuss the appropriate boundaries of a protocol in the abstract and that it would be useful to first explore how cross-border tobacco advertising, promotion and sponsorship should best be addressed, followed by an examination of what should be included in a protocol and what might be better dealt with by guidelines (or perhaps by other arrangements).

5. In light of the above, the Convention Secretariat would like the Conference of the Parties to take note of pending work on guidelines for Articles 11, 12, and 13, in furtherance of the decisions made at its first session. Specifically, the Conference of the Parties noted that guidelines were needed to provide consumers with better quality information based on human testing of tobacco products and avoid conveying the impression that the product provides a relative health benefit (Article 11: *Packaging and labelling of tobacco products*); to promote and strengthen public awareness of tobacco control issues (Article 12: *Education, communication, training and public awareness*); and to assist Parties in curbing and regulating cross-border tobacco advertising, promotion and sponsorship (Article 13: *Regulating cross-border advertising*).

6. In reference to the need for the elaboration of guidelines as mentioned above, and further to the request by the Conference of the Parties at its first session, the Convention Secretariat refers the Conference of the Parties to document A/FCTC/COP/2/13, which presents a budget and programme of work for the development of guidelines on Articles 11, 12, and 13.

ANNEX 1

Sample (not yet discussed) workplan for the development of guidelines on packaging and labelling of tobacco products

Subject	Article 11: Packaging and labelling of tobacco products
CONTENTS:	
Objectives and rationale	<p>The tobacco industry thrives by disseminating misleading information regarding social acceptability and health effects of their product. In order to curb the epidemic of tobacco use, consumers need to be well informed of the consequences of product use.</p> <p>To provide consumers with better quality information based on human testing of tobacco products and avoid conveying the impression that the product provides a relative health benefit.</p>
Clear definition of elements of guidelines	<p>The tobacco product packaging and labels should bear information on:</p> <ul style="list-style-type: none"> • health warnings • informative smoking cessation messages • statements about toxic emissions or constituents • adverse economic information • official language(s) of the country • size of the packaging label • use of graphic warnings
Needs/value-added	<ul style="list-style-type: none"> • Information sharing on international best practices • Strengthen measures and legislation
Existing work to build on	<p>Existing resources include:</p> <ul style="list-style-type: none"> • Papers and non-papers commissioned by WHO • Government, intergovernmental organizations, nongovernmental organizations and other publications including WHO papers and non-papers
PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	<p>Option 1 – For the Convention Secretariat to be mandated to take this role, working with WHO’s Tobacco Free Initiative.</p> <p>Option 2 – For WHO’s Tobacco Free Initiative to continue its work with the WHO Study Group on Tobacco Product Regulation for the latter to develop the guidelines for review, approval and adoption by the COP.</p> <p>Option 3 – Establishment of an informal group of experts on tobacco product testing and research, design, addiction, harm reduction, and regulation.</p>

Parties who offer to act as key facilitators (either via resource mobilization or technical work)	Brazil, Canada
Other Parties who offer to partner in the development of guidelines	Australia, China, Djibouti, European Community, Hungary, Mali, Mexico, Panama, Peru, Singapore, South Africa, Thailand, Uruguay
Parties who offer to act as reviewers (in addition to the usual peer review by experts)	New Zealand
Resource implications	<p>Option 1 – the COP would have to budget for this or mobilize funds through one or more facilitator Party (from above list).</p> <p>Option 2 – WHO’s Tobacco Free Initiative could be positioned to assist countries to expand capacity, but the Initiative would require further funding from donor countries if more than one meeting were to be convened.</p> <p>Option 3 – the COP would have to budget for this or mobilize funds some other way.</p> <p>In all three cases, additional budget would be needed to ensure that developing country delegates are able to participate.</p>
Time frame:	
<i>for guideline development</i>	One or two meetings necessary
<i>for review</i>	1 September 2006
<i>for submission to the Bureau</i>	sixty days before the second session of the COP
<i>for circulation to the Conference of the Parties</i>	thirty days before the first day of the second session of the COP

ANNEX 2

**Sample (not yet discussed) workplan for the development of guidelines:
Education, communication, training and public awareness**

Subject	Article 12: Education, communication, training and public awareness
CONTENTS:	
Objectives and rationale	<p>Rationale: Parties recognize the need to promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate.</p> <p>Objective: Successful implementation of tobacco control measures requires public awareness/education on tobacco control issues. Therefore, Parties shall promote broad access to effective and comprehensive public awareness programmes on health risks of tobacco use and exposure to tobacco smoke; benefits of cessation of tobacco use, adverse consequences of tobacco production and consumption, and importance of legislative and other tobacco control measures. Similarly, professionals, volunteers and office bearers working in areas that are particularly relevant for tobacco control, such as health planners and health professionals, community workers, media professionals, legislators, customs and police officials, need appropriate training on tobacco control.</p>
Clear definition of elements of guidelines	<ol style="list-style-type: none"> 1. Specify essential components of and strategies for effective and comprehensive public awareness programmes on: <ol style="list-style-type: none"> (a) Health risks of tobacco use and exposure to tobacco smoke (b) Benefits of cessation of tobacco use (c) Adverse consequences of tobacco production and consumption (d) Importance of the provisions of the Framework Convention, to support implementation. 2. Recommendations on training and/or sensitization and awareness programmes on tobacco control, addressed to various professional groups, as enlisted in Article 12(d). 3. Recommendations for allocation of human resources and health systems planning to enable health professionals and other groups to promote education, communication and public awareness on tobacco control. 4. Specify strategies for providing public access to information on tobacco industry activities in the country.
Needs/value-added	<ol style="list-style-type: none"> 1. Provide uniformity in tobacco control measures and activities. 2. International cooperation and information sharing of the best practices and lessons learnt.

Existing work to build on	<p>WHO's Tobacco Free Initiative:</p> <ol style="list-style-type: none"> 1. Building blocks for tobacco control: a handbook. Geneva, WHO, 2004. 2. Policy recommendations on smoking cessation and treatment of tobacco dependence: advancing tobacco control in the XXIst century. Geneva, WHO, 2003. 3. Glossary on WHO Collaborating Centres on Tobacco Control. WHO, 2005 (publications of WHO collaborating centres can be accessed through this glossary available online at http://www.who.int/tobacco/global_interaction/collab_centers/glossary_who_cc_tobacco_control/en/index.html). 4. Tobacco industry and corporate responsibility: an inherent contradiction. Geneva, WHO, 2004. 5. Tobacco industry documents: what they are, what they tell us and how to search them. A practical manual (second edition). Geneva, WHO, 2004. 6. The development of Philip Morris' position on environmental tobacco smoke for its web site. Geneva, WHO, 2004.
PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	<p>Option 1 – For the Convention Secretariat to be mandated to take this role.</p> <p>Option 2 – Acting in its capacity as a technical adviser, for WHO's Tobacco Free Initiative to build upon this role.</p> <p>Option 3 – Convention Secretariat and WHO's Tobacco Free Initiative to establish an informal group of experts to advise Parties.</p>
Parties who offer to act as key facilitators (either via resource mobilization or technical work)	Ireland
Other Parties who offer to partner in the development of guidelines	Armenia, Cape Verde, Chile, China, Djibouti, Egypt, Estonia, Hungary, India, Mali, Mexico, Panama, Peru, South Africa, Thailand
Parties who offer to act as reviewers (in addition to the usual peer experts)	Australia
Resource implications	<p>If the Convention Secretariat is the implementing entity, then the COP should give the Convention Secretariat the necessary resources.</p> <p>If the implementing entity is WHO, then its Tobacco Free Initiative would need an additional budget.</p>

Time frame:	
<i>for guideline development</i>	One meeting necessary
<i>for review</i>	At least sixty days prior to submission to the Bureau
<i>for submission to the Bureau</i>	At least ninety days prior to the first day of the second session of the COP
<i>for circulation to the Conference of the Parties</i>	Minimum of thirty days prior to the first day of the second session of the COP

ANNEX 3

**Sample (not yet discussed) workplan for the development of guidelines
on regulating cross-border advertising**

Subject	Article 13: Regulating cross-border advertising
CONTENTS:	
Objectives and rationale	<p><u>Objectives:</u></p> <ul style="list-style-type: none"> • To assist Parties in curbing/regulating cross-border advertising. <p><u>Rationale:</u></p> <ul style="list-style-type: none"> • It has been well documented that tobacco advertising, including cross-border advertising, encourages non-smokers to begin smoking, and discourages smokers from quitting. <ul style="list-style-type: none"> ○ Under this template, the term “cross-border advertising” refers to cross-border advertising, promotion and sponsorship. • Therefore, any ban on cross-border advertising would likely have a measurable effect on reducing tobacco consumption, thus reducing morbidity and mortality and increasing quality of life. • Furthermore, bans on domestic advertising can well be undermined by the effects of cross-border advertising, eliminating cross-border advertising can thus strengthen domestic anti-ad measures. • States have a mandate to consider the elaboration of a cross-border advertising protocol as defined by Article 13.8 of the Framework Convention.
Clear definition of elements of guidelines	<ul style="list-style-type: none"> • Develop clear, agreed-upon definition of cross-border advertising, potentially based on existing best practices. <ul style="list-style-type: none"> ○ Definition should include not only traditional media-based forms of advertising (television, radio, print, sports sponsorship) but emergent vehicles as well (satellite-based media, film, Internet). Attention should also be paid to tobacco-labelled consumer goods, such as toys and clothing. • Collaborate in several capacities on several levels, including: <ul style="list-style-type: none"> ○ International cooperation on research into cross-border advertising methods and effects. Potential regulatory measures should be researched as well, as mandated by Article 13.6. <ul style="list-style-type: none"> • Collaborate on effective dissemination of above information. ○ Collaborate with global, regional and domestic organizations involved in trade, media, advertising and marketing. ○ Cooperation on the development of filtering technologies to regulate media-based advertising, including the Internet.

	<ul style="list-style-type: none"> • Describe elements comprehensively banning all forms of cross-border advertising for inclusion in a potential protocol. • Require Parties to act on extra-jurisdictional complaints regarding advertising activities emanating from their own jurisdictions. • Define which domestic entities could be identified as the potential subjects of cross-border advertising bans.
Needs/value-added	<p><u>Needs:</u></p> <ul style="list-style-type: none"> • Further research into cross-border advertising methods and effects, as well as potential regulatory measures. • Collaboration on above research and information sharing. • Consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, pursuant to Article 13.8. <p><u>Value-added:</u></p> <ul style="list-style-type: none"> • Bans on cross-border advertising will reduce tobacco uptake and use, thus reducing morbidity and mortality and increasing quality of life. • Bans on cross-border advertising will strengthen domestic anti-ad measures. • The transnational nature of the problem will encourage further cooperation between concerned States and organizations.
Existing work to build on	<ul style="list-style-type: none"> • Existing resources include: <ul style="list-style-type: none"> ○ Papers and non-papers commissioned by WHO. ○ Government, intergovernmental organizations, nongovernmental organizations and other publications, including WHO papers and non-papers. ○ 2003 European Community Tobacco Advertising Directive.¹ ○ Existing laws or practices concerning cross-border regulation of other activities, such as pornography, of the Internet, and of movies. ○ Results of the Global Tobacco Control and Law Conference (New Delhi, 7–9 January 2000), including the publication “Tobacco advertising & promotion: the need for a coordinated global response”.²

¹ The subject matter and scope of which relates to “the advertising of tobacco products and their promotion:

(a) in the press and other printed publications;

(b) in radio broadcasting;

(c) in information society services; and

(d) through tobacco related sponsorship, including the free distribution of tobacco products”.

² <http://www.who.int/tobacco/media/en/ROSS2000X.pdf>

PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	<p>Option 1 – For the Convention Secretariat to be mandated to take this role.</p> <p>Option 2 – Acting in its capacity as a technical adviser, for WHO's Tobacco Free Initiative to expand on this role and address cross-border advertising.</p> <p>Option 3 – Establishment of an informal group of experts on cross-border advertising.</p>
Parties who offer to act as key facilitators (either via resource mobilization or technical work)	European Community (based on the 2003 Tobacco Advertising Directive), India (regarding regulation of smoking in cinemas), Sweden (could provide assistance based on success in <i>Konsumentombudsmannen v Gourmet International Products</i> , European Court of Justice 2001, arguing that cross-border advertising bans were justified on public health grounds).
Other Parties who offer to partner in the development of guidelines	China, Hungary, Madagascar, Malaysia, Mexico, Namibia, Thailand
Parties who offer to act as reviewers (in addition to the usual peer experts)	European Community
Resource implications	These guidelines have the potential to be resource intensive (in terms of money, expertise, and responding to industry-engendered challenges) on a scale comparable to that demanded by the guidelines relating to Articles 8–12. Additional budget would be needed to ensure that developing country delegates are able to participate.
Time frame:	
<i>for guideline development</i>	Although the work of WHO's Tobacco Free Initiative and the WHO Study Group on Tobacco Product Regulation in this area could serve as the basis for guidelines development, it is still foreseen that any group mandated to develop the guideline would need to meet two to three times prior to the second session of the COP.
<i>for review</i>	At least sixty days prior to submission to the Bureau
<i>for submission to the Bureau</i>	At least ninety days prior to the first day of the second session of the COP
<i>for circulation to the Conference of the Parties</i>	Minimum of thirty days prior to the first day of the second session of the COP

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