

Tobacco-free initiative

1. Introduction

In 1996, the World Health Assembly, in resolution WHA 49.17 on the International framework convention for tobacco control requested the Director-General to:

1. Initiate the development of a framework convention in accordance with Article 19 of the WHO Constitution;
2. Include as part of this framework convention a strategy to encourage Member States to move progressively towards the adoption of comprehensive tobacco control policies and also to deal with aspects of tobacco control that transcend national boundaries;
3. Inform the Secretary-General of the United Nations of this initiative, and to request the collaboration of the United Nations system, coordinated through the United Nations system focal point on “tobacco or health”; and
4. Keep the Health Assembly informed of the development of the Framework Convention in his biennial reports to the Health Assembly on the progress and effectiveness of Member States’ comprehensive tobacco control programmes, as called for in resolution WHA43.16.

This resolution was the start of a long process that culminated in the adoption of the Framework Convention on Tobacco Control (FCTC) in May 2003.

In 1999, a working group on the FCTC was established by the Health Assembly in resolution WHA 52.18, which also established an “intergovernmental negotiating body open to all Member States to draft and negotiate the proposed WHO framework convention on tobacco control and possible related protocols”.

The working group presented a document entitled “Proposed Draft Elements for the FCTC” to the Health Assembly in May 2000, paving the way for resolution WHA 53.16 which requested the Director-General “to convene the first session of the Intergovernmental Negotiating Body in October 2000”. Finally, in the early hours of 1 March 2003, the negotiations of the FCTC were concluded and the final text was ready for submission to the Health Assembly which, in resolution WHA56.1, unanimously adopted the FCTC.

The adoption of the FCTC leaves WHO Member States with one remaining challenge: the FCTC must be ratified by 40 countries to enter into force at the international level. This means that 40 countries must become full parties to the Convention before it can be considered binding international legislation. As of 30 June 2004, 22 countries had become parties to the Convention. None were from the Eastern Mediterranean Region.

Countries can become parties to the Convention through one of two processes: ratification or accession. The ratification process must be preceded by signature, the deadline for which was 29 June 2004. Countries that did not sign the Convention can become parties to it through the process of accession.

2. Regional involvement in the FCTC process

Between 14 and 17 Member States of the Region participated in each negotiation session of the FCTC. Only one country of the Region was not part of the process at any stage. Even countries that were unable to participate in the negotiation sessions participated in the intercessional meetings, held at regional level between the different negotiation sessions to discuss the text and unify the Region’s position with regard to key areas.

An informal regional alliance was formulated between the Regional Office, the League of Arab States and the Health Ministers’ Council for GCC States to raise awareness, enhance the

level of political commitment, share information and mobilize the efforts of different sectors at both national and regional levels in support of the FCTC.

As a result, a number of resolutions were passed in the annual meeting for Ministers of Health in the League of Arab States in support of country participation in the negotiations. The Health Ministers' Council for GCC States partnered with the Regional Office in several projects, most importantly the completion of the first set of country profiles on tobacco control covering the entire Region.

At the same time, the Regional Office facilitated efforts to coordinate the positions and opinions of different countries of the Region with regard to the FCTC text and its basic elements. Countries of the Region gathered to discuss and formulate one regional position in a series of meetings held between 2001 and 2003.

Regional consultation on liability and compensation in the framework convention on tobacco control, Teheran, Islamic Republic of Iran, 15–16 September 2001.

Regional consultation on the framework convention on tobacco control, Cairo, Egypt, 2–4 March 2002.

Regional consultation on the framework convention on tobacco control, Manama, Bahrain, 15–20 September 2002.

Sixth session of the intergovernmental negotiating body on the WHO framework convention on tobacco control, Geneva, Switzerland, 16–28 February 2003.

Interregional meeting on enhancing the role of NGOs in supporting the framework convention on tobacco control, Cairo, Egypt, 16–18 September 2003.

3. The power of the process

The negotiation process generated remarkable achievements in tobacco control at both regional and national levels. Five comprehensive sets of legislation were adopted, in Egypt, Jordan, Pakistan, Qatar and Saudi Arabia. At the same time, a number of countries developed national strategies for tobacco control within which the adoption of the FCTC was a key component: Djibouti, Egypt, Jordan, Morocco, Pakistan, Qatar, Saudi Arabia and Yemen. Moreover, in at least 11 countries, civil society groups were mobilized in support of the FCTC through small grants to implement projects specifically related to advocating for signing and ratifying the Convention.

In parallel to these efforts, special attention was given by WHO to producing information to support health sectors in raising the level of political commitment for tobacco control and the FCTC. Through a wide range of publications, special emphasis was put on health hazards related to tobacco, the economic burden of tobacco, the role of the tobacco industry in undermining tobacco control efforts and the legal aspects of tobacco control.

Studies and surveys were conducted in nearly every country in order to provide the needed data for action. For example, the Global Youth Tobacco Survey (GYTS) was implemented in all countries of the Region, the Health Professional Survey was conducted in 15 countries and the Regional Profile Survey was completed in all countries.

4. Immediate challenges

In 2003, the Fiftieth Session of the Regional Committee for the Eastern Mediterranean adopted resolution EM/RC50/R.3, in which it called upon Member States to sign and ratify the Convention, as only a few countries of the Region had signed the Convention since it was opened for signature.

As of 29 June 2004, the date on which the Convention closed for signature, 18 Member States of the Region had signed. However, none had yet ratified it. The Convention has been ratified

by countries in all the other six regions of WHO. For the first time since the start of the process of developing the FCTC, the Eastern Mediterranean Region is lagging behind.

The greatest challenge currently facing tobacco control in the Region is the ratification and implementation of the FCTC. Although the unanimous adoption of the FCTC by the Health Assembly is a great achievement in itself, the work is far from complete. This legal document must now enter into force as international law, to ensure coordination and a better future for tobacco control at the international and regional level.

In the period since the adoption of the FCTC by the Health Assembly, it has become clear that ratification of the FCTC by countries of the Region will require more than the commitment of the national health authorities alone. Ministries of Health should take the lead and engage other sectors in briefing sessions and advocacy activities at national level to enhance understanding of the FCTC and to promote its ratification.

There is confusion about the ratification and accession processes at both national and international levels. To clarify these legal matters, Ministries of Foreign Affairs and Ministries of Justice must be involved in the processes. The interaction between national and international law is determined by national laws in each country.

The delay in ratification of the FCTC by countries of the Region poses real threats to regional tobacco control efforts. Donors will be less likely to continue to support regional tobacco control activities. This will have a negative impact not only on the future of tobacco control but also on ongoing activities that might not be completed due to lack of funds.

If none of its Member States become parties to the Convention, the Region will be excluded both from the benefits of the FCTC, the only set of rules at the international level that support tobacco control, and from participation in the ongoing development of the FCTC. Moreover, the Region will lose the opportunity for the vital international collaboration and coordination needed to counter the efforts of the tobacco industry in promoting its deadly products.

5. Next steps

Countries that have signed the Convention can become parties to it through the process of ratification, which entails ratifying, accepting or approving the Convention at both national and international level. The specific action to be taken depends upon the national procedures required for dealing with international treaties, which vary from one country to another. The ratification processes at national and international level are closely linked. At national level, authorities must ensure that relevant steps are taken to incorporate the FCTC into national law. Once the necessary steps are taken at national level, the country must formally express to the international community its consent to be bound under the FCTC. This statement of consent, or “ratification instrument”, is normally in the form of a one-page document. The ratification instrument must be signed by the Head of State, Head of Government or Minister of Foreign Affairs and deposited with the Treaty Section of the Office of Legal Affairs in the United Nations.

Countries that did not sign the Convention while it was open for signature can become parties to it through the process of accession. Accession has the same legal effect as ratification and is a similar process; however, accession does not have to be preceded by signature. Like ratification, accession requires taking steps to incorporate the FCTC into national legislation, followed by the deposit of a formal statement of consent to be bound under the FCTC, or “instrument of accession”, with the Treaty Section of the United Nations.

Without doubt, countries of the Region have achieved a great deal in support of tobacco control; however, the future of these achievements is now in question. It is crucial that countries of the Region move forward and complete the process that they have started, by taking the necessary steps to become parties to the FCTC.