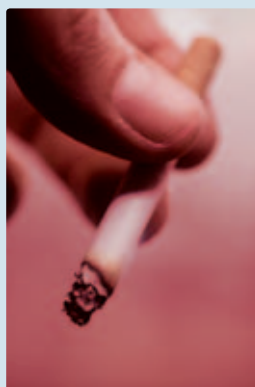


Spotlight on the Framework Convention on Tobacco Control (FCTC)

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A series of briefing papers on the FCTC and EU's associated obligations. The first edition gives a general description of the FCTC. Future editions will focus on key provisions.



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The Framework Convention on Tobacco Control (FCTC)

What is the FCTC?

The FCTC is the world's first international public health treaty. It recognises the harm that tobacco products and the companies that produce them can cause. The Treaty sets out legally binding objectives and principles that countries or regional economic integration organisations such as the European Community (known as Parties) who ratified and thus agreed to implement the Treaty must follow.

What are the key provisions of the FCTC?

Tobacco industry: Public health officials and health advocates around the world agree that the tobacco industry should have no influence on public health policies. The FCTC enshrines this concept as Article 5.3 obliges Parties to "protect these [public health] policies from commercial and other vested interests of the tobacco industry." Parties to the FCTC must ensure that protocols and guidelines developed as a result of the FCTC include specific measures to guard against the tobacco industry using its economic and political might to weaken the Convention. Guidelines for the implementation of this article will be drafted for adoption at COP 3 at the end of 2008 (Article 5.3)

Protection from exposure to tobacco smoke: The FCTC recognises that exposure to tobacco smoke has been scientifically proven to cause death, disease and disability. All Parties are required to implement effective measures to protect non-smokers from smoke in public places including workplaces and transport and should aim for a comprehensive approach i.e. no exemptions. (Article 8)

Labelling: Clear health warnings (either text or pictures or both) to cover at least 30% of the display area on tobacco product packaging. Forbids the use of words such as 'light', 'mild' or 'low tar'. (Article 11).

Advertising: Parties must work towards a comprehensive (so direct and indirect) advertising ban by 2010. Parties whose constitutions do not allow for a comprehensive ban must still restrict tobacco advertising, promotion and sponsorship within the limits of their national laws. (Article 13).

Liability: By including a provision on liability, the FCTC aims to make tobacco companies more accountable for their behaviour in the past and also to deter them from committing future harm. Parties are asked to consider prosecuting, and seeking compensation from, tobacco companies for any reprehensible behaviour. (Articles 4.5 & 19).

Illicit trade: COP 2 decided to open negotiations on a protocol to combat illicit trade. Proposals include that all tobacco packages should be to be marked so that their origin and final destination can be traced. The European Anti-Fraud Office (OLAF) and the European Commission are actively involved in developing this protocol. (Article 15).

Regulation of tobacco products: Tobacco manufacturers must disclose the contents of their products to governments in line with their national legislation. Guidelines regulating tobacco products will be developed. (Articles 9 & 10)

Taxation: The FCTC recognises the role that tax and price measures can play in reducing tobacco consumption. Parties are asked to consider public health objectives when implementing tax and price policies on tobacco products. (Article 6).

What does the FCTC aim to do?

It aims to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

Why is it needed?

Tobacco is the number one cause of preventable death in the world today. If current smoking patterns persist, tobacco will kill about 10 million people every year by 2025 - including 7 million people in developing countries - and 1 billion people by the end of the 21st century.¹ Many different factors (such as smuggling and cross border advertising) affect the tobacco epidemic therefore it cannot successfully be controlled by countries working on an individual basis. The FCTC also recognises that the tobacco industry, a global industry, is increasingly targeting the developing world to replace loss of sales in traditional markets.

How was it developed?

The Treaty was developed following four years of negotiation and discussion by members of the World Health Organisation (WHO). 192 Parties (including the European Community) signed the Treaty when it was agreed in 2004. It officially entered into force in February 2005.

Is it binding once a Party has signed?

No. By signing, a Party is only acknowledging its support for the FCTC. Each Party must also ratify the Treaty. This means that they must formally (following their national legal processes) show their intention to be bound by the Treaty. As of December 2007 151 Parties (including the EC and 25 EU Member States) have ratified the FCTC.

Is this the end of the process?

No. As the Treaty only sets out general objectives and principles, further work is needed to develop more specific commitments. These are known as 'protocols' and will be developed over time by the Parties to the Treaty.

Who oversees the Treaty?

The Conference of the Parties (COP) representing all parties that ratified the FCTC oversees the technical and financial aspects of the Treaty. It will develop protocols and guidelines based on the principles outlined in the main FCTC text and will monitor and report on implementation of the Treaty. Two sessions of COP have already taken place in 2006 and 2007. The next session is scheduled for 2008.

¹ J Mackay, M Eriksen and O Shafey, *The Tobacco Atlas* (2nd ed. Atlanta: American Cancer Society, 2006.)

What does the FCTC mean for the members of the EU and its institutions?

All EU Member States, with the exception of Italy and the Czech Republic, have signed and ratified the FCTC so the principles of the Treaty must be reflected in their national legislation and policies. The European Community (EC²), represented by the European Commission, is also a Party to the FCTC.

Why did the EC also sign up to the FCTC?

Article 152 of the EU Treaty obliges the EC to help improve public health and work with third countries and international organisations in the sphere of public health³. Also by acting as a block, the EC can have a greater influence on the outcome of discussions at international level. EU Member States can authorise the European Commission to negotiate and sign international agreements on their behalf in agreed policy areas. The European Commission can only represent Member States in policy areas covered by the EU Treaties, in this case public health (Article 152), international trade (article 133) and the internal market (article 95).

As the EC is a party to the FCTC does this mean that all EU member states also automatically became parties?

No. EU Member States have only empowered the EC to act on their behalf in certain policy areas. EU Member States must also ratify the treaty at national level.

Does this mean that all Parties that ratify the Treaty will have the same laws as the EU?

No. The treaty only sets minimum standards and principles. Countries are free to go beyond these if they wish as long as they are in line with their national laws and constitutions.

Will the EU have to introduce new legislation to meet its obligations under the Treaty?

Yes and No.

The EU has already enacted binding legislation in many of the areas covered by the FCTC such as:

- Directive 89/552/EEC which bans all forms of television advertising and teleshopping for tobacco products;
- Directive 2001/37/EC governing the manufacture, presentation and sale of tobacco products.

- Directive 2003/33/EC governing the advertising and sponsorship of tobacco products.
- General Product Safety Directive 2001/95/EC sets safety requirements for consumer products either being introduced within the European Union or already in circulation.

Non-binding EU measures also covered by the FCTC include:

- Council Recommendation of 2nd December 2002 on the prevention of smoking (covering passive smoking vending machines, indirect advertising and disclosure of information concerning the tobacco manufacturers marketing budgets).
- Commission Decision 2003/641/EC on the use of colour photographs as health warnings on tobacco packages.

New areas that the EC will have to look at include:

- Liability law;
- Policies to combat international smuggling;

Has the European Parliament played a role in the development of the Treaty?

Yes. It closely followed the development of the FCTC. Two MEPs (Minerva-Melpomeni Malliori and Jules Maaten) were given observer status in the EC delegations negotiating the Treaty. MEPs also adopted two European Parliament Resolutions (in 2001 and 2004) supporting the FCTC.

The EU and its Member States played an important role in negotiating the text of the FCTC, notably securing the development of a protocol to combat illicit trade. The EC with 25 of its Member States also Party to the FCTC is the largest financial contributor to the work and administration of the COP. It is also potentially the largest pool of resources for the technical and financial assistance to low and middle income countries.

By taking a leading role, the EU can demonstrate to other countries around the world with less experience of taking on the tobacco industry that the tobacco epidemic can be curbed and even reduced.

Most recently, in its 2007 report on the Commission's Green Paper on Smoke Free Europe, the Parliament called on the Commission and Member States to include tobacco control as a key priority in their health and development work and asked Italy and the Czech Republic to ratify the FCTC as soon as possible.

² EC means where the member states of the EU agree to share power in certain policy areas and share common institutions, such as the Council, the European Parliament and the Commission.

³ Commission Staff Working Paper accompany the White Paper Together for Health: A Strategic Approach for the EU 2008-2013 (page 10).

Will the Treaty impact on the work of the European Parliament?

Yes. As the EC has ratified the Treaty, all EC institutions and their relationships with the tobacco industry will come under closer scrutiny. The FCTC specifically calls on Parties to protect their policies from commercial and other vested interests of the tobacco industry. The Parliament will also have a say in any revision of existing, or introduction of new, EU legislation based on its FCTC commitments.

Will the Treaty impact on the work of the European Commission?

Yes. The Commission's 2007 Green Paper 'Towards a Europe free from tobacco smoke: policy options at EU level' already aims to look at how the EC can address its obligation under the FCTC to tackle exposure to tobacco smoke at work, on public transport and in indoor public places.

The Commission will also:

- Explore how existing EU funding mechanisms can be used to assist developing countries meet their FCTC obligations and help tobacco producers find alternatives to growing tobacco.
- Maintain a database of tobacco laws and regulations and data from national surveillance programmes.
- Report back to COP on EC progress in implementing the treaty.

Will the Treaty impact on EU Member States?

Yes.

Those Member States that have ratified the Treaty must (in line with their national legislation) follow the objectives and principles set out in the Treaty.

They have committed to:

- Developing (and funding) national tobacco control strategies and surveillance programmes.
- Protecting their policies from commercial and other vested interests of the tobacco industry.
- Developing and promoting national research programmes.
- Developing education programmes (primarily aimed at young people)
- Establishing a database of tobacco laws and regulations.

EU Members will also have a say on any revision of existing, or introduction of new, EU legislation based on its FCTC commitments.

The FCTC has the potential, if implemented effectively, to curb the tobacco epidemic in developing countries and to substantially reduce the 650,000 deaths per year caused by tobacco in the EU. This will only happen if the EU continues to play a leading role in ensuring that the commitments agreed to in the FCTC are put into practice.

"The WHO FCTC negotiations have already unleashed a process that has resulted in visible differences at country level. The success of the WHO FCTC as a tool for public health will depend on the energy and political commitment that we devote to implementing it in countries in the coming years. A successful result will be global public health gains for all."

– Dr LEE Jong-wook
Director-General, World Health Organization

FOR FURTHER INFORMATION SEE:

- For the full text of the FCTC: http://www.who.int/tobacco/framework/WHO_FCTC_english.pdf
- WHO: <http://www.who.int/tobacco/framework/en>
- The Framework Convention Alliance for Tobacco Control (FCA): <http://www.fctc.org>
- Smokefree Partnership: <http://www.smokefreepartnership.eu>



The Smoke Free Partnership (SFP) is a strategic, independent and flexible partnership between the European Respiratory Society, Cancer Research UK and the Institut National du Cancer. It aims to promote tobacco control advocacy and policy research at EU and national levels in collaboration with other EU health organisations and EU tobacco control networks.

Editors: Gráinne Crowley and Archie Turnbull

Smokefree Partnership
39-41 rue d'Arlon, 1000 Brussels, Tel: +32 2 238 53 63, Fax: +32 2 238 53 61
www.smokefreepartnership.eu