



**PROTOCOL**  
TO ELIMINATE  
ILLCIT TRADE IN  
TOBACCO PRODUCTS

**MEETING OF THE PARTIES TO THE PROTOCOL  
TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS**

**FCTC/MOP/3/12  
19 May 2023**

**Third session**

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**Provisional agenda item 7.5**

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# **Review of accreditation of nongovernmental organizations with the status of observer to the Meeting of the Parties**

## **Report by the Convention Secretariat**

### **Purpose of the document**

The present report provides a summary of the work reported by the nongovernmental organizations (NGOs) that are accredited as observers to the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products as part of the review of their accreditation by the MOP.

### **Action by the Meeting of the Parties**

The MOP is invited to note the present report and consider adopting the draft decision contained in Annex 2 of the report to maintain the observer status of the reviewed NGOs.

Contribution to the Sustainable Development Goals (SDGs): All SDGs; in particular SDG 3 and Target 3.a, as well as SDGs 16 and 17.

Link to Workplan and Budget item: 2.3.3.

Additional financial implications if not included in the Workplan and Budget: None.

Related document(s): Rules of Procedure of the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products.

## BACKGROUND

1. The review of accreditations of nongovernmental organizations (NGOs) with observer status to the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products is governed by Rule 31.2 of the Rules of Procedure of the MOP, which requires that the MOP shall review the accreditation of each NGO at any of its regular sessions and determine the desirability of maintaining its observer status.
2. The Third session of the MOP (MOP3) will be the first to review the accreditations of NGOs with observer status to the MOP, since observer status to the MOP was granted to the first applicants in decision FCTC/MOP2(3).
3. To facilitate the review process, the Convention Secretariat followed an approach similar to the one facilitating the review of accreditations of NGOs with observer status to the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC).
4. To implement Rule 31.3 of the Rules of Procedure of the COP – which is identical to Rule 31.2 of the Rules of Procedure of the MOP – decision FCTC/COP5(22) requested the Convention Secretariat to analyse the reports received from NGOs and prepare a report for the Bureau of the COP so that the Bureau could make recommendations to the next regular session of the COP on whether to maintain, suspend or discontinue the observer status of accredited NGOs. Further, decision FCTC/COP6(23) adopted the standard reporting questionnaire for use by NGOs for future reviews of accreditation.
5. The Convention Secretariat developed a questionnaire for use by NGOs accredited as observers to the MOP for the review of accreditation, following the approach and structure of the questionnaire used for the WHO FCTC, and taking into account the provisions of the Protocol. The questionnaire is included as Annex 1 of the present report.
6. On 1 February 2023, the Convention Secretariat issued an electronic invitation to the eight NGOs that are accredited with observer status to the MOP, inviting them to submit their reports via the online questionnaire by the deadline of 28 February 2023.
7. The present report provides examples of the work carried out by NGOs that are accredited as observers to the MOP to support Parties with implementation of the Protocol, based on the reports submitted through the above process. The reports of the NGO observers are available on the Convention Secretariat's website.<sup>1</sup>
8. In addition, upon the recommendation of the Bureau, it is proposed that the MOP may consider adopting a decision articulating a process to facilitate the review of accreditations of NGOs with observer status to the MOP, similar to the one used by the COP and as outlined in paragraph 4. In that respect, the MOP may consider requesting the Convention Secretariat, taking into account experience from the first cycle of review of the accreditation of NGO observers to the MOP, to develop and propose for adoption by the MOP, at its fourth session: (a) a process to facilitate the review of accreditations of NGOs with observer status to the MOP; and (b) a standard reporting questionnaire for use by NGOs for future reviews of accreditation.

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<sup>1</sup> <https://fctc.who.int/protocol/governance/observers/nongovernmental-organizations-accredited-as-observers-to-the-mop/nongovernmental-organizations-reports>.

## REPORTS RECEIVED BY THE CONVENTION SECRETARIAT

9. All eight NGOs accredited as observers to the MOP have responded to the online questionnaire, as follows:

- Campaign for Tobacco-Free Kids
- Corporate Accountability
- European Network for Smoking and Tobacco Prevention
- Global Alliance for Tobacco Control<sup>1</sup>
- Smoke Free Partnership
- International Union Against Tuberculosis and Lung Disease
- Tobacco Control Research Group
- Tobacco Free Portfolios

## SUMMARY OF THE CONVENTION SECRETARIAT'S ANALYSIS OF THE REPORTS RECEIVED AND EXAMPLES OF RECENT WORK OF NGO OBSERVERS

10. This summary is based on the reports received from eight NGOs that are accredited with observer status to the MOP and focuses on:

- (a) examples of NGO initiatives to support implementation of the Protocol at the national, regional and global levels; and
- (b) examples of projects that were reported in the submitted reports.

11. Several NGOs reported that they organized workshops raising awareness about the Protocol, attended events organized by the Convention Secretariat and other partners, provided support to the Parties in implementation of different articles of the Protocol, responded to questions and provided guidance on technical matters upon request by the Convention Secretariat and the Parties, and supported a few Parties to the WHO FCTC in their efforts to become Party to the Protocol.

12. Most NGOs (six out of eight) focused on providing support on Article 8 (Tracking and tracing). Further, three NGOs engaged in work on Article 20 (General information sharing) and Article 23 (Assistance and cooperation: training, technical assistance and cooperation in scientific, technical and technological matters). Several NGO also reported that they had provided support to the Parties on Article 11 (Sale by Internet, telecommunication and any other evolving technology), Article 12 (Free zones and international transit), Article 13 (Duty free sales), Article 15 (Liability of legal persons), Article 21 (Enforcement information sharing), Article 22 (Information sharing: confidentiality and

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<sup>1</sup> Formerly known as the Framework Convention Alliance on Tobacco Control.

protection of information), Article 27 (Law enforcement cooperation) and Article 28 (Mutual administrative assistance).

13. Examples of activities that were reported by the NGO observers include:

(a) The Campaign for Tobacco-Free Kids, through its International Legal Consortium, provided a Global Legal Fellowship Program, in association with the O'Neil Institute for National and Global Health Law, and an African Legal Fellowship Program, in partnership with Kenyatta University School of Law, Nairobi (Kenya) and ERSUMA Higher School of Magistracy (Benin), both in tobacco control law and policy. The 18-month, part-time programmes are a unique opportunity for practising lawyers from around the world to learn from global experts. Under the Global Legal Fellowship Program, 13 fellows were trained, including from Brazil, India, Pakistan, and under the African Legal Fellowship Program, 12 fellows were trained, including from Benin, Kenya and Nigeria. After completion of the programmes, the fellows are expected to join existing tobacco control networks in their respective countries.

(b) Corporate Accountability engaged Parties and civil society organizations to support the implementation of decision FCTC/MOP1(15), focused on maximizing transparency of delegations from Parties and observers to the MOP, in the lead-up to MOP3 and, in collaboration with the Campaign for Tobacco-Free Kids, facilitated conversation with Latin American civil society organizations to prepare as a subregion for MOP3.

(c) The European Network for Smoking and Tobacco Prevention reported that it contributed to the development and revision of the European Union (EU) tobacco control legislation, including the EU Tobacco Tax Directive on all aspects related to illicit trade in tobacco products.

(d) The Global Alliance for Tobacco Control developed a *Guidebook on Implementing Article 8: Tracking and Tracing of the Illicit Trade Protocol* in English and French.

(e) Smoke Free Partnership, with a few other partners, launched the Tobacco Control Scale report at the Sixth Symposium on Tobacco Control, jointly sponsored by the Catalan Institute of Oncology and the World Health Organization (WHO). The report presents the results of a survey of tobacco control activities in 37 European countries. One of the key recommendations of the report was that countries should ratify the Protocol as soon as possible and adopt tracking and tracing systems in line with the Protocol. The report referred to the Protocol as an international instrument to tackle illicit trade in tobacco products and, in its ranking of tobacco control performance among European countries, provided additional points to countries for being Parties to the Protocol.

(f) The International Union Against Tuberculosis and Lung Disease, through its grant programme, promoted ratification of the Protocol by hosting awareness-raising workshops and training events on enforcement related articles of the Protocol, conducting studies, providing technical assistance to Parties to the Protocol and supporting publication of related technical papers.

(g) The Tobacco Control Research Group, with the aim of supporting the implementation of both the WHO FCTC and the Protocol, authored the UK Tobacco Industry Interference Index and contributed to the work of the Global Tobacco Industry Watchdog STOP in terms of providing rapid engagement action support (REACT service); STOP also provides grants to more than 20 countries. Other than publishing several papers on different provisions of the Protocol, the Group

played a key role in producing a brief on greenwashing (*Talking Trash: Behind the Tobacco Industry's Green Public Relations*) in conjunction with the WHO, which was translated into 10 languages.

(h) Tobacco Free Portfolios, in conformity with the spirit, purpose and principles of the Protocol, educated financial institutions about the negative impact of financial and vested interests of the tobacco industry. The organization reported that nearly 200 of the world's largest financial institutions (including banks, insurers, pension plans and sovereign wealth funds) with assets under management of more than US\$ 16 trillion – signed the Tobacco-Free Finance Pledge that was launched in 2018.

14. In addition to supporting Parties in their efforts to implement Protocol provisions, some NGOs helped a few WHO FCTC Parties to become Party to the Protocol. For example, Corporate Accountability worked together with Latin American civil society organizations to support ratification of the Protocol by Paraguay. The Global Alliance for Tobacco Control supported Kenya in the ratification process by providing information, responding to queries (including from government officials) and connecting local stakeholders with experts. Both the European Network for Smoking and Tobacco Prevention and the Smoke Free Partnership reported that they encouraged and supported Parties to WHO FCTC from the European Region to consider ratifying the Protocol and to establish tracking and tracing systems. The Tobacco Control Research Group, upon the request of the WHO Regional Office for the Eastern Mediterranean, contributed to a regional training session on scaling up the ratification of the Protocol.

## **RETAINING OBSERVER STATUS AND CONFLICTS OF INTEREST**

15. The reports submitted by the NGOs accredited as observers to MOP indicate that civil society organizations are committed to contributing to and assisting with the implementation of the Protocol by the Parties. Most of NGOs promoted and supported Parties in their efforts to establish tracking and tracing systems for tobacco products, which is one of the time-bound measures under the Protocol. Another significant area of contribution is that most NGOs encouraged and supported countries in different parts of the world to become Party to the Protocol.

16. All eight NGOs in their submitted reports expressed the wish to retain their observer status to the MOP. No conflicts of interest were declared in any of the NGO reports.

## **ACTION BY THE MEETING OF THE PARTIES**

17. The MOP is invited to note the present report, and, following recommendation of the Bureau, to consider adopting the draft decision contained in Annex 2 of the present report.

ANNEX 1

**QUESTIONNAIRE USED FOR THE REVIEW OF ACCREDITATION  
OF NGOS WITH THE STATUS OF OBSERVER TO THE MEETING  
OF THE PARTIES IN 2023**

**Contact details**

1. Name of the organization:
2. Mailing address:
3. Contact person responsible for completing the report:
4. Telephone:
5. Email:
6. Website of the organization:

**General information**

1. Please indicate if your organization would like to retain its status as observer to the Meeting of Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products: Yes/No
2. Does your organization's mission statement specifically refer to tobacco control or to countering/fighting illicit trade in tobacco products? Yes/No

If yes, please specify/provide details:

3. Does your organization have regional branch(es) to enhance activities in different regions or groups of countries? Yes/No

If yes, please provide details:

4. Does your organization regularly convene meetings or conferences for its membership? Yes/No

If yes, please indicate frequency: Monthly/Quarterly/Biannually/Annually/Biennially/Others (not on a regular basis, meet when required, etc.)

If yes, is tobacco control or countering/fighting illicit trade in tobacco products covered in the meetings/conferences? Yes/No

**Participation in meetings organized under the auspices of the Protocol and contributions to other tobacco control related events**

1. Please indicate the meetings organized by the Convention Secretariat at which your organization was represented (sessions of the Meeting of Parties, meetings of inter-sessional groups, working groups, NGO events, etc.): Title and date
2. Please list any other meetings or conferences with a focus on tobacco control or countering/fighting illicit trade in tobacco products attended by your organization.

**Work encouraging Parties to the WHO FCTC to become Party to the Protocol**

1. Have you supported any Party or Parties to the WHO FCTC to become Party to the Protocol?  
Yes/No

If yes, please provide details:

**Your organization's activities to support the Parties in their implementation of the Protocol**

Has your organization conducted any work/activity in relation to the following provisions of the Protocol?

1. Part II: General obligations
  - (a) Article 4 (General obligations): Yes/No
  - (b) Article 5 (Protection of personal data): Yes/No

If you responded YES to any of above, please provide details:

2. Part III: Supply chain control
  - (a) Article 6 (Licence, equivalent approval or control system): Yes/No
  - (b) Article 7 (Due diligence): Yes/No
  - (c) Article 8 (Tracking and tracing): Yes/No
  - (d) Article 9 (Record keeping): Yes/No
  - (e) Article 10 (Security and preventive measures): Yes/No
  - (f) Article 11 (Sale by Internet, telecommunication, or any other evolving technology):  
Yes/No
  - (g) Article 12 (Free zones and international transit): Yes/No
  - (h) Article 13 (Duty free sales): Yes/No

If you responded YES to any of above, please provide details:

## 3. Part IV: Offences

- (a) Article 14 (Unlawful conduct including criminal offences): Yes/No
- (b) Article 15 (Liability of legal persons): Yes/No
- (c) Article 16 (Prosecution and sanctions): Yes/No
- (d) Article 17 (Seizure Payments): Yes/No
- (e) Article 18 (Disposal or destruction): Yes/No
- (f) Article 19 (Special investigative techniques): Yes/No

If you responded YES to any of above, please provide details:

## 4. Part V: International cooperation

- (a) Article 20 (General information sharing): Yes/No
- (b) Article 21 (Enforcement information sharing): Yes/No
- (c) Article 21 (Information sharing: confidentiality and protection of information): Yes/No
- (d) Article 22 (Assistance and cooperation: training, technical assistance and cooperation in scientific, technical and technological matters): Yes/No
- (e) Article 24 (Assistance and cooperation: investigation and prosecution of offences): Yes/No
- (f) Article 27 (Law enforcement cooperation): Yes/No
- (g) Article 28 (Mutual administrative assistance): Yes/No
- (h) Article 29 (Mutual legal assistance): Yes/No
- (i) Article 30 (Extradition) and Article 31 (Measures to ensure extradition): Yes/No

If you responded YES to any of above, please provide details:

## 5. Part VI: Reporting

- (a) Article 32 (Reporting and exchange of information): Yes/No

If you responded YES to any of above, please provide details:

## 6. Part VII: Institutional arrangements and financial resources

- (a) Article 36 (Financial resources): Yes/No



**Other relevant activities to support the work of the Protocol**

1. Please provide any other relevant information, including support to countries that does not fit under the questions above.

**Attachments**

1. Please attach any file relevant to any of the activities reported above. (File name; file size limited to 10 MB).

**Declarations**

(a) Please confirm that your organization does not receive, has not received and will not receive in the future, either directly or indirectly, any financial or other contributions or assistance from the tobacco industry or its affiliates. Please also confirm that neither your members nor your partners are affiliated directly or indirectly with the tobacco industry or its affiliates or those furthering the interests of the tobacco industry. Yes, I can confirm/No, I cannot confirm.

(b) Please confirm that the activity of your organization is in conformity with Article 5.3 of the WHO FCTC and the 15th and 16th preambular paragraphs of the Protocol. Yes, I can confirm/No, I cannot confirm.

(c) Through my electronic signature, I confirm that the above information is accurate and complete, to the best of our knowledge and abilities: Signature of the Head of the organization.

ANNEX 2

**DRAFT DECISION:  
REVIEW OF ACCREDITATION OF NONGOVERNMENTAL ORGANIZATIONS  
WITH THE STATUS OF OBSERVER TO THE MEETING OF THE PARTIES**

The Meeting of the Parties (MOP),

Recalling the 17th and 18th preambular paragraphs, and Article 5.3 of the WHO Framework Convention on Tobacco Control, as well as Article 4.2 of the Protocol to Eliminate Illicit Trade in Tobacco Products;

Having considered the proposals contained in document FCTC/MOP/3/12,

1. DECIDES, in accordance with Rule 31.2 of its Rules of Procedure to maintain the observer status of the following eight nongovernmental organizations (NGOs):

- Campaign for Tobacco Free Kids
- Corporate Accountability
- European Network for Smoking and Tobacco Prevention
- Global Alliance for Tobacco Control
- Smoke Free Partnership
- International Union Against Tuberculosis and Lung Disease
- Tobacco Control Research Group
- Tobacco Free Portfolios.

2. REQUESTS the Convention Secretariat, taking into account experience from the first cycle of review of accreditation of NGO observers to the MOP, to develop and propose for adoption by the MOP, at its fourth session: (a) a process to facilitate the review of accreditations of NGOs with observer status to the MOP; and (b) a standard reporting questionnaire for use by NGOs for future reviews of accreditation.

(XXX plenary meeting, XX November 2023)

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