



PROTOCOL
TO ELIMINATE
ILLCIT TRADE IN
TOBACCO PRODUCTS

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

**FCTC/MOP/3/3
19 September 2023**

**Third session
Panama City, Panama, 27–30 November 2023
Provisional agenda item 2**

Applications for the status of observer to the Meeting of the Parties

Report by the Convention Secretariat

Purpose of the document

The present document provides information to the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products on applications for the status of observer to the MOP and the related recommendation of the Bureau elected by the Second session of the MOP.

Action by the Meeting of the Parties

The MOP is invited to note this report and consider adopting the annexed draft decision on whether the applications for observer status should be granted or rejected.

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

Link to Workplan and Budget item: 2.3.1.

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. Applications by international intergovernmental organizations (IGOs) are governed by Rule 30.1 of the Rules of Procedure of the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products, which states: “Any international intergovernmental organization may apply, in accordance with its internal rules, to the Secretariat for observer status, which may be granted by the Meeting of the Parties, on the basis of the report from the Secretariat, taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention. Such applications, duly endorsed by the governing body of the organization concerned, should be submitted to the Secretariat not later than ninety days before the opening of the session.”

2. Applications by international and regional nongovernmental organizations (NGOs) are governed by Rule 31.1 of the Rules of Procedure of the MOP, which states: “International and regional nongovernmental organizations whose aims and activities are in conformity with the spirit, purpose and principles of the Protocol may apply for observer status, which may be granted by the Meeting of the Parties, on the basis of the report of the Secretariat, and taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention. Such applications should be submitted to the Secretariat not later than ninety days before the opening of the session.”

3. Further, in decision FCTC/MOP1(4), the MOP invited regional economic integration organizations, IGOs and NGOs to apply for observer status to the Second session of the MOP and subsequent sessions, bearing in mind the following: (a) any such organization must have the endorsement of its governing body in applying for observer status to the MOP; and (b) any such organization must be free of any association with or influence from the tobacco industry, in line with Article 5.3 of the WHO Framework Convention on Tobacco Control (WHO FCTC) and its Guidelines for implementation, as adopted by the Conference of the Parties (COP) to the WHO FCTC, including not partnering with or receiving funds from the tobacco industry or any other commercial entity with a vested interest. In addition, in decision FCTC/MOP1(5), the MOP invited competent international and regional IGOs to apply for observer status to the MOP on the basis of their expertise and according to the rules of their own governing bodies, as well as the Rules of Procedure of the MOP.

4. In accordance with Rules 24ter.1(f) and 24ter.1(g) of the Rules of Procedure of the MOP, the Bureau of the MOP shall review the applications of NGOs and IGOs that apply for observer status and make recommendations in that regard to the MOP.

5. It is to be noted that the MOP has not yet adopted an indicative list of criteria to guide the Bureau of the MOP in analysing applications for observer status, as was done by the COP. Decision FCTC/COP8(1) mandated the Bureau of the COP to use indicative criteria in recommending to the COP whether to grant or reject applications from organizations for observer status. In accordance with the COP decision, any organization that meets at least one of the following exclusionary criteria will not be granted observer status:

A. For international intergovernmental organizations

- A.1 When the work of the IGO does not contribute to the implementation and purpose of the WHO FCTC.
- A.2 Where there is evidence that the organization has accepted funding from and/or has a vested interest in the tobacco industry.

B. For nongovernmental organizations

- B.1 When the organization's activities are limited to the national scope.
- B.2 When the organization has accepted funding from and/or has a vested interest in the tobacco industry.
- B.3 When the organization is affiliated with the tobacco industry, taking into account the 17th and 18th preambular paragraphs, as well as Article 5.3, of the WHO FCTC.

6. The Bureau elected by the First session of the MOP (MOP1) agreed that the indicative list of criteria for the analysis of applications for observer status used in FCTC/COP8(1) should be adapted for use by the MOP for the consideration of requests for observer status to the MOP. Furthermore, the MOP1 Bureau had approved criteria to assess "any other commercial entity with a vested interest" when considering an application for observer status to the MOP, as per decisions FCTC/MOP1(4) and FCTC/MOP1(5), and giving due consideration to the circumstances of each case. Based on this approach the MOP adopted decision FCTC/MOP2(3), by which it granted observer status to 10 organizations, and rejected observer status to eight organizations.

7. At its third meeting, Bureau elected by the Second session of the MOP (MOP2) decided to adopt a similar approach to review the applications of NGOs and IGOs that apply for observer status and make recommendations in that regard to the MOP. In addition, the MOP2 Bureau decided to recommend to the MOP the adoption of a decision similar to FCTC/COP8(1), which would contain an indicative list of criteria to guide the MOP Bureau in analysing applications for observer status. Should the MOP consider the adoption of a decision similar to FCTC/COP8(1), the criteria would need to be expanded in scope to include the prevention of interference from the tobacco industry and industries with other vested interests, in accordance with decisions FCTC/MOP1(4) and FCTC/MOP1(5). As requested by the Bureau, the Convention Secretariat reflected these recommendations in the draft decision contained in the annex to the present report.

8. By the deadline of 29 August 2023, the Convention Secretariat received, through the online submission portal on the WHO FCTC website, six applications for NGO observer status and one application for IGO observer status to the MOP. Four applications that were received through the online submission portal were discarded.¹

9. In addition, one organization that had applied under the IGO category was considered by the Bureau as neither an IGO nor NGO. It is to be noted that this organization also applied for observer status to the COP and that the Bureau of the MOP is aligning its recommendations with the Bureau of the COP. In considering the application of the organization, the Bureau elected by the Ninth session of the COP (COP9) kept with the assessment of the Bureau elected by the Seventh session of the COP (COP7) and of the Bureau elected by the Eighth session of the COP (COP8) in respect of this organization, which had previously also applied for observer status to the COP. At the recommendation of the COP7 and COP8 Bureaus, the COP had rejected observer status for the applicant in decisions FCTC/COP8(1) and FCTC/COP9(3).

¹ One submission in the NGO category was discarded as it was from a private company. Three submissions under the IGO category were discarded, as follows: one was submitted (twice) by a national NGO under the wrong category; one was already considered under the NGO category (double application); and one was submitted by a national governmental agency.

APPLICATIONS BY INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

United Nations Office on Drugs and Crime (UNODC)

10. UNODC's mission is to contribute to global peace and security, human rights and development by making the world safer from drugs, crime, corruption and terrorism. According to its strategic direction, UNODC supports its Member States to build just, inclusive and resilient societies that leave no one behind. As a leader in addressing cross-border criminal issues, in particular as the key entity in the implementation of the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption, UNODC is well placed to play a key role to foster collaboration in implementing the Protocol. In its Preamble, the Protocol explicitly recognizes the need to build enhanced cooperation between the Convention Secretariat and the UNODC. Having supported work related to the implementation of the Article 8 of the Protocol, UNODC is committed to further contributing to the work of the MOP and to promoting collaboration in implementing the Protocol.

11. Based on the information provided by the applicant, the Bureau recommends to the MOP that observer status be granted to UNODC.

APPLICATIONS BY NONGOVERNMENTAL ORGANIZATIONS

African Tobacco Control Alliance (ATCA)

12. A non-profit NGO comprising a pan-African network of over 120 civil society organizations that promotes health by building a tobacco-free Africa, ATCA has been an accredited observer to the COP since its ninth session. The organization is active in the areas of capacity-building, tobacco industry monitoring and response, advocacy, and tobacco control communication and research. The NGO is committed to supporting implementation of the Protocol through enhancing communication and awareness raising about the treaty.

13. Based on the information provided by the applicant, the Bureau recommends to the MOP that observer status be granted to ATCA.

InterAmerican Heart Foundation (IAHF)

14. Recognized for its tobacco control work in the Region of the Americas, IAHF has been an accredited observer to the COP since its seventh session and is an entity in official relations with the Pan American Health Organization. IAHF has been working at a regional level on tobacco tax and illicit trade control research and policy, among other tobacco control issues. While continuing to provide an important contribution to the implementation of the WHO FCTC, the organization is increasingly supportive of the implementation of the Protocol.

15. Based on the information provided by the applicant, the Bureau recommends to the MOP that observer status be granted to IAHF.

Union for International Cancer Control (UICC)

16. Guided by its mission to unite and support the cancer community in its efforts to reduce the global cancer burden, promote greater equity and ensure that cancer control continues to be a priority in the world health and development agenda, UICC has been an accredited observer to the COP since its first

session and is a non-State actor in official relations with the World Health Organization (WHO). The organization is committed to supporting the information-sharing components of the Protocol, and more broadly, to contributing to the implementation of the Protocol as part of comprehensive tobacco control approaches.

17. Based on the information provided by the applicant, the Bureau recommends to the MOP that observer status be granted to UICC.

APPLICATIONS BY ORGANIZATIONS THAT THE BUREAU RECOMMENDS BE REJECTED

18. The Bureau reviewed applications from the following organizations and concluded that the applications should be rejected under one of the following criteria: (1) the organization has a national or subnational geographical scope or its main activities are mainly conducted at the national or subnational level; (2) it has a conflict of interest or is tied to the tobacco industry or tobacco front groups, or in relation to “any other commercial entity with a vested interest”; (3) it has no tobacco-control activities in conformity with the spirit, purpose and principles of the Protocol; or (4) it is neither an IGO nor an NGO, as established in the Rules of Procedure of the MOP.

- African Youths Initiative on Crime Prevention
- Common Market for Eastern and Southern Africa (COMESA)
- Humanitarian Organization for Poverty Eradication (HOPE Organization – Pakistan)
- Joseph Adedayo Foundation

ACTION BY THE MEETING OF THE PARTIES

19. The MOP is invited to note the present report and consider adopting the annexed draft decision, as recommended by the Bureau.

ANNEX

**DRAFT DECISION:
APPLICATIONS FOR THE STATUS OF OBSERVER
TO THE MEETING OF THE PARTIES**

The Meeting of the Parties (MOP),

Having considered the applications for observer status submitted and contained in document FCTC/MOP/3/3,

1. DECIDES, in accordance with Rules 30 and 31 of its Rules of Procedure:
 - (a) to grant observer status to:
 - African Tobacco Control Alliance (ATCA)
 - InterAmerican Heart Foundation (IAHF)
 - Union for International Cancer Control (UICC)
 - United Nations Office on Drugs and Crime (UNODC)
 - (b) to reject the application for observer status of the following organizations:
 - African Youths Initiative on Crime Prevention
 - Common Market for Eastern and Southern Africa (COMESA)
 - Humanitarian Organization for Poverty Eradication (HOPE – Pakistan)
 - Joseph Adedayo Foundation,
2. ADOPTS the indicative list of criteria contained in the Annex to the present decision,
3. MANDATES the Bureau, in accordance with Rule 24ter of its Rules of Procedure, to use the list of criteria to recommend to the MOP whether to grant or reject applications from organizations for observer status.

ANNEX (TO THE DRAFT DECISION)

**INDICATIVE LIST OF CRITERIA FOR THE BUREAU
OF THE MEETING OF THE PARTIES TO ANALYSE APPLICATIONS
FOR OBSERVER STATUS**

In accordance with Rules 30.1 and 31.1 of the Rules of the Procedures of the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products, only international intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs) can apply for observer status to the MOP.

For such purposes, the procedure and requirements established in Rules 30.1 and 31.1 of the Rules of the Procedures of the MOP, and decisions FCTC/MOP1(4) and FCTC/MOP1(5), shall be complied with. Any organization that meets at least one of the following exclusionary criteria will not be granted observer status to the MOP:

A. For international intergovernmental organizations

- A.1 When the work of the IGO does not contribute to the implementation and purpose of the Protocol.
- A.2 Where there is evidence that the organization has accepted funding from and/or has a vested interest in the tobacco industry or any other commercial entity with a vested interest.

B. For nongovernmental organizations

- B.1 When the organization's activities are limited to the national scope.
- B.2 When the organization has accepted funding from and/or has a vested interest in the tobacco industry or any other commercial entity with a vested interest.
- B.3 When the organization is affiliated with the tobacco industry or any other commercial entity with a vested interest, taking into account the 17th and 18th preambular paragraphs, as well as Article 5.3, of the WHO FCTC.

(XX plenary meeting, November 2023)

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