



**Implementation of measures to prevent and reduce tobacco consumption, nicotine addiction and exposure to tobacco smoke, and the protection of such measures from commercial and other vested interests of the tobacco industry in light of the tobacco industry's narrative on "harm reduction" (Articles 5.2(b) and 5.3 of the WHO FCTC) – proposed by Parties**

**Report by the Convention Secretariat**

**Purpose of the document**

This report provides context to facilitate the deliberations of Parties under the item "Implementation of measures to prevent and reduce tobacco consumption, nicotine addiction and exposure to tobacco smoke, and the protection of such measures from commercial and other vested interests of the tobacco industry in light of the tobacco industry's narrative on 'harm reduction' (Articles 5.2(b) and 5.3 of the WHO FCTC)" proposed by Parties.

**Action by the Conference of the Parties**

The Conference of the Parties (COP) is invited to note the present report and provide further guidance.

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

Link to Workplan and Budget item: To be decided by the COP.

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

Related document(s): None.

## Background

1. The Bureau of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) received several proposals from Parties requesting that items be included in the provisional agenda of the Eleventh session of the COP (COP11). These proposals were made pursuant to Rule 7 of the Rules of Procedure of the COP, which provides that the “provisional agenda shall include, as appropriate: ... (g) any other item relevant to the implementation of the Convention proposed by a Party and received by the Secretariat prior to circulation of the provisional agenda”.
2. Those proposals requested the addition of agenda items on WHO FCTC Article 5.2(b), on “harm reduction” as an Article 5.3 industry interference issue and on “harm reduction” strategies in the context of tobacco control. All proposals made by the Parties highlighted concerns regarding the threat posed by novel and emerging nicotine and tobacco products, and the use by industry and those working to further its interests of a “harm reduction” or “reduced risk” narrative to market and broadly commercialize these products.
3. In accordance with Rules 6 and 7 of the Rules of Procedure of the COP, the mandate of the Bureau is to provide guidance to the Convention Secretariat in the preparation of the provisional agenda for each session of the COP. As the proposals dealt with related matters, to avoid duplication and to facilitate discussions at the COP, the Bureau combined the proposals into a single agenda item, entitled “Implementation of measures to prevent and reduce tobacco consumption, nicotine addiction and exposure to tobacco smoke, and the protection of such measures from commercial and other vested interests of the tobacco industry in light of the tobacco industry’s narrative on ‘harm reduction’ (Articles 5.2(b) and 5.3 of the WHO FCTC)”. The above proposal has been included in the provisional agenda of COP11.
4. The present report provides context to assist Parties in their deliberations on this agenda item.

## Article 5.2(b) of the WHO FCTC

5. It is recalled that Article 5.2 of the WHO FCTC provides that “each Party shall, in accordance with its capabilities: ... (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke”.
6. To date, the COP has not specifically considered implementation of Article 5.2(b). While the COP has consistently addressed the obligation of Parties to adopt and implement effective legislative, executive, administrative and/or other measures to prevent and reduce tobacco consumption and exposure to tobacco smoke, it has not specifically addressed the Article 5.2(b) obligation of Parties to take such measures in relation to nicotine addiction. The revised reporting instrument, adopted by the COP in decision FCTC/COP10(19), does not request Parties to report on their implementation of Article 5.2(b).
7. The obligation in Article 5.2(b) has been referred to by the Convention Secretariat and the World Health Organization (WHO) in their reports on electronic nicotine delivery systems (ENDS) submitted to the COP (paragraph 34 of document FCTC/COP/5/13 and paragraph 33 of document FCTC/COP/6/10 Rev.1, respectively).

8. While the COP has not specifically considered implementation of Party obligations under Article 5.2(b) in relation to nicotine addiction, WHO has provided to COP since its Fourth session technical evidence-based information on novel and emerging nicotine products. The COP adopted decisions FCTC/COP6(9) and FCTC/COP7(9) inviting Parties to consider prohibiting or otherwise regulating ENDS and electronic non-nicotine delivery systems (ENNDS), referring Parties to regulatory options provided by WHO in documents FCTC/COP/6/10 Rev.1 and FCTC/COP/7/11. Further, the COP was provided with updated information by the Convention Secretariat and WHO on ENDS/ENNDS and other nicotine products (including nicotine pouches and disposable ENDS) in reports FCTC/COP/8/10, FCTC/COP/9/8 and FCTC/COP/10/7.

9. It is recalled that WHO has also provided to COP technical evidence-based information on novel and emerging tobacco products and that, as recognized by the COP in decision FCTC/COP8(22), heated tobacco products are tobacco products and are therefore subject to the provisions of the WHO FCTC.

10. In light of the above, Parties may wish to consider sharing their experience regarding how they have implemented their obligations under Article 5.2(b), particularly in respect of preventing and reducing nicotine addiction, and as informed by technical evidence-based information on novel and emerging nicotine products.

### **Implementation of Article 5.3 of the WHO FCTC to protect measures under Article 5.2(b)**

11. Article 5.3 of the WHO FCTC requires that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”. The Preamble of the Convention also recognizes that Parties “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts”.

12. The Guidelines for implementation of Article 5.3 of the WHO FCTC were adopted by the COP at its Third session (decision FCTC/COP3(7)) “to assist Parties in meeting their legal obligations under Article 5.3 of the Convention” and “draw on the best available scientific evidence and the experience of Parties in addressing tobacco industry interference”. The first guiding principle of the Guidelines states that “there is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests”.

13. The COP has recalled on numerous occasions the obligation of Parties to implement Article 5.3 of the WHO FCTC, using its Guidelines for implementation.

14. Decisions of the COP reminding Parties of their obligations to protect public health policies from interference of the tobacco industry and other vested interests have also been adopted in relation to novel and emerging nicotine and tobacco products.

15. In relation to novel and emerging nicotine products, in decision FCTC/COP6(9), the COP invited Parties, inter alia, when addressing the challenge posed by ENDS/ENNDS, “to prevent unproven health claims from being made about ENDS/ENNDS; and to protect tobacco-control activities from all commercial and other vested interests related to ENDS/ENNDS, including interests of the tobacco industry” (referring Parties to measures to achieve those objectives contained in document FCTC/COP/6/10 Rev.1). In decision FCTC/COP7(9), the COP reiterated its

invitation for Parties that have not banned the importation, sale and distribution of ENDS/ENNDS to consider applying regulatory measures to prevent unproven health claims being made about ENDS/ENNDS and to protect tobacco-control activities from all commercial and other vested interests related to ENDS/ENNDS, including interests of the tobacco industry (referring Parties to measures to achieve those objectives contained in document FCTC/COP/7/11).

16. In relation to novel and emerging tobacco products, in decision FCTC/COP8(22), the COP reminded Parties of their commitments under the WHO FCTC when addressing the challenges posed by these products, and invited Parties, inter alia, to consider prioritizing measures “to prevent health claims from being made about novel and emerging tobacco products”; and “to protect tobacco-control policies and activities from all commercial and other vested interests related to novel and emerging tobacco products, including interests of the tobacco industry, in accordance with Article 5.3 of the WHO FCTC”.

17. In decision FCTC/COP10(11), the COP reiterated “its concern with the continuous interference by the tobacco industry and those working to further its interests, including in the context of novel and emerging nicotine and tobacco products that are increasingly popular among youth, as one of greatest barriers to effective implementation of tobacco control”. The COP also urged Parties, inter alia, “to strengthen implementation of measures and further enhance policy coherence within governments to prevent tobacco industry interference in public health policies, in accordance with Article 5.3 of the WHO FCTC and its Guidelines for implementation, and to continue to monitor technological developments in respect of novel and emerging nicotine and tobacco products”; “to strengthen their efforts to increase public awareness by providing accurate information on the nicotine addiction and health risks and consequences associated with the use of novel and emerging nicotine and tobacco products, in particular among the children and youth”; and “to remain vigilant and monitor the market presence and marketing strategies used for all tobacco products, including novel and emerging tobacco products, and novel and emerging nicotine products, the advertising, promotion and sponsorship of novel and emerging nicotine and tobacco products in the entertainment media and, in particular, in digital communication platforms”.

18. It has long been established that “the tobacco industry has operated for years with the express intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic”, as affirmed in 2001 by the Fifty-fourth World Health Assembly.<sup>1</sup> WHO has continued to highlight that “a large body of evidence demonstrates that tobacco companies use a wide range of tactics to interfere with tobacco control”, also noting the role in such interference of those working to further the interests of industry.<sup>2</sup>

19. More recently, the tobacco industry and its allies have been using unproven health claims of “harm reduction” (or “reduced risk”) to further the marketing and commercialization of novel and emerging nicotine and tobacco products, and to avoid or reduce regulation of these products.<sup>3</sup>

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<sup>1</sup> Unanimously adopted resolution WHA54.18 on transparency in tobacco control process.

<sup>2</sup> [Tobacco industry interference with tobacco control](#), Geneva: World Health Organization; 2008; [WHO report on the global tobacco epidemic, 2025: warning about the dangers of tobacco](#), Geneva: World Health Organization; 2025 (both accessed 13 August 2025).

<sup>3</sup> See, for example: [WHO report on the global tobacco epidemic, 2025: warning about the dangers of tobacco](#), Geneva: World Health Organization; 2025; WHO reports FCTC/COP/6/10 Rev.1 and FCTC/COP/6/14; [Harm Reduction – Tobacco Tactics. Tobacco Control Research Group](#): 2025 (all accessed 13 August 2025). The COP specifically noted in decision FCTC/COP8(22) that heated tobacco products are being marketed with claims of “reduced risk”, and reminded Parties of their commitments under the WHO FCTC when addressing the challenges posed by novel and emerging tobacco products such as heated tobacco products and devices designed for consuming such products.

20. The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health<sup>4</sup> reported to the Seventy-ninth session of the United Nations General Assembly on “Harm reduction for sustainable peace and development”.<sup>5</sup> In highlighting “harm derived from corporate activities and the co-opting of harm reduction narratives”, the Special Rapporteur cites “corporate activities to manufacture and commercialize inherently harmful products, including tobacco”, noting that “corporations exert their power by co-opting the harm reduction narrative or by seeking to position themselves as part of the solution to problems they have largely created, including through alleged harm reduction efforts”.

21. In that report, the Special Rapporteur states that “the scepticism towards the tobacco industry’s harm reduction initiatives stems from their long and well-documented history of duplicitous behaviour, concealing and downplaying the health risks of their products, while deceptively marketing alternatives as harm reduction or quitting alternatives as ascertained in judicial proceedings”.

22. The Special Rapporteur further indicates that “decades after the adoption of the Framework Convention on Tobacco Control and the scientific evidence of the risks to health caused by tobacco use became public knowledge, the same industry allegedly intends to mend the damage by spreading new products whose health risks are uncertain and which are marketed broadly beyond people who are already addicted to traditional tobacco”.

23. In light of the above, Parties may wish to consider sharing their experience regarding how they have protected their implementation of measures under Article 5.2(b) from unproven health claims made to further the marketing and commercialization of novel and emerging nicotine and tobacco products.

## Action by the Conference of the Parties

24. The COP is invited to note the present report and provide further guidance.

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<sup>4</sup> Parties may wish to note that decision FCTC/COP10(20) on the contribution of the WHO FCTC to the promotion and fulfilment of human rights recalled that the right to the enjoyment of the highest attainable standard of physical and mental health is a driving force for the implementation of the WHO FCTC.

<sup>5</sup> [A/79/177](#), Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Harm reduction for sustainable peace and development. New York: United Nations; 2024 (accessed 13 August 2025).