



Regulation of contents and disclosure of tobacco products (Articles 9 and 10 of the WHO FCTC)

Report by the Bureau

Purpose of the document

This report contains the recommendations of the Bureau of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) in respect of implementation of Articles 9 and 10 of the WHO FCTC, pursuant to decisions FCTC/COP8(21) and FCTC/COP9(2), as well as Rule 13 of the Rules of Procedure of the COP.

Action by the Conference of the Parties

The COP is invited to note the present report and consider adopting the annexed draft decision.

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

Link to Workplan and Budget item: 1.1.1.3, 1.1.3.2.

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

Related document(s): FCTC/COP/10/6.

Background

1. In decision FCTC/COP8(21), the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) suspended until the Ninth session of the COP (COP9) the mandate of the Working Group to elaborate guidelines for the implementation of Articles 9 and 10 of the WHO FCTC, established through decision FCTC/COP1(15), and requested the Bureau:
 - (a) to consult the Parties, in respect of future work of the Working Group on Implementation of Articles 9 and 10 of the WHO FCTC, on a long-term plan for developing further guidance on these articles, a possible short- and medium-term programme of work, and the appropriate working methods for the Working Group; and
 - (b) to report on the matter to COP9.
2. In decision FCTC/COP9(2), the COP deferred the report by the Bureau in respect of the Working Group until the Tenth session of the COP (COP10), with the understanding that the mandate of the Working Group would remain suspended until COP10. The report by the Bureau submitted in document FCTC/COP/10/5 was discussed at COP10; however, the Parties were unable to reach consensus. The Parties agreed that work on this matter would continue during the intersessional period in preparation for its further consideration at the Eleventh session of the COP (COP11), and that – in keeping with Rule 13 of the Rules of Procedure of the COP – the matter should be included in the provisional agenda of COP11.¹
3. During the intersessional period, the Bureau elected by COP10 discussed the way forward in relation to its mandate. The Bureau took into account previous work undertaken by the COP in respect of Articles 9 and 10, discussions held at COP10 in respect of its proposal outlined in the Annex of document FCTC/COP/10/5, and existing resources available to support Parties with strengthening implementation of Articles 9 and 10. The considerations and recommendations of the Bureau in relation to a future approach on implementation of Articles 9 and 10 are outlined below.

Considerations by the Bureau

Work undertaken to date in respect of Articles 9 and 10 at the COP

4. The Bureau noted the long history of work undertaken by subsidiary bodies of the COP on implementation of Articles 9 and 10. In particular, it recalled the work conducted under the mandate of the Working Group established through decision FCTC/COP1(15) and amended through subsequent decisions, to elaborate guidelines for the implementation of Articles 9 and 10. This work led to the adoption by the COP of the Partial guidelines for implementation of Articles 9 and 10 of the WHO FCTC in decision FCTC/COP4(10), and the adoption of further Partial guidelines in decisions FCTC/COP5(6) and FCTC/COP7(14), which contained further elements, as mandated by the COP. In addition, pursuant to decision FCTC/COP8(21), the COP considered report FCTC/COP/10/6² containing observations and recommendations of the Expert Group established to examine the reasons for low implementation of Articles 9 and 10. A summary of the work of subsidiary bodies of the COP, including related outcomes, is contained in Annex 1 to the present report.

¹ FCTC/COP/10/A/R/3 (Third report of Committee A) and [Report of the Tenth session of the Conference of the Parties to the WHO FCTC](#).

² Submitted without change from document FCTC/COP/9/6.

5. In addition to the work conducted by subsidiary bodies, the COP invited the World Health Organization (WHO), through the Convention Secretariat, to provide technical support in furthering implementation of the obligations in these provisions by the Parties. Decision FCTC/COP1(15) indicated that the guidelines for Articles 9 and 10 should be based on the work already done by the WHO Study Group on Tobacco Product Regulation (TobReg) and WHO's Tobacco Free Initiative, and that the Convention Secretariat should work with WHO in this regard. In response to subsequent COP mandates, WHO continued to provide reports on technical matters related to implementation of Articles 9 and 10 of the WHO FCTC at sessions of the COP.³

Discussions in respect of Articles 9 and 10 at COP10

6. The Bureau noted that while many Parties expressed support for the draft decision it had proposed in document FCTC/COP/10/5 – on the grounds that “an expert group on Articles 9 and 10 of the WHO FCTC”, as articulated in that decision, was better placed to obtain the scientific evidence without which the Working Group established to elaborate guidelines for implementation of Articles 9 and 10 of the WHO FCTC⁴ would be unable to complete the guidelines – other Parties were of the view that the Working Group should be reinstated to complete the remaining elements of the Partial guidelines. Parties discussed various options, engaged in informal consultations, and reiterated their positions. Despite lengthy discussion, Parties could not reach consensus.⁵

7. The Bureau observed that the divergent Party opinions on this matter at COP10 reflected the inconclusive results of the several rounds of consultation it conducted with Parties in preparing its report for COP10. No significant change was reported to the Bureau in the exceptionally short intersessional period.⁶ Should discussions on this matter resume at COP11 with a focus which continues to be placed on the establishment of a subsidiary body to further develop the Partial guidelines – and on what type of body should undertake that work – there is no indication that Parties could reach an agreement. Such an outcome would not be reflective of the commitment of Parties to make progress with implementation of the Convention, and would divert attention from the technical support that Parties expect in this area.

8. The Bureau felt that for the time being an alternative approach was needed, to shift discussions to the technical resources that Parties can work with to strengthen their implementation of Articles 9 and 10, relying on the large existing body of evidence and resources and the largely complete Partial guidelines for implementation, until future arrangements can be agreed in respect of further development of the Partial guidelines. As pointed out by the Expert Group in report FCTC/COP/10/6, the factors which impeded implementation of obligations contained in Articles 9 and 10 included insufficient understanding of requirements under Articles 9 and 10, challenges related to technical capacity and human resources, financial needs, legal and political challenges, and interference by the tobacco industry. Focusing on solutions to address

³ WHO reports included: FCTC/COP/3/13, FCTC/COP/4/INF.DOC./2, FCTC/COP/5/INF.DOC./1, FCTC/COP/6/14, FCTC/COP/6/14 Add.1, FCTC/COP/7/9, FCTC/COP/7/INF.DOC./1, FCTC/COP/8/8, FCTC/COP/9/8, FCTC/COP/10/7 and FCTC/COP/11/9.

⁴ Suspended pursuant to decision FCTC/COP8(21).

⁵ A summary of discussions is included in the Report of the Tenth session of the Conference of the Parties to the WHO FCTC (paragraphs 52–63).

⁶ Due to security reasons in the host country, the resumed in-person session of COP10 was held in 2024, the year preceding COP11 (in lieu of a two-year intersessional period).

these factors would be a concrete means through which the COP could strengthen implementation of Articles 9 and 10.

Available resources to support Parties with implementation of Articles 9 and 10

9. The Bureau notes that the purpose of the Partial guidelines for Articles 9 and 10 is to assist Parties in meeting their obligations under these articles, and that they draw on the best available scientific evidence and the experience of Parties. The Partial guidelines are largely complete, having been adopted at the Fourth session of the COP to assist Parties in strengthening their tobacco control policies through regulation of the contents and emissions of tobacco products and through regulation of tobacco product disclosure, and further completed at the Fifth and Seventh sessions of the COP. Parties have relied on the Partial guidelines for implementation of Articles 9 and 10 and with the updated reporting system of the WHO FCTC, pursuant to decision FCTC/COP10(19), Parties have the opportunity to improve the sharing of practice on implementation of these provisions, including on their Partial guidelines. Information-sharing can be coupled with greater cooperation directly between Parties or through the Convention Secretariat, in collaboration with WHO, on implementation of Articles 9 and 10.

10. In addition, WHO provides extensive technical expertise, including through its No Tobacco Unit (TFI), the work of the WHO TobReg and the WHO Tobacco Laboratory Network (TobLabNet). WHO continues to assist Parties, both through technical support and by publishing scientific reports and standards to which Parties may refer.⁷ The Convention Secretariat could further strengthen the efforts of WHO in providing support to Parties.

Recommendations by the Bureau

11. In light of the above considerations, the Bureau recommends that, in respect of a future approach on implementation of Articles 9 and 10 of the WHO FCTC, focus be placed on:

- (a) responding to the need to address disparities in scientific infrastructure between Parties: bridging the technical gaps by strengthening the capacity of Parties to understand the Partial guidelines for implementation of Articles 9 and 10 adopted at the Fourth session of the COP and further developed and adopted at subsequent COP sessions;
- (b) achieving cost-efficiency by redirecting financial resources that would have been used to establish a subsidiary body of the COP to activities such as capacity-building and technical assistance for Parties, building on synergies with ongoing work and training;
- (c) promoting, developing and strengthening tools, resources and understanding of the Partial guidelines for implementation of Articles 9 and 10, including providing examples of good practice and easily located resources for experience-sharing, and identifying opportunities for collaboration with other Parties and/or WHO;
- (d) strengthening interregional cooperation between Parties on Articles 9 and 10;
- (e) increasing the confidence of Parties in implementing evidence-based measures, the visibility of Party work, and progress with implementation of Articles 9 and 10;

⁷ See Annex 1 and Annex 2 of document FCTC/COP/10/7.

- (f) minimizing industry interference and reducing the risk of undue influence through education and Party-to-Party collaboration.

12. Overall, the Bureau recommends that discussion on further development of the Partial guidelines for implementation of Articles 9 and 10 through the possible establishment of a subsidiary body be deferred for consideration by the COP at a future session, subject to further development of the necessary evidence base in this respect.

Action by the Conference of the Parties

13. The COP is invited to note the present report and consider adopting the draft decision contained in Annex 2 to the present report.

Annex 1

Work of COP subsidiary bodies on implementation of Articles 9 and 10

COP decision		Work conducted in the intersessional period based on mandate contained in the COP decision
FCTC/COP1(15)	Decided, among others, to adopt the template for the elaboration of guidelines on Article 9 (including consideration of Article 10 in a staged approach), criteria for prioritization of the work related to the guidelines with respect to Article 9, and a group to work on the development of the guidelines	Elaboration of Guidelines for implementation of the Convention, Article 9 (A/FCTC/COP/2/8)
FCTC/COP2(14)	Decided to request the Working Group established by decision FCTC/COP1(15) to continue its work, extending its mandate to Article 10	Elaboration of guidelines for implementation of Articles 9 and 10 of the WHO Framework Convention on Tobacco Control (FCTC/COP/3/6)
FCTC/COP3(9)	Decided to mandate the Working Group to continue its work, elaborating guidelines in a step-by-step process	Draft guidelines for the implementation of Articles 9 and 10 of the WHO Framework Convention on Tobacco Control (FCTC/COP/4/6 Rev.1)
FCTC/COP4(10)	Adopted the Partial guidelines for implementation of Articles 9 and Article 10 of the WHO FCTC Decided to mandate the Working Group to continue its work in elaborating guidelines in a step-by-step process	Further development of the Partial guidelines for implementation of Articles 9 and 10 of the WHO Framework Convention on Tobacco Control (FCTC/COP/5/9)
FCTC/COP5(6)	Adopted the further Partial guidelines for implementation of Article 9 and Article 10 of the WHO FCTC (containing additional elements) Decided to mandate the Working Group to continue its work in elaborating guidelines in a step-by-step process	Progress on further development of the Partial guidelines for implementation of Articles 9 and 10 of the WHO FCTC (FCTC/COP/6/13)
FCTC/COP6(8)	Decided to request the Convention Secretariat to include, as appropriate, a specific reference to and discussion of smokeless tobacco issues in the Working Group on Articles 9 and 10 of the WHO FCTC	Inclusion of smokeless tobacco issues in further development of Partial guidelines for implementation of Article 9 and Article 10 of the WHO FCTC
FCTC/COP6(10)	Requested the Convention Secretariat to include, as appropriate, a specific reference to and discussion of waterpipe tobacco products in the Working Group on Articles 9 and 10 of the WHO FCTC	Inclusion of waterpipe tobacco products issues in further development of Partial guidelines for implementation of Article 9 and Article 10 of the WHO FCTC
FCTC/COP6(12)	Decided to mandate the Working Group to continue its work in elaborating guidelines in a step-by-step process	Further development of the Partial guidelines for implementation of Articles 9 and 10 of the WHO FCTC (FCTC/COP/7/8)
FCTC/COP7(14)	Adopted the further Partial guidelines for implementation of Article 9 and Article 10 of the WHO FCTC (containing additional elements) Decided to mandate the Working Group to continue its work in elaborating guidelines in a step-by-step process	Working Group did not present a report to COP8 following decision FCTC/COP7(14) The most recent elements added to the Partial guidelines for implementation of Articles 9 and 10 were those adopted at COP7

COP decision		Work conducted in the intersessional period based on mandate contained in the COP decision
FCTC/COP8(21)	<p>Decided to suspend the mandate of the Working Group until the Ninth session of the COP (COP9), established through decision FCTC/COP1(15) and amended through subsequent decisions, to elaborate guidelines for implementation of Articles 9 and 10 of the WHO FCTC</p> <p>Requested the Bureau to consult the Parties with respect to the Working Group on the implementation of Articles 9 and 10, on a long-term plan for developing further guidance on these Articles, a possible short and medium-term programme of work, and the appropriate working methods for the Working Group; and to report to COP9</p> <p>Requested the Convention Secretariat to establish, in accordance with guidance from the Bureau, an expert group to examine the reasons for low implementation of Articles 9 and 10 of the Convention, and related Partial guidelines, by Parties</p>	<p>Working Group suspended</p> <p>Expert Group report on implementation of Articles 9 and 10, containing recommendations submitted to the COP (FCTC/COP/9/6)</p>
FCTC/COP9(2)	<p>Decided to defer to the Tenth session of the COP (COP10) the report by the Bureau with respect to the Working Group on the implementation of Articles 9 and 10 of the WHO FCTC, with the understanding that the mandate of the Working Group remains suspended until COP10</p> <p>Decided to extend the duration of the mandate of the Expert Group established to examine the reasons for low implementation of Articles 9 and 10 of the Convention, and related Partial guidelines, as articulated in decision FCTC/COP8(21), and maintaining the terms of reference contained therein, under the guidance of the Bureau, and in consultation with Parties, as appropriate, all with a view to discussing an updated report at COP10</p>	<p>Working Group remained suspended</p> <p>Expert Group report on implementation of Articles 9 and 10 resubmitted to the COP without change (FCTC/COP/10/6).</p> <p>Matter deferred for consideration at COP10</p>
FCTC/COP/10/A/R/3 (Third report of Committee A) and Report of the Tenth session of the Conference of the Parties to the WHO FCTC	<p>Matter not concluded at COP10. Recommended by Committee A that Parties consider it at the Eleventh session of the COP (COP11), in keeping with Rule 13 of the Rules of Procedure of the COP</p>	<p>Item included on the provisional agenda of COP11</p> <p>Amended proposal submitted by the Bureau in the present report to COP11</p>

Annex 2

Draft decision: Regulation of contents and disclosure of tobacco products (Articles 9 and 10 of the WHO FCTC)

The Conference of the Parties (COP),

Recognizing the Parties' obligations set out in Article 9 (Regulation of the contents of tobacco products) and Article 10 (Regulation of tobacco product disclosures) of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recalling decision FCTC/COP1(15) to establish a Working Group to elaborate guidelines for implementation of Articles 9 and 10 of the WHO FCTC, and decision FCTC/COP2(14) to extend the work of the Working Group to include product characteristics, such as design features, to the extent that they affect the objectives of the WHO FCTC;

Recalling also decision FCTC/COP4(10) to adopt Partial guidelines for implementation of Articles 9 and 10 of the WHO FCTC and to mandate the Working Group to continue its work in elaborating guidelines in a step-by-step process, and to submit draft guidelines on addictiveness and toxicity to future sessions of the COP for consideration;

Noting decision FCTC/COP5(6) to adopt further Partial guidelines;

Recalling decision FCTC/COP7(14) to, among other actions, adopt further Partial guidelines;

Recalling also decision FCTC/COP8(21), in which the COP suspended the mandate of the Working Group, established through decision FCTC/COP1(15) and amended through subsequent decisions, to elaborate guidelines for implementation of Articles 9 and 10, until the Ninth session of the COP (COP9);

Noting that in decision FCTC/COP8(21), the COP requested the Bureau to consult the Parties with respect to the Working Group on the implementation of Articles 9 and 10, on a long-term plan for developing further guidance on these Articles, a possible short and medium-term programme of work, and the appropriate working methods for the Working Group, and to report back to COP9 for its consideration;

Recalling decision FCTC/COP9(2), in which the COP decided to defer to the Tenth session of the COP (COP10) the report by the Bureau with respect to the Working Group on the implementation of Articles 9 and 10 of the WHO FCTC, with the understanding that the mandate of the Working Group remained suspended until COP10;

Noting document FCTC/COP/10/5, containing the report of the Bureau on implementation of Articles 9 and 10 of the WHO FCTC; document FCTC/COP/10/6, containing the report of the Expert Group established to examine the reasons for low implementation of Articles 9 and 10; and document FCTC/COP/11/8, containing an updated report by the Bureau, in light of discussions held at COP10,

1. DECIDES:

- (a) to defer the establishment or re-establishment of a working group or expert group to further develop the Partial guidelines for implementation of Articles 9 and 10 until such future time as the COP deems appropriate to resume that work;
- (b) to focus work on implementation of the obligations in Articles 9 and 10, on enhancing the capacity of Parties and on reducing disparities between Parties on implementation of Articles 9 and 10, through increasing Party awareness of the technical requirements of those provisions and the Partial guidelines for their implementation, strengthening Party infrastructure, and facilitating information-sharing and cooperation between Parties on implementation of Articles 9 and 10;
- (c) to provide support to the Parties by prioritizing the use and strengthening of existing tools and resources, and building on efficiency and avoidance of duplication;

2. REQUESTS the Convention Secretariat:

- (a) to support the Parties to increase awareness of and strengthen their understanding and capacity to implement Articles 9 and 10 and their Partial guidelines for implementation, by promoting, disseminating, strengthening and developing tools and resources; providing examples of good practice and accessible resources for experience-sharing between Parties; and identifying opportunities for collaboration between Parties and/or with WHO on these articles;
- (b) to collaborate with WHO in its work to support Parties with implementation of Articles 9 and 10 and their Partial guidelines for implementation, to benefit from WHO technical expertise, including that of the WHO Study Group on Tobacco Product Regulation (TobReg) and the WHO Tobacco Laboratory Network (TobLabNet);
- (c) to invite WHO to continue to report on technical matters related to implementation of Articles 9 and 10 at future sessions of the COP.

(XXX plenary meeting, XX November 2025)
