

Framework Convention on Tobacco Control
Eleventh Conference of the Parties (COP-11)
Commentary on the Annotated Agenda

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Commentary

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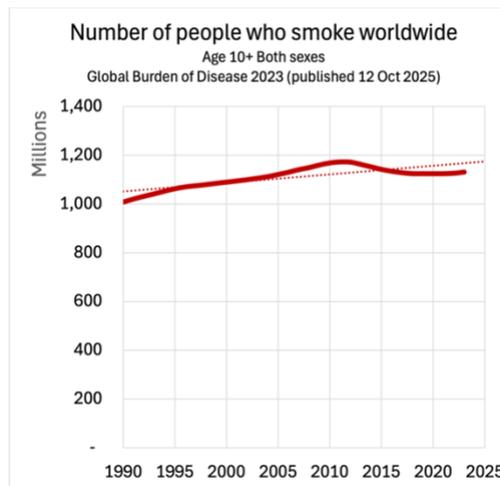
<p>This column has text from the annotated COP agenda and links to relevant documents, with related information from other official documents in grey boxes</p>		<p>This column has my commentary on the text of the official documents and a guide to what to watch out for during discussion, with a summary for each agenda item.</p>	
<p>CONFERENCE OF THE PARTIES TO THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL</p>	<p>FCTC/COP/11/1(annotated) 27 August 2025</p>	<p>Comments by: Clive Bates Counterfactual Consulting London</p>	<p>This document will be updated. Access the latest version here: FCTC COP-11 agenda commentary</p>
<p>Eleventh session Geneva, Switzerland, 17–22 November 2025 Provisional agenda item 1.1</p>		<p>Disclosure: I have no conflicts of interest or issues arising under Article 5.3. I was part of an NGO heavily involved in the formation of the FCTC in 1999-2003, and my purpose is to secure the best health and welfare outcomes from the FCTC. I have supported tobacco harm reduction as a public health strategy since 1997.</p>	
<p>Provisional agenda annotated¹</p>		<p>This commentary is intended to assist delegates, observers, journalists, and all other interested stakeholders in their engagement with the FCTC COP-11 meeting. All the primary meeting documents are accessible here: Main Documents</p>	
<p>1 Opening of the session*²</p>		<p>Summary. The entire COP should be transparent and open to the public via video streaming.</p>	
<p>Footnotes:</p> <p>1 At the recommendation of the Bureau of the Conference of the Parties, it is proposed that the agenda items marked with an asterisk be webcast</p> <p>2 Under agenda item 1, the opening would be webcast, whereas the deliberations on agenda items 1.1 and 1.2 would not.</p>		<p>Transparency and accountability. Though relegated to footnotes, they address the important issues of transparency and accountability. Given that the organisers can webcast selected sections of the agenda, there is no reason why the Secretariat, Bureau, and WHO could not webcast the entire COP. <u>The whole COP meeting plenary</u> should be publicly accessible via webcast, and the positions adopted by delegates and observers should be open for all to see. Public broadcasting of plenary and committees does not preclude closed-room negotiations or “friends of the chair” meetings in private.</p> <p>The asterisk webcast sessions are absurdly limited to the opening and closing sessions, the date of the next meeting, the election of officials, and WHO’s report on progress.</p>	
<p>1.1 Adoption of the agenda and organization of work Documents FCTC/COP/11/1 and FCTC/COP/11/1(annotated)</p>		<p>Summary. In overview, the agenda is weak, with the greatest priority given to matters that fall outside the FCTC (Agenda Item 4.1), and a contemptuous dismissal of Parties’ request for a balanced and objective discussion of the potential for tobacco harm reduction (Agenda Item 4.5). The COP should focus on the big issue: how to drive down global smoking?</p>	
<p>The provisional agenda was prepared by the Convention Secretariat in consultation with the Bureau of the Conference of the Parties (COP) to</p>		<p>The agenda fails to focus adequately and urgently on the Objective of the FCTC, which is to address the “<i>devastating health, social, environmental and economic consequences of tobacco</i>”</p>	

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the WHO Framework Convention on Tobacco Control (WHO FCTC), in accordance with Rules 6 and 7 of the [Rules of Procedure of the COP](#).

In considering the method and organization of its work, the COP may wish to keep the existing approach by establishing two committees, A and B, working in parallel. Committee A could be entrusted with work on treaty instruments and technical matters under provisional agenda item 4. Committee B could work on reporting, implementation assistance and international cooperation under provisional agenda item 5, and on budgetary and institutional matters under provisional agenda item 6. Provisional agenda items 1–3 and 7–9 would be considered in the plenary session.

The COP is invited to review and consider adopting the provisional agenda and to decide on the organization of work of the session.



consumption and exposure to tobacco smoke” (FCTC Article 3). In practice, almost all the harms (“devastating consequences”) arise from smoking and smoke. Yet the latest Global Burden of Disease study shows over 1.1 billion people still smoke in 2023.

The most obvious failing in the agenda is the apparent refusal to engage in an open-minded discussion of tobacco harm reduction under agenda item 4.5. The dismissive response to parties calling for a debate suggests that WHO and the Secretariat are adopting a naïve but aggressive activist stance rather than providing a respectful forum for intergovernmental deliberation (see [FCTC/COP/11/10](#) and [my commentary](#) on it).

it).

There are several problems with the way the agenda has been drawn up:

1. **Focus on issues outside the FCTC.** There is too much emphasis on measures that, by definition, fall outside the scope of the FCTC. The discussion of Article 2.1 has been termed “forward-looking measures”, but Article 2.1 is a non-preemption clause, clarifying that the FCTC does not preclude Parties from adopting policies that fall outside the FCTC. It is not an invitation to introduce new policies via a back door. FCTC articles 28 and 29 provide the appropriate basis for developing new measures and obligations under the FCTC.
2. **Poor quality analysis.** The weak and flawed factual and analytical basis for the dismissal of tobacco harm reduction as purely an industry marketing tactic (see [FCTC/COP/11/10](#)). Yet many of the world’s most respected experts in this field support tobacco harm reduction (see [COP-11 Expert Wall](#))— a discussion is legitimate and worthwhile.
3. **Attitude to Parties.** The contemptuous attitude towards Parties making a reasonable request for a balanced and evidence-based COP discussion on tobacco harm reduction is a significant failure. This is inappropriate conduct by public servants, regardless of what they think about the underlying issues. In acting so politically, the Secretariat has exceeded its role, which is to facilitate the functioning of the COP (see [Article 24.3 of FCTC](#)), not to advocate for assertive policy positions.

	<p>4. Absence of strategy. Once again, the agenda lacks any searching discussion of strategy, only a deflection. There is no update to the Global Strategy 2019-2025, despite its extension at COP-10 to 2030. The funding gap documents suggest the objective of the FCTC cannot be met without an 8-fold increase (\$8.4 billion) in resources for tobacco control. That is unlikely to materialise, so a new strategy based on cost-effectiveness is necessary.</p> <p>5. Drift from the purpose of the Treaty. The question remains how best to meet the SDG 3.4 objective to reduce NCDs by one-third by 2030, a target that is likely to be missed, and how to focus on the Objective of the FCTC (Article 3), which is all about reducing <i>harm</i> (emphasis added):</p> <p style="padding-left: 40px;"><i>to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.</i></p> <p>The devastating effects referred to in the objective arise overwhelmingly from smoking. But it is hard to find anything in the agenda that will make a material difference to smoking, and much that could make it worse.</p> <p>6. The missing big idea: make nicotine use much safer. The key to reducing cancer, cardiovascular disease and severe respiratory conditions is to reduce smoking in adults as rapidly and deeply as possible – switching from high-risk to low-risk nicotine products is a good way to achieve this, as it relies on consent, not coercion. See these commentaries in <i>The Lancet</i>:</p> <p>Beaglehole, R., & Bonita, R. (2024). Harnessing tobacco harm reduction. <i>The Lancet</i>, 0(0). https://doi.org/10.1016/S0140-6736(24)00140-5</p> <p>Beaglehole, R., Bates, C., Youdan, B., & Bonita, R. (2019). Nicotine without smoke: fighting the tobacco epidemic with harm reduction. <i>The Lancet</i>, 394(10200), 718–720. https://doi.org/10.1016/S0140-6736(19)31884-7</p> <p><i>There is only one big idea that will work</i>, and the Secretariat, WHO, and some Parties are trying to dismiss it. Most of the agenda and papers are devoted to opposing or obstructing this strategy with various forms of prohibition, speculative, unworkable ideas, and without a credible alternative.</p> <p>A complete strategy rethink is necessary to bring tobacco harm reduction (see FCTC</p>
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	<p>Article 1d) into the FCTC. The WHO and Secretariat are determined to resist this – and are likely, as a result, to cause millions of avoidable smoking-related deaths.</p>
<p>1.2 Credentials of participants Document FCTC/COP/11/2 Not yet published..</p>	<p>Summary. There is no reason for this to take up space on the agenda.</p>
<p>In accordance with Rule 18 of the Rules of Procedure of the COP, credentials shall be submitted to the Convention Secretariat, if possible, no later than 24 hours after the opening of the session. In accordance with Rule 19 of the Rules of Procedure of the COP, the Bureau of the COP, with the assistance of the Convention Secretariat, shall examine the credentials and report thereon to the COP in document FCTC/COP/11/2, which will be prepared during the session. Pursuant to Rule 20 of the Rules of Procedure of the COP, representatives shall be entitled to participate provisionally in the session, pending a decision by the COP to accept their credentials.</p>	<p>This section is little more than an administrative check that delegates are registered and properly nominated by their governments.</p>
<p>2 Applications for the status of observer to the Conference of the Parties Document FCTC/COP/11/3</p>	<p>Summary. The FCTC COP has extremely poor openness, transparency, and viewpoint diversity. Delegates should welcome and demand a broader range of observers at COP meetings and greater transparency to avoid a situation where one billionaire funder can speak through dozens of “civil society” organisations.</p>
<p>The COP is invited to review the applications for the status of observer, in accordance with Rules 30 and 31 of the Rules of Procedure of the COP. Document FCTC/COP/11/3 contains, in its annex, a draft decision for consideration by the COP.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>NGO participation is governed by the Rules of Procedure, Rule 31, notably 31(2)</p> <p><i>31.2 Other international and regional nongovernmental organizations whose aims and activities are in conformity with the spirit, purpose and principles of the Convention, may apply for observer status, which may be granted by the Conference of the Parties, based on 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</i></p> </div>	<p>This paper recommends adding one more observer to the 29 so far permitted: a group known as Economics for Health, from the Johns Hopkins Bloomberg School of Public Health, further embedding the influence of one billionaire as a “super-observer”.</p> <p>The “civil society” representatives with observer status at the COP may not be all they seem. They are almost always funded by foreign donors, usually with a common policy agenda supported by their founders. In practice, many apparently independent civil society organisations may be many voices speaking from the same single script.</p> <p>Only 29 hand-picked NGOs are currently accredited to the FCTC. This is in marked contrast to the approach taken by the UNFCCC on climate change, which welcomes all perspectives and interests in this complex issue, with around 4,000 accredited observers – see here.</p> <p><i>As of UNFCCC COP-29 in 2024, 3,956 (3,782 NGOs and 174 IGOs) are admitted as observers. The NGOs represent a broad spectrum of interests, and include representatives from business and industry, environmental groups, farming and</i></p>

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<p>opening of the session.</p> <p>The 17th and 18th preambular paragraphs of the FCTC are:</p> <p><i>17. Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,</i></p> <p><i>18. Recognizing the 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,</i></p> <p>NGO observers must provide reports to the Secretariat on their activity in support of the FCTC. See Annex 2 FCTC/COP/6/26 May 2014 for the standard questionnaire and the decision, FCTC/COP6(23).</p>	<p><i>agriculture, indigenous populations, local governments and municipal authorities, research and academic institutes, labor unions, women and gender and youth groups.</i></p> <p>Observers to the UNFCCC include fossil fuel, nuclear, renewables, automotive, aviation, industrial, land-use interests, and hundreds of environmental NGOs, many with radically different views on addressing climate change. These groups are not required to report on their work or seek approval from the secretariat. [UNFCCC Article 7.6] admits observers on the following basis:</p> <p><i>Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties</i></p> <p>FCTC Parties could do two main things:</p> <ol style="list-style-type: none"> 1. <i>Insist on greater viewpoint diversity in the observers accredited to the COP meetings.</i> The UNFCCC provides a different model that has already been endorsed by most parties to both conventions. Article 5.3 safeguards should still apply to prevent undue or inappropriate influence. 2. <i>Insist on greater accountability and transparency from those who do attend.</i> In several cases, there is ONE observer (a wealthy philanthropist) speaking through dozens of civil society organisations. The accreditation process already requires observers to disclose funding to the Secretariat (see FCTC/COP/5/26 paragraph 7, and Decision FCTC/COP5(22)). The Secretariat should report on concentrations of funder influence across multiple observers.
<p>3 Global progress in implementation of the WHO FCTC, followed by a general debate*</p> <p>Document FCTC/COP/11/4</p>	<p>The paper presents a bureaucrat's vision of "progress": counting laws enacted, setting targets, publishing reports, and so on. But there is no reporting on impact or outcomes, unintended consequences, or implementation challenges.</p>
<p>The Head of the Convention Secretariat will provide an overview of global progress in implementation of the WHO FCTC. The COP is invited to note document FCTC/COP/10/4. A general debate on the theme "Together, promoting healthier lives" will follow the introduction of this agenda item.</p>	<p>This is little more than a counting exercise. There is no discussion of any issues that should matter to policymakers: impact on FCTC objectives, trade-offs, unintended consequences (such as illicit trade), workarounds, or implementation challenges..</p> <p>Some academics (Hoffman et al. 2019) have studied the impact of the FCTC, taking these factors into account and concluded:</p>

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<p>Delegations wishing to speak in the general debate are invited to notify the Convention Secretariat as soon as possible by email with the subject line “Request for general debate statement” to cop10-mop3@who.int. Delegations are encouraged to opt for group or regional statements, in lieu of individual statements.</p>	<p><i>This study finds no evidence to indicate that global progress in reducing cigarette consumption has been accelerated by the FCTC treaty mechanism.</i></p> <p>Some studies find a small effect (Paraje, G et al., 2024)</p> <p><i>Over a decade across 170 countries, the FCTC was associated with 24 million fewer young smokers and 2 million more quitters.</i></p> <p>While that might seem a lot, 2 million quitters is just 0.2% of the smoking population, and this is in the noise.</p> <p>There is also a more disturbing question now: is the effect of the FCTC and WHO slowing the decline of smoking through a campaign against non-combustible alternatives to smoking that smokers can switch to (vaping, heated tobacco, etc)? In evaluating the FCTC, we must assess whether it does more harm than good.</p>
<p>4 Treaty instruments and technical matters</p>	<p>Summary. Section 4 of the agenda covers the main substance of the meeting, yet the ordering and implicit prioritisation are inappropriate. Why start with measures outside the scope of the FCTC (Agenda item 4.1)? Why leave the most substantive measure (item 4.5) to the end?</p>
<p>4.1 Forward-looking tobacco control measures (in relation to Article 2.1 of the WHO FCTC): report by the Expert Group</p> <p>Documents FCTC/COP/11/5, FCTC/COP/11/INF.DOC./1</p> <p>Note that further papers were published on 8 October as Supplementary Documents – A compilation of briefings on forward-looking measures and Briefing on legal challenges to forward-looking measures.</p>	<p>Summary. Though referred to as <i>forward-looking measures</i>, these are mainly measures for which there is limited evidence or experience, and they are likely to have unintended consequences. At least half of the sixteen measures proposed fall within existing articles of the FCTC and should be developed through advice and guidance developed under those articles. There should not be an FCTC reporting obligation on measures that fall outside the FCTC. I have written a Guide to the proposed forward-looking measures, with a brief review of each of the 16 proposed measures: delegates should be aware of what they are signing up for.</p> <p>The chosen Expert Group includes several advocates and activist-academics and is unlikely to reflect the consensus position of the Parties. Rather than relying on prohibitions, the missing forward-looking idea is to make nicotine use much safer – relying on consent rather than coercion. Instead, many of the proposed measures are likely to increase harm from tobacco and nicotine use.</p>
<p>In accordance with decision FCTC/COP10(12), document FCTC/COP/11/5 provides an overview of the work of the Expert Group on Forward-looking Tobacco Control Measures (in relation to</p>	<p>It is strange that this agenda item is first in the substantive Section 4 on “treaty instruments”: Article 2.1 addresses measures that, at least in theory, fall outside the scope of the FCTC.</p>

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Article 2.1 of the WHO FCTC) established by the COP. The Expert Group was mandated to identify and describe forward-looking tobacco control measures and measures that expand or intensify approaches to tobacco control as they apply to tobacco products, and that may be contemplated within the scope of Article 2.1, taking into account the Guidelines for implementation of the WHO FCTC.

The COP is invited to note document FCTC/COP/11/5 and the additional information contained in document FCTC/COP/11/INF.DOC./1, provide further guidance, and consider adopting the draft decision contained in Annex 3 of document FCTC/COP/11/5.

Note: for clarity, the sixteen “forward-looking measures” detailed in the papers are as follows, abridged and numbered here for convenience [see: [FCTC/COP/11/5](#) for full text]

1. Retail reduction
2. Ban on incentives to retailers
3. Price controls for tobacco products and devices (“minimum price policies”)
4. Birthdate-based sales restrictions (BSRs) (“tobacco-free generation”)
5. Increase in minimum legal age for sales of tobacco products
6. Ban/phase out sales of tobacco products
7. Environmental controls (“producer pays”)
8. End of any government support for tobacco farming
9. Measures to reduce tobacco supplier profits and pricing power
10. End the commercial sale of tobacco industry products
11. Quota on tobacco manufacture and imports, then regular reduction (“sinking lid”)
12. Low/very low nicotine content levels in combustible tobacco products
13. Ban on all flavouring agents and other additives in tobacco products
14. Tobacco supply freeze on brands and reduction of variants
15. Ban on cigarette filters
16. Expansion of smoke-free venues and reduction of exposure to

Article 2.1 states:

- 2.1. In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.

Article 2.1 is a clause to clarify that the FCTC does not have a pre-emptive effect: i.e. it does not limit Parties from going beyond the Treaty text and obligations. These measures should not be discussed as “forward-looking” as if they reflect an inevitable pathway that will eventually be followed. In practice, the sixteen measures chosen by this Expert Group are better described as “*Measures for which there is little supporting evidence and significant risks of unintended consequences*”. As the paper notes:

Around half of the measures are within the scope of other articles of the existing [FCTC text](#), and do not need Parties to refer to Article 2.1. For example

- A ban on cigarette filters (15), a low-nicotine mandate (12), and prohibitions on flavouring agents (13) fall within the scope of Articles 9 and 10, which cover product regulation and disclosures. The filter ban is discussed under Agenda item 4.3, *within* the FCTC under Article 18 (environment).
- Bans on incentives to retailers (2) would be covered by Article 13, see 13(4)(c) “*restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public*”.
- Expansion of smoke-free areas (16) is covered by Article 8, which includes protection from smoke exposure in “[...] *indoor public places and, as appropriate, other public places.*” However, this measure appears to focus on controls over smoking in private places and so may not be covered by the FCTC.
- Environmental controls (7) are the subject of Article 18 and are to be discussed in Agenda Item 4.3.
- Price controls (3) are an option under Article 6(2)(a) “*implementing tax policies and, where appropriate, price policies*”
- Increasing the minimum age (5) is covered by Article 16 as long as the age restrictions apply to minors rather than adults. That would typically mean age 18 or 21.

That leaves a variety of unconventional, untried prohibitions for which there is no supportive evidence:

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second- and third-hand tobacco smoke

Paper [FCTC/COP/11/5](#) includes a draft decision at Annex 3 on page 31, summarised in abridged form here:

1. INVITES Parties:
 - a. to consider the forward-looking tobacco control measures [...] with a view to their potential adoption and implementation by Parties, and to contribute to their efforts to meet their obligations under the WHO FCTC;
 - b. to note that the list of forward-looking tobacco control measures identified and described by the Expert Group is not exhaustive [...]
 - c. to report, as part of their reporting obligations on their implementation of the Convention, on implementation of forward-looking tobacco control measures that expand or intensify approaches to tobacco control [...]
 - d. to consider the need to conduct further work and mobilize resources, in respect of forward-looking tobacco control measures [...]
2. REQUESTS the Convention Secretariat:
 - a. to disseminate the work of the Expert Group, [...] and publishing information material, including with support from WHO, on forward-looking tobacco control measures;
 - b. to continue to raise awareness about forward-looking tobacco control measures [...]

Expert group membership: [First meeting of the Expert Group on Forward-looking Tobacco Control Measures \(in relation to Article 2.1 of the WHO FCTC\) 18–20 June 2024](#)

- Retail reduction (1) – effectively a time penalty on people with poor access to transport and no reason to believe it would prevent smoking. It is more likely to trigger bulk purchasing and onward sale by third parties. This measure is also discussed under Article 18 (environment)
- Birthdate-based sales restrictions (4) would not be covered by Article 16, as this measure *imposes age restrictions only on adults*. It applies age restrictions to people who are no longer minors (typically defined as younger than 18 or 21) and applies once they age into adulthood.
- Tobacco sales bans (6) & (10) – which seem to be almost the same as a prohibition. There is no evidence that this would work, and it has failed when tried (in Bhutan and South Africa temporarily).
- Ending support for farmers (8) – this may be desirable economically, but it will have no effect on the FCTC objectives – leaf prices are a negligible component of final product price. Farm subsidies are really about addressing rural poverty.
- Reducing tobacco suppliers' profits and pricing power (9) – this would need to be done through a levy or taxation and may conflict with other taxation objectives and minimum pricing (3).
- Quota-setting and sinking lid (11). There is extensive literature on “cap and trade systems” showing they have the equivalent economic effect as taxation, though with far greater complexity and advantages for incumbents.
- Tobacco supply freeze on brands and reduction of variants (14) – it is unclear what this would achieve for health. It would likely favour incumbent tobacco oligopolies and mega-brands like Marlboro.

The missing big forward-looking idea

There is **one big forward-looking idea** missing from this menu of prohibitionist measures: that is, *to make nicotine use much safer*. We know how to do that, and consumers are doing it for themselves. Because this concept relies on user consent rather than punitive, coercive or stigmatising measures, *it is more likely to succeed*. In practice, it is the **only big forward-looking idea** worth considering.

The decision (Annex 3, abridged in the adjacent column) should be rejected by delegates for the following reasons:

1. Article 2.1 is being misused to drive mission creep. Other mechanisms are available and

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Name	Organization, Country
Larissa Al-Uar	Tobacco Free Jordan, Jordan
Matthew Allen	Allen & Clarke Policy and Regulatory Specialists Ltd., New Zealand
George Bakhturidze	Georgia
Stella Bialous	University of California, United States of America
Becky Freeman	University of Sydney, Australia
Prashant Kumar Singh	Indian Council of Medical Research, India
Kylie Lindorff	Cancer Council New South Wales, Australia
Hadii Mamudu	East Tennessee State University, United States of America
Aya Mostafa	Ain Shams University, Egypt
Hanna Ollila	Finnish Institute for Health and Welfare, Finland
Robert Schwartz	University of Toronto, Canada
Reinskje Talhout	National Institute for Public Health and the Environment, Netherlands
<i>Experts named by observers</i>	
Geoffrey Fong	Global Alliance for Tobacco Control
Ruth Malone	Action on Smoking and Health

- more appropriate to expand the scope of the FCTC.
- Most of the favoured policies of the Expert Group can be pursued under established articles of the FCTC, but have not been so far. The working groups and guidance to these articles are the appropriate route for considering these novel measures.
 - There is no logical or legal basis for mandatory reporting on measures that are *beyond the scope* of the FCTC within the COP of the FCTC. The reporting burden is already significant, and any further reporting should focus on the outcomes and implementation challenges of established FCTC measures, not speculative measures. Why should Parties report on measures specified by an unaccountable NGO and activist-led Expert Group?
 - Extensions to the scope of the FCTC are governed by Articles 28 and 29, which have built-in safeguards to ensure democratic legitimacy and the consent of Parties.
 - The membership of the Expert Group, largely NGOs and activist academics, lacks the balance and necessary expertise to provide an objective assessment of the benefits, detriments, and likely unintended consequences of the measures it has advanced, and the information documents betray this weakness.

The papers for this controversial agenda item were not published the required 75 days before the COP, with the main documents published 56 days before (22nd Sept) and a large information document published just 40 days (8 Oct) before and in only one language.

The problem here is that the Secretariat is trying to maintain momentum for the FCTC by engaging tobacco control activists to pursue measures beyond the scope of the Treaty through an innocuous clause (Article 2.1) that simply clarifies that the FCTC does not pre-empt Parties from going further than its words. That is fine, but it should not be a stealthy way to extend the scope of the FCTC without using the process for treaty amendment under Articles 28 and 29.

Suggested action. The development of measures outside the current scope of the FCTC should be addressed in technical papers produced by WHO. The existing articles of the FCTC should be used to develop and report on measures within its scope. Parties should not be required to report on their progress (para 1.c. of the decision) on an NGO-driven list that includes measures that fall outside the FCTC and many that are unworkable or extreme. A Working Group of Parties should be asked to advise the COP.

4.2 Liability (Article 19 of the WHO FCTC): report by the Expert Group

Document [FCTC/COP/11/6](#)

Summary: Liability is a matter for the courts and long-established domestic law, which is unlikely to change to provide specific carve-outs for one type of litigation, namely tobacco. Significant liability issues also face those misleading people who smoke by deliberately or negligently exaggerating the risks of safer alternatives – this

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	<p>form of liability deserves more attention.</p>
<p>Document FCTC/COP/11/6 contains the report of the Expert Group on Implementation of Article 19 of the WHO FCTC on Liability, re-established by the COP in decision FCTC/COP10(13), taking into account the work completed by the Expert Group on liability established pursuant to decision FCTC/COP5(9) and whose mandate was extended in decision FCTC/COP6(7).</p> <p>The COP is invited to note document FCTC/COP/11/6, provide further guidance and consider adopting the draft decision contained in Annex 2 of the report.</p> <div data-bbox="232 663 949 1238" style="border: 1px solid black; padding: 5px;"> <p>Extract of draft decision FCTC/COP/11/6 Annex 2:</p> <p>1. CALLS ON the Parties:</p> <p>(a) to apply the recommendations and options provided by the Expert Group in their report FCTC/COP/11/6, as appropriate, to strengthen their implementation of Article 19 of the WHO FCTC;</p> <p>(b) to use the tools and resources available for Parties to strengthen their implementation of Article 19, including those contained in Annex 1 of the report FCTC/COP/11/6;</p> <p>(c) to share updated information including practice, challenges, lessons learned and expertise in relation to implementation of Article 19, between the Parties and through the Convention Secretariat, using, among others, the reporting system of the WHO FCTC and the database of experts and institutions for implementation of Article 19;</p> </div> <div data-bbox="232 1286 949 1398" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>The Expert Group membership: First meeting of the Expert Group on Implementation of Article 19 of the WHO FCTC on liability, 26 June 2024</p> </div>	<p>Tobacco companies (and any company or person) should be held accountable for significant harms caused by wrongdoing, either through criminal penalties where laws have been broken, or civil damages where acts of wrongdoing have caused harm to others. All jurisdictions offer these legal remedies. There is no real dispute about this. The question here is whether something <i>different</i> should be done in the case of tobacco, and why would that be justified?</p> <p>The first point to recognise is that Governments can extract money from the tobacco sector through taxation and use this to fund healthcare, anti-smoking programmes, compensate victims, fund cancer research or other causes as they see fit. This is a more efficient and effective way to extract money from these companies (in practice, their customers and shareholders) than litigation.</p> <p>People harmed by tobacco use can bring legal actions as individuals or groups and make a case that the harm is attributable in part to wrongful conduct by tobacco companies. There have been many such cases, and several have been successful, but the courts carefully consider which parties and what conduct creates the liability. It is impossible to generalise about liability, and natural justice demands that such claims are tested in a neutral court.</p> <p>The paper concludes with paragraph 155, offering 30 recommendations. Though this is a health treaty, the issues raised would be primarily for law officers to consider. There would inevitably be questions as to:</p> <ol style="list-style-type: none"> 1. Why should general principles of law already applicable to every type of criminal or civil liability be exceptionally adjusted in the specific case of tobacco? 2. Why should the general principles of law already underpinning all criminal or civil liability in a jurisdiction be changed to facilitate tobacco litigation? 3. Whether the recommendations maintain fairness and justice, even for an industry with a historically terrible reputation. 4. Whether legal remedies already exist and just need to be applied, such as enforcing the law or preserving evidence. <p>Some examples of problematic recommendations from the thirty recommendations (not an exhaustive list), with brief reasons for caution.</p> <p>(iv) “<i>causation in civil liability actions related to the harms caused by tobacco can be established solely through epidemiology, statistical, or other sociological evidence</i>” – the issue is that liability for harm requires evidence of a <i>wrongful act</i> (e.g. negligence, misrepresentation,</p>

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Name	Organization, Country
Raouf Alebshehy	University of Bath, United Kingdom of Great Britain and Northern Ireland
Davi Bressler	Attorney General's Office of Brazil, Brazil
Cynthia Callard	Physicians for a Smoke-Free Canada, Canada
Andrew Higgins	University of Oxford, United Kingdom of Great Britain and Northern Ireland
Sungkyu Lee	Korea Center for Tobacco Control Research and Education, Republic of Korea
Peter Magati	Development Hub Consulting Ltd., Kenya
Mohammad Nsour	United Arab Emirates University, United Arab Emirates
Pokpong Srisanit	Thammasat University, Thailand
Gustavo Sónora	Vital Strategies, Uruguay
Deborah Sy	Global Center for Governance in Tobacco Control, Thailand
Theodore Te	University of the Philippines, Philippines
Amit Yadav	Vital Strategies, India
<i>Expert named by observers</i>	
Daniel Dorado	Global Alliance for Tobacco Control
Monique Muggli	Campaign for Tobacco Free Kids
<i>Alternate</i>	
Margherita Melillo	O'Neill Institute for National and Global Health Law, Italy
<i>Special Advisor to the WHO FCTC Secretariat</i>	
Vuyile Dumisani Dlamini	Ministry of Foreign Affairs and International Cooperation, Eswatini

or the breach of a duty), not just evidence of harm.

(viii) “*Voluntary assumption of risk is not a defence ... before the defendant ... acknowledged harms caused by tobacco*” – voluntary assumption of risk depends on what the claimant knew, potentially informed by reputable sources like medical societies. The industry is responsible for its wrongful acts, not the voluntary assumption of risk. The courts will always wish to know if claimants deliberately contributed to the harm they experienced.

(ix) “*Time limits for victims of harm ... are abolished or can be extended*” – why would a jurisdiction suspend its general approach to “limitations” only in the case of tobacco?

(xi) “[...] *Any adverse cost liability for claimants is abolished.*” This would incentivise frivolous and vexatious lawsuits, aiming to extract money through out-of-court settlements. Judges can decide to waive or impose costs based on their view of the merits of the case and the standing of the claimants.

(xvii) “*Qualified civil society organizations ... are given powers to prosecute breaches of tobacco control laws*”. Jurisdictions generally permit anyone, including CSOs, to file criminal complaints with a prosecutor or regulatory authority, but do not generally grant the authority to prosecute. Why would a special case be made for this? The recommendation also includes, “*civil society organisations have secure funding to bring legal actions ...*” and a “*percentage of any criminal fine should be payable to the civil society organisation*”. This creates a parallel state-funded prosecutor, not just a CSO. Why would this be done at all, and why would it be done only for tobacco control prosecutions?

(xxi) and (xxii) refer to cross-jurisdictional or extra-territorial issues – these are usually the subject of broader agreements that are not tobacco-specific (e.g. the OECD Bribery Convention)

Who pays? The ultimate burden of both taxation and civil liability would likely fall on current tobacco *consumers* through increased costs passed on through product prices (depending on the impact on competition). This has been the main effect of the \$206 billion US Master Settlement Agreement (MSA) of 2000. See [Sloan et al. 2003](#)

Conclusion: *The experience during the post-MSA period demonstrates that the MSA did no major harm to the companies. Some features of the MSA appear to have increased company value and profitability.*

It is unclear what the FCTC Article 19 can add to established taxation and legal systems, and there has been little progress in the 10 years since the report of an Expert Group on liability ([FCTC/COP6/8](#)). This paper essentially reiterates and refers to that.

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	<p>Who will be found liable for harms?</p> <p>A tort is a wrongful act or omission that causes harm to another person, for which the law provides a civil remedy, usually in the form of damages. Misleading people, deliberately or negligently, by grossly exaggerating the risks of safer alternatives to smoking could constitute a tort if it leads people to continue smoking and they are harmed as a result. Delegates and observers should carefully consider who is exposed to such litigation.</p> <p>Suggested action. Parties should note the recommendations with interest but not endorse or act upon them, nor use litigation resources without further consultation with law officers and consideration of the broader implications for civil litigation and criminal law.</p>
<p>4.3 Protection of the environment and the health of persons (Article 18 of the WHO FCTC)</p> <p>Document FCTC/COP/11/7</p>	<p>Summary. The paper provides a weak basis for Parties to act because it does not provide evidence of the effectiveness of the measures proposed or discuss likely unintended consequences, such as users of disposable vapes returning to smoking.</p>
<p>Document FCTC/COP/11/7 is submitted to the COP pursuant to decision FCTC/COP10(14), which requested the Convention Secretariat to examine regulatory options regarding the prevention and management of waste generated by the tobacco industry and its products, as outlined in paragraph 2(c), and to identify a number of other matters, as outlined in paragraph 2(e), to be reported to the COP.</p> <p>The COP is invited to note document FCTC/COP/11/7 and provide further guidance.</p> <div style="border: 1px solid black; padding: 5px;"> <p>List of 14 recommendations and options from: FCTC/COP/11/7 – in abridged form.</p> <ol style="list-style-type: none"> 1. Reduce the availability of all commercial tobacco products (e.g. by bans on particular products or generational sales bans) 2. Banning the manufacture (where relevant), import, distribution and sale of filtered cigarettes 3. Banning the use of other single-use plastics in tobacco and other related products. [footnote: including single-use ENDS where feasible] 4. Reducing the density of tobacco retailer outlets 5. Utilizing a deposit/refund system 6. Implementing a waste abatement fee, </div>	<p>This paper is very weak. The main ideas are reproduced in the adjacent column. My comments on a selection:</p> <ul style="list-style-type: none"> • <i>Generally, reduce supply and demand of tobacco.</i> This falls outside the scope of Article 18. • <i>Ban filters on cigarettes.</i> A ban on filters would create a significant ethical and communications challenge, as it would look like deliberately making cigarettes more dangerous, and, to a modest extent, that may also be true (those proposing it would need to show that it does not increase harm). • <i>Ban single-use plastics in tobacco and related products</i> (i.e. disposable vapes). This is proposed without any consideration of how people who use these products (usually as alternatives to smoking) would respond. Will they return to smoking? How will the suppliers respond? How will the black market react? • <i>Reduce retail outlet density.</i> It is not obvious how requiring people to travel farther to purchase or recycle products would help the environment. In fact, this measure opens the door for third parties to enter the supply chain between retailers and consumers. • <i>Various forms of producer responsibility</i> (e.g., recycling schemes, fees, etc.). These might be helpful, but they would usually be embedded in a broader waste management regime, and they would only work where the market was not largely illicit. • <i>Outdoor smoking bans.</i> These could reduce cigarette-related litter in the areas where

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<p>7. Outdoor smoking bans in parks and at beaches</p> <p>8. [reject] clean-up/litter collection efforts [because] they have limited ability to address the source of the problem.</p> <p>9. [reject] biodegradable filters [because] they do not provide a solution, as they would still be discarded into the environment and leach contaminants into the environment.</p> <p>10. Litigation could be used to hold the tobacco industry accountable for the environmental damage</p> <p>11. Implement extended producer responsibility (EPR) measures that would collect funds from tobacco companies to mitigate environmental harms.</p> <p>12. Classification of tobacco product waste as hazardous waste.</p> <p>13. Require warning labels on tobacco product packaging about these harms, or even on the product itself, such as on individual cigarette sticks.</p> <p>14. Tobacco industry reporting and disclosure requirements for information associated with the environmental impacts</p>	<p>they are implemented, though no evidence or experience is cited.</p> <ul style="list-style-type: none"> • Other measures are dismissed. <p>This is a disappointing paper from a policymaker’s perspective. There is no discussion of evidence, trade-offs, unintended consequences, and no effort to embed measures in broader environmental and waste management policy discourse.</p> <p>The discussion of banning disposable vapes highlights the weakness. These products are increasingly popular because of their simplicity, value for money, and diverse product offerings. Yet, the paper does not consider what would happen to the users (how many would need to revert to smoking for the measure to do more harm than good?). These products are already supplied through illicit trade in many markets – what are the adverse effects of increasing illicit trade?</p> <p>Note that the environmental impacts of <i>tobacco growing</i> can be substantially reduced by using vapes or pouches and the use of synthetic nicotine. Most nicotine used in the tobacco-derived pharmaceutical nicotine used in vapes and pouches comes from <i>tobacco dust</i>, a by-product of leaf growing.</p> <p>Suggested action: the paper invites the COP “to note the present report and provide further guidance.” The report should be noted. The Secretariat should be asked to present a new paper for COP-12 with better evidence and consistent with the specific request from Parties in Decision FCTC/COP10(14).</p>
<p>4.4 Regulation of contents and disclosure of tobacco products (Articles 9 and 10 of the WHO FCTC): reports by the Bureau and by WHO</p> <p>Documents FCTC/COP/11/8 and FCTC/COP/11/9</p>	<p>Summary. The development of guidance on product regulation and disclosures stalled in 2016 and is now locked in procedural disputes between Parties and the Secretariat. WHO is pressing for indiscriminate regulations and bans based on a flawed conceptual framework that does not reflect the reality that smoke-free products are much safer than smoked products.</p>
<p>Document FCTC/COP/11/8 contains the recommendations of the Bureau of the COP to the 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. The COP is invited to note document FCTC/COP/11/8 and consider adopting the draft decision annexed to it.</p> <p>Document FCTC/COP/11/9 contains an update on the progress made</p>	<p>FCTC/COP/11/8 by the Bureau describes a bureaucratic stalemate of endless debates, papers, and decisions that has led nowhere since 2016. This is mostly about who should be advising the COP – an “Expert Group” selected by the Secretariat/WHO, or a “working group” chosen by the Parties. There should be no dispute here: a working group of the Parties is the most appropriate and accountable vehicle. A Working Group of Parties is more likely to reach consensus on updated guidance for Articles 9 and 10.</p> <p>FCTC/COP/11/9 by WHO reports back on its work on regulatory reform, but very little of this is new or interesting. The worst aspect of the paper is that WHO takes an undifferentiated</p>

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<p>by the World Health Organization (WHO) in technical work related to tobacco product regulation, in pursuance of implementation of Articles 9 and 10 of the WHO FCTC. The COP is invited to note document FCTC/COP/11/9.</p>	<p>approach to products with radically different risks, thereby undermining the regulatory principle of <i>risk proportionality</i>. For example, the WHO states:</p> <p><i>29. Reduce the appeal of tobacco products, using options such as regulating (including banning) flavours, especially to discourage youth use. Considerations include:</i></p> <p><i>(a) banning flavours across all products, and banning flavour accessories, including flavour capsules;</i></p> <p>But the main effect of applying an indiscriminate ban to all products will be to reduce the transition from high-risk to low-risk tobacco products</p> <p>Opportunities are seen only as threats by WHO:</p> <p><i>8. WHO continues to monitor and examine market developments of these products as requested by the COP. The market for HTPs was estimated to be worth US\$ 28.4 billion in 2023, with a compound annual growth rate of 24% from 2019. The projected rapid growth in HTP sales, coupled with the increasing use of these products in some jurisdictions, is a concern for regulators.</i></p> <p>The rapid growth of HTP sales is a significant win for public health, as they are likely displacing smoking with heated smoke-free products. The result would be smoking cessation or diversion and nicotine use that is far less risky to health. Heated tobacco products have been deemed “appropriate for the protection of public health” by the Food and Drug Administration in the United States. Anyone concerned with the aims of the FCTC should want more of them, not less.</p> <p>Suggested action. Parties should insist on advancing the Article 9/10 agenda through a Working Group of Parties. A Working Group is more likely to achieve consensus and buy-in than an unaccountable Expert Group led by NGOs or activist academics.</p>
<p>4.5 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</p> <p>Document FCTC/COP/11/10</p>	<p>Summary. This is the worst FCTC COP paper I have ever read, and that is quite an achievement. Two main issues should disturb Parties, whatever view delegates take on the substantive matters:</p> <ol style="list-style-type: none"> 1. The contemptuous and dismissive attitude towards one or more Parties seeking a substantive discussion of a serious public health strategy. I have never seen a convention secretariat behave in this way in this or any other convention. 2. The quality of the analysis and understanding shown in the paper about the subject under discussion, tobacco harm reduction. This is dismissed as a form of tobacco

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	<p>industry interference. Yet, it has the support of several Parties, high-credibility organisations such as the Royal College of Physicians, and many of the world’s top independent experts (see 2025 Expert statements).</p> <p>A detailed side-by-side critique of the Secretariat’s paper is available from me: FCTC/COP/11/10 commentary on harm reduction to support this overview.</p>
<p>Document FCTC/COP/11/10 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.</p> <p>The COP is invited to note document FCTC/COP/11/10 and provide further guidance.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>FCTC Article 5.2(b)</p> <p>5.2(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.</p> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Article 5.3</p> <p>5.3 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.</p> </div>	<p>The Secretariat has drawn on Article 5.2(b) to make a case against tobacco harm reduction based on preventing and reducing nicotine addiction. It has drawn on Article 5.3 to imply that harm reduction should be rejected because it is a tobacco industry narrative. Neither point makes any sense.</p> <p>Delegates should consider four counterpoints:</p> <p>First, the definition of tobacco control in FCTC Article 1.d includes harm reduction as a strategy to achieve the FCTC objective.</p> <p style="padding-left: 40px;"><i>(d) “tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;</i></p> <p>The COP has not yet operationalised this concept, but given its great potential, it should be considered urgently. That forms the basis of the request from Parties for a more thorough discussion. There is a substantial body of compelling scientific evidence synthesised by respected bodies such as Public Health England, the Cochrane Collaboration, and the US National Academies that supports tobacco harm reduction. I have provided evidence briefings for policymakers that address product safety and relative risk, smoking cessation and product substitution, youth use, policy experience and nicotine itself. The Secretariat has made no effort to summarise this body of science and institutional support for delegates.</p> <p>Second, Article 5 is not an end in itself; it serves to further the objective of the Treaty (FCTC Article 3), which is to address devastating health and other consequences.</p> <p style="padding-left: 40px;"><i>...to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke [emphasis added].</i></p> <p>Tobacco harm reduction is a pragmatic evidence-based public health strategy that recognises that some people will use nicotine whether we like it or not, in the same way people will use other substances with psychactive rewards like alcohol, caffeine or cannabinoids. Currently, around 1.2 billion people use nicotine through smoking. Yet, it is possible to reduce the</p>

	<p>“devastating health ... consequences” they face by making nicotine use far safer using smoke-free alternatives (ENDS, HTPs, oral nicotine pouches, Snus, etc). Doing so does not stop anyone from then quitting nicotine use should they wish to. But it makes the first step that reduces major smoking-related harm much easier to take, because it does not require nicotine abstinence. To rule this idea inadmissible based on Article 5.2(b) is absurd and ethically unacceptable – it would mean using Article 5 to work against Article 3. This is not theoretical; several countries have valuable real-world experience of tobacco harm reduction, notably Sweden, Norway, Japan, New Zealand, England and the United States. Other countries have had adverse experiences of rejecting or constraining tobacco harm reduction.</p> <p>Third, no credible definition of addiction is offered. Most definitions of “addiction” combine a compulsive behaviour with serious harmful consequences, for example, the AddictO ontology defines <i>addiction</i> as:</p> <p style="padding-left: 40px;"><i>A mental disposition towards repeated episodes of abnormally high levels of motivation to engage in a behaviour, acquired as a result of engaging in the behaviour, where the behaviour results in risk or occurrence of serious net harm.</i> (Emphasis added.)</p> <p>One way of addressing “addiction”, therefore, is to reduce the harm associated with dependence, for example, from moving from high-risk nicotine use to low-risk nicotine use.</p> <p>Fourth, there is no dispute that the tobacco industry should not be allowed undue or improper influence on policymaking, as recognised in Article 5.3. But that does not mean that everything the industry says is inherently wrong and everything tobacco control activists say is correct and beyond dispute. The role of public officials is to determine what is right based on evidence and argument, not on who is saying it. Harm reduction commands broad support in public health <i>for its impact on public health</i> [see letter from 100 independent experts to COP-9 and the COP-11 Expert Wall of 2025 statements]. It is <i>obviously rational</i> to make nicotine use safer, given how there are more than one billion nicotine users and the persistence of nicotine use over 12,000 years. It also happens to be a credible strategy for tobacco companies to make efforts to reduce the harms caused by their products, something most in public health would welcome.</p> <p>Suggested action. The COP should note the paper and express dissatisfaction with both its tone and substance. There should be a Working Group of interested Parties to provide a realistic assessment of the potential for harm reduction approaches based on experience in other fields (illicit drugs), experience of tobacco harm reduction among Parties, the scientific evidence base, insights into youth risk behaviours, market transitions, risk proportionate policies, information and communications.</p>
<p>5 Reporting, implementation assistance and international</p>	

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<p>cooperation</p>	
<p>5.1 Voluntary Implementation Peer Review and Support Mechanism Document FCTC/COP/11/11</p>	<p>Summary. This initiative has failed and should now be abandoned.</p>
<p>Document FCTC/COP/11/11 is submitted to the COP pursuant to decision FCTC/COP10(22), which requested the Convention Secretariat to make the necessary arrangements to launch the Voluntary Implementation Peer Review and Support Mechanism and, among others, to assess its effectiveness and report on progress to the COP. The COP is invited to note document FCTC/COP/11/11 and provide further guidance.</p>	<p>There is nothing inherently wrong with a “Voluntary Implementation Peer Review and Support Mechanism” provided there are volunteers, but there are no volunteers. Paragraph 23 of the paper reveals that the secretariat contacted all 183 parties to invite participation but received only four expressions of interest, of which three subsequently withdrew. Paragraph 24 delivers the mortal blow. <i>24. In this context, the Convention Secretariat was not able to implement the VIPRS Mechanism as adopted in decision FCTC/COP10(22).</i> Suggested action. Abandon this initiative and resist efforts to make it mandatory within the framework of the FCTC. This does not prevent technical assistance and co-operation.</p>
<p>6 Budgetary and institutional matters</p>	<p>There is a very poor assessment of “value for money” and of what the expenditure is buying in terms of the <i>outcomes</i> expected from the FCTC. The Parties should insist on greater scrutiny of the FCTC Secretariat's finances and accountability.</p>
<p>6.1 Performance and progress reports Document FCTC/COP/11/12</p>	<p>Summary. There is a poor link between budget and outcomes, and a poor boundary between the role of the Secretariat (managing a treaty) and WHO. Parties should take a broader view of cost-effectiveness and value for money in both FCTC and tobacco control more generally. Tobacco harm reduction offers many cost-effective opportunities that would allow significant reductions in 80% of the estimated cost of meeting the FCTC objectives.</p>
<p>a) Performance report for the 2022–2023 Workplan and Budget b) Interim performance report for the 2024–2025 Workplan and Budget c) Global Strategy to Accelerate Tobacco Control: Advancing Sustainable Development through the Implementation of the</p>	<p>As with any discussion of resources, delegates should examine the link between inputs, outputs, and outcomes —what was achieved with the money —and question any underspend. I don’t propose to address these reports in detail. However, the COP paper refers several times to a 2024 paper titled: The Global Tobacco Control Funding Gap. This paper suggests that an 8-fold increase in annual expenditure is required to achieve “full implementation of the WHO FCTC.”</p>

Commentary

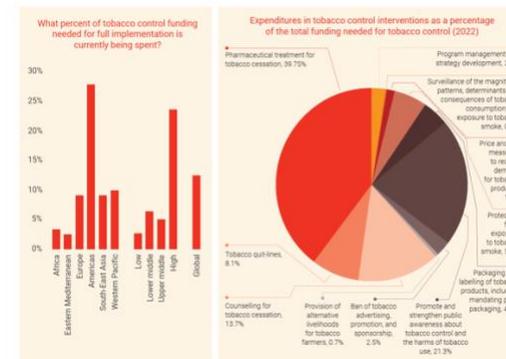
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WHO FCTC 2019–2025



This means that tobacco control advocates are seeking an *additional* \$8.4 billion annually, and that, if the money is not forthcoming, the FCTC will fail to meet its objectives. It is extremely unlikely that such sums would be forthcoming through overseas development assistance, which has contracted considerably following the closure of USAID. It could be potentially raised through tobacco taxation, but many governments have higher priorities for tax revenues (healthcare access, infrastructure, public services such as schools, security and stability). The WHO [3 by 35 Initiative](#) recommends using such revenues to fund the SDGs more generally and to replace declining ODA revenue.

The question is whether the Objectives of the FCTC (Article 3) could be achieved more cost-effectively, without an 8-fold increase in funding. Yes, they can.



61.55% (or \$5.9 billion) of this \$9.6 billion estimate is allocated to smoking cessation; pharmaceuticals (\$3.82 billion), counselling (\$1.32 billion), and quit-lines (\$778 million).

Here is the opportunity: when people quit smoking by switching to ENDS, pouches, smokeless or heated tobacco, they do it in their own interests, on their own initiative, *and at their own expense*. The role of tobacco control is primarily not to obstruct this beneficial transition, which does not require expenditure. The budget suggested for awareness-raising (21.3% of the total, or \$2.04 billion) could be directed toward informing people about their options and promoting realistic risk perceptions. This could change rapidly if a few influential

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	<p>institutions, such as the WHO, the European Commission, the US Centres for Disease Control and Prevention (CDC), and the multiple entities funded by Bloomberg Philanthropies, began promoting truthful communications about the risks and opportunities arising from smoke-free nicotine products. Good-quality, science-based messaging would spread rapidly through social media and would not require major paid-for promotional activity.</p> <p>The success of the FCTC should be measured by the rate of decline in global smoking and, therefore, by the FCTC’s contribution to reducing non-communicable diseases and to SDG Target 3.4: to reduce four NCDs by one-third by 2030 compared to 2015.</p>																								
<p>The COP is invited to note the performance and progress reports for the reported periods as well as to note the update on progress in respect of the Global Strategy contained in document FCTC/COP/11/12.</p>	<p>These performance reports focus on activity and not outcomes.</p> <p>Suggested action. The Secretariat should develop a strategy workplan for the FCTC that does not require an 8-fold increase in resources, but is optimised to achieve as much as possible with current budget levels.</p>																								
<p>6.2 Proposed Workplan and Budget for the financial period 2026–2027</p> <p>Documents FCTC/COP/11/13 and FCTC/COP/11/INF.DOC./2</p>	<p>Summary. The workplan just rolls over a workplan that has its origins in 2016. A refreshed version of the Global Strategy is required, taking into account new evidence, insights and initiatives, with a single-minded focus on the FCTC objective. The forward-looking work plan should derive from that.</p>																								
<p>The COP is invited to consider the report and adopt the proposed Workplan and Budget for the financial period 2026–2027, as presented in Annexes 1, 2 and 3 of document FCTC/COP/11/13, and to note the additional information contained in the explanatory note FCTC/COP/11/INF.DOC./2.</p> <div data-bbox="228 1098 967 1439" style="border: 1px solid black; padding: 10px;"> <p style="text-align: center;">Total proposed budget 2026–2027 (US\$)^a</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Cost category</th> <th style="text-align: center;">Covered by Assessed Contributions</th> <th style="text-align: center;">Covered by Extra-budgetary Contributions</th> <th style="text-align: center;">Total</th> </tr> </thead> <tbody> <tr> <td>1. Activity costs</td> <td style="text-align: right;">1 278 446</td> <td style="text-align: right;">7 928 699</td> <td style="text-align: right;">9 207 145</td> </tr> <tr> <td>2. Staff costs</td> <td style="text-align: right;">6 510 132</td> <td style="text-align: right;">2 084 400</td> <td style="text-align: right;">8 594 532</td> </tr> <tr> <td>3. Total direct costs</td> <td style="text-align: right;">7 788 578</td> <td style="text-align: right;">10 013 099</td> <td style="text-align: right;">17 801 677</td> </tr> <tr> <td>4. Recovery costs</td> <td style="text-align: right;">1 012 515</td> <td style="text-align: right;">1 301 703</td> <td style="text-align: right;">2 314 218</td> </tr> <tr> <td>5. Grand total</td> <td style="text-align: right;">8 801 093</td> <td style="text-align: right;">11 314 802</td> <td style="text-align: right;">20 115 895</td> </tr> </tbody> </table> <p><small>^aTotal for Assessed Contributions (activities, salaries and recovery costs): US\$ 8 801 093.</small></p> </div>	Cost category	Covered by Assessed Contributions	Covered by Extra-budgetary Contributions	Total	1. Activity costs	1 278 446	7 928 699	9 207 145	2. Staff costs	6 510 132	2 084 400	8 594 532	3. Total direct costs	7 788 578	10 013 099	17 801 677	4. Recovery costs	1 012 515	1 301 703	2 314 218	5. Grand total	8 801 093	11 314 802	20 115 895	<p>The 2026-27 workplan and budget are derived from the Global Strategy to Accelerate Tobacco Control: Advancing sustainable development through the implementation of the WHO FCTC 2019-2025.</p> <p>This was extended from 2025 to 2030 through a decision at the 2024 COP, FCTC/COP10(15). This decision asked the Secretariat to ensure that the Global Strategy is a living document and to be reviewed as necessary.</p> <div data-bbox="1025 1098 1989 1273" style="border: 1px solid black; padding: 10px;"> <p>REQUESTS the Convention Secretariat:</p> <p style="padding-left: 40px;">(a) under the guidance of the Bureau, to consult a group of experts and stakeholders, such as those involved in the development of the Global Strategy, in order to assess the Global Strategy as a “living document to be reviewed as necessary” and provide suggestions concerning any necessary adjustments;</p> </div> <p>The Secretariat has evidently concluded that no change is needed to a document formulated in the light of a COP decision made in 2016, agreed in 2018, and now with an outlook to 2030. Yet in the intervening time, it has become clear that a dramatic transition in the nicotine market is underway and could be supported and accelerated, or obstructed and opposed, by Parties.</p>
Cost category	Covered by Assessed Contributions	Covered by Extra-budgetary Contributions	Total																						
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Commentary

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<ul style="list-style-type: none"> • Only 44% of the total budget is met from assessed contributions • 74% of assessed contributions cover staff costs • 86% of activity costs are covered by extra-budgetary contributions 	<p>Without any serious deliberation (see comments on paper FCTC/COP/11/10 for Agenda Item 4.5) the Secretariat has declined to reconsider or reformulate the Global Strategy, and both WHO and the Secretariat are obstructing and opposing the migration of the global nicotine market to much safer smoke-free products, at a likely cost in millions of lives if they continue in this direction and are taken seriously.</p> <p>Suggested action: Parties should remind the Secretariat that the Global Strategy is a living document and require an update by COP-12 or sooner if possible. The updated strategy should focus on the objective of the FCTC, take account of the experience of countries with a high uptake of smoke-free alternatives, draw on insights into the unintended effects of prohibitions (see Australia), reflect on the “funding gap” and very low likelihood that such a gap will be closed, and incorporate new initiatives such as 3 by 35 on taxation.</p>
<p>6.3 Payment of Assessed Contributions and measures to reduce Parties in arrears</p> <p>Document FCTC/COP/11/14</p>	
<p>The COP is invited to note the report providing information on the progress made on the payment of Assessed Contributions and the current status of Parties in arrears, contained in document FCTC/COP/11/14, and consider adopting the draft decision annexed to it, as recommended by the Bureau.</p>	<p>It would be better if the Secretariat were funded at a level that could be met by assessed contributions (and that these were paid) rather than relying on potentially distorting and conflicting extra-budgetary contributions. Yet, looking ahead, the budget is dominated by extra-budgetary resources.</p> <p>Suggested action. Pay arrears.</p>
<p>6.4 Review of accreditation of nongovernmental organizations with the status of observer to the Conference of the Parties</p> <p>Document FCTC/COP/11/15</p>	<p>Summary. The selection and cultivation of compliant NGOs does not further the objectives of the FCTC or help Parties. A major rethink is necessary</p>
<p>Document FCTC/COP/11/15 provides a summary of the work reported by the nongovernmental organizations (NGOs) that are accredited as observers to the COP as part of the review of their accreditation by the COP.</p> <p>The COP is invited to note the report contained in document FCTC/COP/11/15, and, following the recommendation of the Bureau to maintain observer status of the 29 NGOs accredited as observers to</p>	<p>I have provided a discussion of the role of non-governmental organisations and observer status under Agenda Item 2 above: Applications for the status of observer to the Conference of the Parties</p> <p>Suggested action. Create a working group to learn from the UNFCCC (climate change) and recommend a new approach to transparency, inclusion and viewpoint diversity, while respecting the purpose of Article 5.3 of the FCTC.</p>

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<p>the COP, to consider adopting the draft decision annexed to it.</p>	
<p>6.5 Strengthening synergies between the Conference of the Parties and the World Health Assembly: report by the WHO Director-General on resolutions and decisions of the World Health Assembly Document FCTC/COP/11/16</p>	
<p>The COP is invited to note the report by the WHO Director-General on the outcomes of the Seventy-seventh and Seventy-eighth World Health Assembly, the 157th session of the WHO Executive Board, and the WHO regional committees relevant to the implementation of the WHO FCTC, as presented in document FCTC/COP/11/16..</p>	<p><i>No comments in this version.</i></p>
<p>7 Date and place of the Eleventh session of the Conference of the Parties* Document FCTC/COP/11/17</p>	<p>Summary. COP meetings should be fixed in future so that they can be attended cost-effectively by permanent representatives to the U.N. in Geneva.</p>
<p>In accordance with Rules 3 and 4 of the Rules of Procedure of the COP, the COP shall decide on the date and duration of its next regular session. The report contained in document FCTC/COP/11/17 proposes a date and place for the Twelfth session of the COP (COP12). It also makes reference to the basic requirements for Parties to host future sessions of the COP. The COP is invited to note document FCTC/COP/11/17 and consider adopting the draft decision annexed to it to decide the date and place of COP12.</p>	<p>The agenda for COP-11 suggests that the FCTC is faltering – reaching for measures outside the scope of the FCTC (Agenda item 4.1) and a flat dismissal of the most promising additional strategy to meet the FCTC objective (Agenda item 4.5), and little new between (4.2-4.4). To minimise costs associated with participation, the COP should be permanently located in Geneva so that attendance can be covered by the permanent representation of Parties, supplemented with technical officials as needed, virtually or in person. Travel costs could also be reduced by live-streaming the plenary and committee meetings. Private negotiations can be conducted by professional diplomats taking instructions from capitals.</p> <p>Suggested action. Hold future COPs in Geneva with full online public access. COPs with little substantive business could be exclusively virtual.</p>
<p>8 Election of the President and Vice-Presidents of the Conference of the Parties* Document FCTC/COP/11/18</p>	<p>The Parties should choose a President who will consider all perspectives on the future of the FCTC and how to meet its objective.</p>
<p>The election of officers of the COP is governed by Rule 21 of the Rules of Procedure of the COP. Each regional group of Parties is</p>	<p>The President and Vice Presidents should be the guardians of the Parties' interests and independence and be willing to push back against dogmatic approaches by the Secretariat and</p>

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<p>invited to put forward a candidate for membership of the Bureau and to inform its respective current Bureau Member and the Convention Secretariat of its nomination, if possible before the opening of the session. The procedure is described in document FCTC/COP/11/18. The COP is invited to note document FCTC/COP/11/18 and elect the officers that constitute the Bureau of the COP.</p>	<p>WHO. The President and Vice Presidents should be mindful of the imbalance of interests represented in NGO observers, which are dominated by Bloomberg-funded entities.</p>
<p>9 Closure of the session*</p>	