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Clerk to Subcommittee on Smoking (Public Health) (Notices) (Amendment) Order 2017
Legislative Council Secretariat
Legislative Council Complex
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Re: Graphic Pack Warnings in Hong Kong

What should a responsible government do, faced with 7,000 preventable deaths in Hong Kong brought by the most dangerous consumer product on the market?

Every thoughtful and sensible legislator and citizen would answer that the government has a duty of care to warn of the danger of that product and *to take the strongest actions possible to deter young people from starting smoking, and to encourage smokers to quit.*

The ACTC strongly supports the proposal to improve and increase graphic pack warnings in Hong Kong, as a proven, effective and cost-effective measure in tobacco control.

This submission will focus on 6 aspects:

1. Global status of graphic warnings: >100 countries and rising; expanding and improving.
2. Current warnings: HK now ranks near the bottom of countries with graphic warnings.
3. International obligation under the WHO FCTC, to which HK is a Party.
4. Evidence of effectiveness: Large graphic warnings hold attention, increase knowledge about risks of smoking, discourage non-smokers from starting to smoke, and promote quitting.
5. Defeats of tobacco industry's legal challenges to warnings/plain packaging.
6. International support for Hong Kong

1. Global status of graphic warnings

Since Canada introduced graphic warnings in 2001, more than 100 countries/jurisdictions worldwide now require pictorial warnings. This represents a landmark global public health achievement.

Ref: Cigarette package health warnings. International Status Report, 5th edition, Oct 2016. Published by the Canadian Cancer Society [attached]

2. Hong Kong's current warnings:

Hong Kong has slipped since it was the 12th jurisdiction to introduce graphic warnings in 2007; all the other 11 jurisdictions have upgraded their warnings since then — Uruguay seven times. And Hong Kong's warnings now rank behind India, Thailand, Laos, Myanmar, Sri Lanka, some African countries and even Fiji and Vanuatu.

Hong Kong's low ranking is because the current warnings are, by international standards:

1. Very old and worn, whereas most countries change the warnings every 2-3 years
2. Only 6, whereas there should be a greater pool of warnings
3. Small, at 50%, while the current trend is for new warnings to be above 80%
4. Lacking a quit-line contact number for smokers who wish to quit

3. International Obligations under WHO FCTC.

Tobacco is not like other issues in that Hong Kong is a party to the World Health Organization Framework Convention on Tobacco Control, and as such is bound by this international treaty.

As a SAR of China, a Party to the WHO FCTC, Hong Kong has certain legal obligations with respect to tobacco control. In particular, Article 5.3 of the Convention calls upon Parties that **[emphasis added]**:

~~In~~ setting and implementing their public health policies with respect to tobacco control, **Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry** in accordance with national law.”

The Conference of the Parties, as the Convention's governing body, has adopted a set of recommendations on the implementation of this provision. Although not legally binding, the Guidelines constitute an authoritative international policy tool, having been adopted by the Conference of the Parties by consensus. In its section 4.8 the Guidelines recommend that **[emphasis added]**:

~~Parties~~ should not allow any person employed by the tobacco industry **or any entity working to further its interests** to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.”

This does not have to be pecuniary, and would apply to Legislative Council members.

4. Evaluation and Reviews of Graphic Warnings

Hundreds of studies on the effectiveness of warnings have reached 6 conclusions.

1. Overall, large graphic warnings attract and hold attention, increase knowledge about the risks of smoking and exposure to second-hand smoke, discourage non-smokers from starting to smoke, and promote quitting.
2. Graphic warnings generate more quit attempts, increase intentions to quit and lead to more forgoing of cigarettes, and more successful quit attempts.

3. Graphic warning labels can be understood by low-literacy audiences and children — two vulnerable population groups. In Hong Kong they can be understood by all nationalities.
4. Prolonged exposure to the same warnings (as in Hong Kong) decreases their effectiveness (as with all messaging), so they need to be changed.
5. Larger warnings, as one would expect by common sense, are more noticeable and lead to increased thinking about risks of smoking, increased thinking about quitting, and cut the number of cigarettes taken.
6. There is simply no evidence that enlarging warning labels leads to smuggling.

5) Defeats of tobacco industry’s legal challenges to warnings/plain packaging

The tobacco industry has instigated many challenges to effective legislation for pack warnings and plain packaging, but these challenges have been dismissed: [References Appendix A]

Australia – Constitutional challenge dismissed by High Court of Australia 2012 (1)

Australia - A Philip Morris legal claim under bilateral Hong Kong-Australia investment agreement dismissed Dec. 17, 2015. (2)

United Kingdom – On May 19, 2016, a tobacco industry legal challenge was dismissed. (3) In Nov 2016, a tobacco industry appeal in this case was dismissed.

France – Plain packaging legislation upheld on Jan. 21, 2016 as constitutional by France’s Constitutional Council. (4)

European Union – On May 4, 2016 the European Court of Justice dismissed a tobacco industry legal challenge to the provision in the new *Tobacco Products Directive* that explicitly states that 28 EU countries have the option of implementing plain packaging. (5)

Uruguay –A Philip Morris legal claim under bilateral Switzerland-Uruguay investment treaty (BIT) agreement dismissed July 8, 2016 regarding significant packaging restrictions, e.g. increasing health warnings to 80% of each package and requiring a “single presentation” (i.e., one variant per brand family). (6)

6) International support for Hong Kong

There were many submissions from overseas experts to the Panel on Health Services, including one from Dr Margaret Chan, Director General of WHO (attached). I trust these will be made available to the Bills Committee.

It is the absolute and fundamental duty of the Hong Kong government, including Legislators, to protect the health and wellbeing of the people of Hong Kong.

Yours sincerely, and I regret I will not be in Hong Kong on 23 May to make oral representation.

J. M. Mackay

Prof Dr Judith Mackay

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Director, Asian Consultancy on Tobacco Control

Senior Policy Advisor, World Health Organization

Senior Advisor, Vital Strategies, Bloomberg Philanthropies

Appendix A: REFERENCES FOR DEFEATS of TOBACCO INDUSTRY's LEGAL CHALLENGES ON PACKAGING/WARNINGS

(1) *JT International SA v Commonwealth of Australia* [2012] HCA 43, High Court of Australia, Order August 15, 2012, Reasons October 5, 2012.

<http://www.austlii.edu.au/au/cases/cth/HCA/2012/43.html>

(2) *Philip Morris Asia Ltd. v. The Commonwealth of Australia*, Permanent Court of Arbitration, PCA Case No. 2012-12, decision Dec. 17, 2015, reasons May 16, 2016.

<https://www.pcacases.com/web/sendAttach/1711>

(3) *British American Tobacco & others v Department of Health*, [2016] EWHC 1169 (Admin), England and Wales High Court of Justice, Queen's Bench Division, Administrative Court, May 19, 2016.

Summary: <https://www.judiciary.gov.uk/wp-content/uploads/2016/05/bat-v-doh-summary.pdf>

Full judgment: <https://www.judiciary.gov.uk/wp-content/uploads/2016/05/bat-v-doh-judgment.pdf>

(4) Constitutional Council [France], Loi de modernisation de notre système de santé [Law to modernize our health system], Decision n° 2015-727 DC of 21 January 2016.

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2016/2015-727-dc/decision-n-2015-727-dc-du-21-janvier-2016.146887.html>

(5) *Philip Morris Brands and Others*, European Court of Justice, May 4, 2016, Case C-547-14.

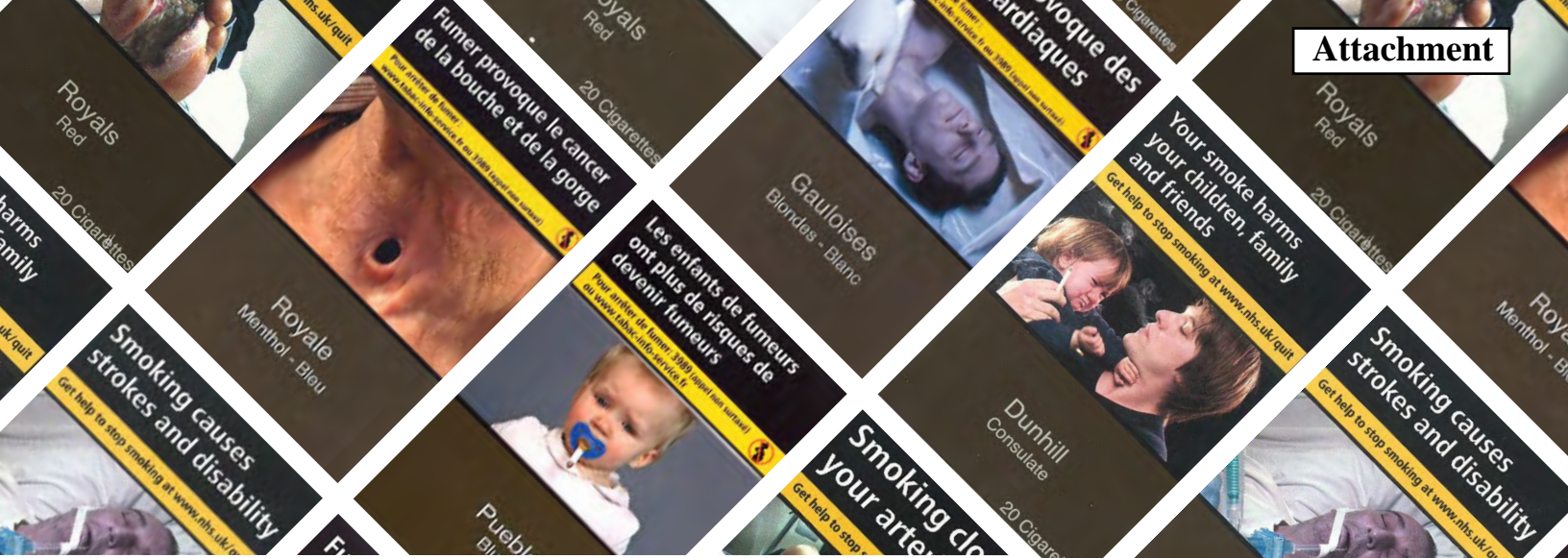
<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d5b4ac128357df4fc8b24389847d7897f5.e34KaxiLc3qMb40Rch0SaxuTa350?text=&docid=177724&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=185180>

On December 23, 2015, the Advocate General of the European Court of Justice had released an opinion concluding that the EU Directive was valid, including the option to implement plain packaging. This opinion, was preliminary to the May 4, 2016 judgment of the European Court of Justice.

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30ddfe90e0aea11f458dbae3c7bf29452f35.e34KaxiLc3qMb40Rch0SaxuSahr0?text=&docid=173256&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=493911>

(6) *Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay*, International Centre for Settlement of Investment Disputes, ICSID Case No. ARB/10/7, July 8, 2016. The Philip Morris claim was brought under a bilateral Switzerland-Uruguay trade and investment treaty. ICSID is an arbitration body affiliated with the World Bank.

http://www.tobaccofreekids.org/content/press_office/2016/2016_07_08_uruguay.pdf



OCTOBER 2016

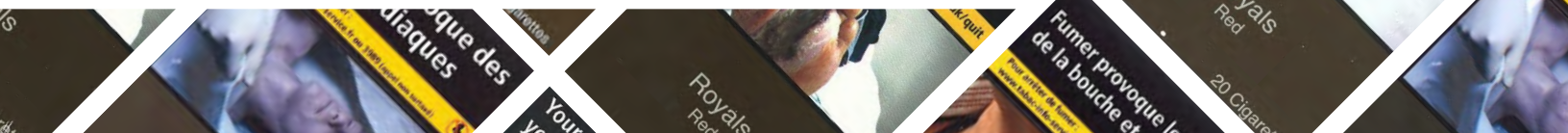
CIGARETTE PACKAGE HEALTH WARNINGS

INTERNATIONAL STATUS REPORT



Canadian Cancer Society / Société canadienne du cancer

FIFTH EDITION



Larger, pictorial health warnings and plain packaging: The growing worldwide trend

This report – Cigarette Package Health Warnings: International Status Report – provides an international overview ranking 205 countries/jurisdictions based on warning size, and lists those that have finalized requirements for pictorial warnings. Regional breakdowns are also provided. This report is in its fifth edition, with the fourth edition dated September 2014.

There has been tremendous progress internationally in implementing package health warnings, with many countries increasing warning size, more countries requiring pictorial warnings, and an increasing number of countries requiring two, three, four or even more rounds of pictorial warnings. The worldwide trend for larger, pictorial health warnings is growing and unstoppable, with many more countries in the process of developing such requirements. There is also enormous international momentum for implementation of plain packaging.

Report highlights include:

- More than 100 countries/jurisdictions worldwide have now required pictorial warnings, with fully 105 countries/jurisdictions having done so. This represents a landmark global public health achievement. By the end of 2014, 77 countries/jurisdictions had implemented pictorial warnings. Canada was the first country to implement pictorial warnings in 2001.

- Altogether 58% of the world’s population is covered by the 105 countries/jurisdictions that have finalized pictorial warning requirements.

- Nepal now has the largest warning requirements in the world at 90% of the package front and back. Vanuatu will implement 90% pictorial warnings in 2017. India and Thailand are tied for third, requiring 85% pictorial warnings. In the 2014 report, Thailand was top ranked at 85%.

- In total 94 countries/jurisdictions have required warnings to cover at least 50% of the package front and back (on average), up from 60 in 2014 and 24 in 2008. There are now 43 countries/jurisdictions with a size of at least 65% (on average) of the package front and back.

- Progress since the last report in 2014 includes Nepal implementing 90% pictorial warnings (up from 75%); India requiring 85% pictorial warnings (up from 20% (on average) – 40% front, 0% back), thus improving India’s ranking from 136th to 3rd; Myanmar requiring 75% pictorial warnings (no previous warning requirement on package front/back); Lao improving from 30% text to 75% pictures; and Uruguay implementing its 8th round of pictorial warnings (Uruguay’s size is 80%). The new Directive for the 28-country European Union (EU) requires pictorial warnings to cover 65% of the package front and back, and was intended to go into effect May 20, 2016; 22 EU countries have transposed this provision into national law, while 6 EU countries are in the process of doing so.

- Four countries have now finalized requirements for plain packaging, and at least 14 countries are in the process of, or formally considering, doing so. Australia implemented plain packaging in 2012; the United Kingdom and France implemented at the manufacturer level May 20,

2016, and Hungary will implement in 2018. The 14 countries where plain packaging is in process or under formal consideration are: New Zealand, Ireland, Norway, Slovenia, Canada, Uruguay, Thailand, Singapore, Belgium, Romania, Turkey, Finland, Chile, and South Africa.

- Here are the top countries in terms of health warning size as an average of the front and back:

			front	back
1st	90%	Nepal	90%	90%
1st	90%	Vanuatu	90%	90% (2017)
3rd	85%	India	85%	85%
3rd	85%	Thailand	85%	85%
5th	82.5%	Australia	75%	90%
6th	80%	Sri Lanka	80%	80%
6th	80%	Uruguay	80%	80%
8th	75%	Brunei	75%	75%
8th	75%	Canada	75%	75%
8th	75%	Lao P.D.R.	75%	75%
8th	75%	Myanmar	75%	75%

Well-designed package warnings are a highly cost-effective means to increase awareness of the health effects and to reduce tobacco use, as recognized by Guidelines to implement Article 11 (packaging and labelling) adopted under the WHO Framework Convention on Tobacco Control (FCTC). A picture says a thousand words. Pictures can convey a message with far more impact than can a text-only message. For size, the effectiveness of warnings increases with size. A larger size allows for bigger and better pictures, a larger font size, and/or additional information, including cessation information.

Plain packaging would curb the industry’s use of the package as a promotional vehicle, would reduce the appeal of tobacco products, would increase the effectiveness of package warnings, would curb package deception, and would decrease tobacco use. Plain packaging is recommended for consideration by international guidelines under the FCTC.

Countries Requiring Pictorial Warnings

At least 105 countries/jurisdictions have finalized requirements for pictorial warnings. The listing below includes the year of implementation, including different years where there have been two or more rounds of pictorial warnings.

1. **Canada** (2001; 2012)
2. **Brazil** (2002; 2004; 2009)
3. **Singapore** (2004; 2006; 2013)
4. **Thailand** (2005; 2007; 2010; 2014)
5. **Venezuela** (2005; 2009; 2014)
6. **Jordan** (2006; 2013)
7. **Australia** (2006, rotation of 2 sets every 12 months; 2012, rotation of 2 sets every 12 months)
8. **Uruguay** (2006; 2008; 2009; 2010; 2012; 2013; 2014; 2015)
9. **Panama** (2006; 2009; 2010; 2012; 2014; 2015; 2016)
10. **Belgium** (2006; rotation of 3 sets every 12 months starting 2011; 2016^{*})
11. **Chile** (2006; 2007; 2008; 2009; 2010; 2011; 2012; 2013; 2016)¹¹
12. **Hong Kong (S.A.R. China)** (2007)
13. **New Zealand** (2008; rotation of 2 sets every 12 months)
14. **Romania** (2008)
15. **United Kingdom** (2008; 2016^{*})
16. **Egypt** (2008; 2010; 2012; 2014; 2016)
17. **Brunei** (2008; 2012)
18. **Cook Islands** (2008)⁶
19. **Iran** (2009)
20. **Malaysia** (2009; 2014)
21. **Taiwan, China** (2009; 2014)
22. **Peru** (2009; 2011; 2014; 2015; 2016)
23. **Djibouti** (2009)
24. **Mauritius** (2009)
25. **India** (2009; 2011; 2013; 2016)
26. **Cayman Islands (UK)** (2009)
27. **Latvia** (2010; 2016^{*})
28. **Pakistan** (2010)
29. **Macedonia, The F.Y.R.** (2010)
30. **Switzerland** (2010, rotation of 3 sets every 24 months)
31. **Liechtenstein** (2010, rotation of 3 sets every 24 months)
32. **Mongolia** (2010; 2013)
33. **Colombia** (2010; 2011; 2012; 2013; 2014; 2015; 2016)
34. **Turkey** (2010)
35. **Mexico** (2010; 2011; 2012; 2013; 2014; 2015; 2016)⁵
36. **Norway** (2011)
37. **Malta** (2011; 2016^{*})
38. **France** (2011; 2016^{*})
39. **Guernsey** (2011)
40. **Spain** (2011)
41. **Bolivia** (2011; 2015)
42. **Jersey** (2012)
43. **Ukraine** (2012)
44. **Honduras** (2012; 2013; 2014)¹³
45. **Madagascar** (2012; 2013; 2015; 2016)
46. **Denmark** (2012; 2016^{*})
47. **Ecuador** (2012; 2013; 2014; 2015; 2016)
48. **Argentina** (2012; 2014; 2016)
49. **El Salvador** (2012; 2015)
50. **Bahrain** (2012)
51. **Kuwait** (2012)
52. **Oman** (2012)
53. **Qatar** (2012)
54. **Saudi Arabia** (2012)
55. **United Arab Emirates** (2012)
56. **Hungary** (2012; 2016^{*})³
57. **Macau (S.A.R. China)** (2013)
58. **Iceland** (2013)
59. **Ireland** (2013; 2016^{*})
60. **Russia** (2013; 2017)
61. **Kazakhstan** (2013; 2017)
62. **Seychelles** (2013; 2016)
63. **Fiji** (2013)
64. **Vietnam** (2013)
65. **Montenegro** (2013)
66. **Indonesia** (2014)
67. **Nepal** (2014; 2015)
68. **Costa Rica** (2014; 2015; 2016)
69. **Jamaica** (2014)
70. **Suriname** (2014)
71. **Yemen** (2014)
72. **Samoa** (2014)
73. **Sri Lanka** (2015)²
74. **Solomon Islands** (2015)
75. **Turkmenistan** (2015)
76. **Namibia** (2015)
77. **Chad** (2015)
78. **Philippines** (2016)
79. **Lao P.D.R.** (2016)
80. **Myanmar** (2016)
81. **Austria** (2016^{*})
82. **Bulgaria** (2016^{*})
83. **Czech Republic** (2016^{*})
84. **Estonia** (2016^{*})
85. **Finland** (2016^{*})
86. **Germany** (2016^{*})
87. **Greece** (2016^{*})
88. **Italy** (2016^{*})
89. **Lithuania** (2016^{*})
90. **Netherlands** (2016^{*})
91. **Poland** (2016^{*})
92. **Portugal** (2016^{*})
93. **San Marino** (2016^{*})
94. **Slovakia** (2016^{*})
95. **Sweden** (2016^{*})
96. **Cambodia** (2016)
97. **Bangladesh** (2016)
98. **South Korea** (2016)
99. **Kenya** (2016)
100. **Greenland (Denmark)** (2016)
101. **Khartoum (Sudan)** (2016)
102. **Kyrgyzstan** (2016; 2017)
103. **Vanuatu** (2017)
104. **Armenia** (2017)
105. **Belarus** (2017)

* For EU countries implementing the new Directive 2014/40/EU (and for San Marino where packages follow the new EU Directive) there is a rotation of 3 sets of warnings every 12 months.



Nepal



India



Thailand



Uruguay



Sri Lanka

Size Rankings — Average of Package Front and Back

This listing indicates the world leaders in terms of size as an average of the package front and back. Only those countries exceeding 60% on average are listed here (a full table begins on page 8). For each country the size (including a border, if required) is indicated in parentheses for the front, followed by the back. For example, (60%, 70%) means 60% of front and 70% of back.

90% Nepal (90%, 90%)	75% Myanmar (75%, 75%)	65% Mexico (30%, 100%)
90% Vanuatu (90%, 90%)	70% Chad (70%, 70%)	65% Venezuela (30%, 100%)
85% India (85%, 85%)	70% Kiribati (70%, 70%)	63% Gabon (60%, 65%)
85% Thailand (85%, 85%)	65% EU countries (65%, 65%)	60% Ecuador (60%, 60%)
82.5% Australia (75%, 90%)	65% San Marino (65%, 65%)	60% Jamaica (60%, 60%)
80% Sri Lanka (80%, 80%)	65% Togo (65%, 65%)	60% Cook Islands (30%, 90%)
80% Uruguay (80%, 80%)	65% Turkey (65%, 65%)	60% Fiji (30%, 90%)
75% Brunei (75%, 75%)	65% Turkmenistan (65%, 65%)	60% New Zealand (30%, 90%)
75% Canada (75%, 75%)	65% Mauritius (60%, 70%)	60% Samoa (30%, 90%)
75% Lao P.D.R. (75%, 75%)	65% Brazil (30%, 100%)	



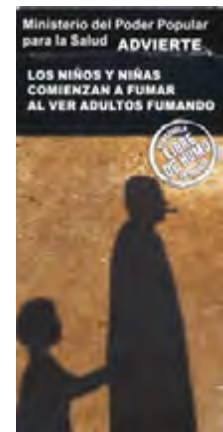
Brunei



Myanmar



Canada



Venezuela (Back)

Regional breakdown for pictorial health warnings

- 6 African Region (AFRO)**
Chad, Kenya, Madagascar, Mauritius, Namibia, Seychelles
- 18 Americas Region (AMRO)**
Argentina, Bolivia, Brazil, Canada, Cayman Islands (UK), Chile, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Jamaica, Mexico, Panama, Peru, Suriname, Uruguay, Venezuela
- 13 Eastern Mediterranean Region (EMRO)**
Bahrain, Djibouti, Egypt, Iran, Jordan, Khartoum (Sudan), Kuwait, Oman, Pakistan, Qatar, Saudi Arabia, U.A.E., Yemen
- 7 South East Asian Region (SEARO)**
Bangladesh, India, Indonesia, Myanmar, Nepal, Sri Lanka, Thailand
- 42 European Region (EURO)**
Armenia, Austria, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Greenland (Denmark), Guernsey, Hungary, Iceland, Ireland, Italy, Jersey, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Liechtenstein, Macedonia The F.Y.R., Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, United Kingdom
- 19 Western Pacific Region (WPRO)**
Australia, Brunei, Cambodia, Cook Islands, Fiji, Hong Kong (S.A.R., China), Lao P.D.R., Macau (S.A.R., China), Malaysia, Mongolia, New Zealand, Philippines, Samoa, Singapore, Solomon Islands, South Korea, Taiwan (China), Vanuatu, Vietnam

Size Rankings — Front of Package

This listing indicates the world leaders in terms of the largest size just for the front of the package. Warnings located on the front of the package are more visible than on the back. Though this listing is similar to the rankings based on the average size of the front and back, there are some differences.

90% Nepal	75% Brunei	65% EU countries	60% Jamaica
90% Vanuatu	75% Canada	65% San Marino	60% Mauritius
85% India	75% Lao P.D.R.	65% Togo	55% Cambodia
85% Thailand	75% Myanmar	65% Turkey	53% Namibia
80% Sri Lanka	70% Chad	65% Turkmenistan	
80% Uruguay	70% Kiribati	60% Ecuador	
75% Australia	70% Solomon Islands	60% Gabon	

Regional Breakdown — Largest Sizes by Region (Average of Front/Back)

For each country there is indicated in parentheses the size (including a border, if required) on the front, followed by the back. For example, (30%, 90%) means 30% of front and 90% of back. The regions indicated on this page are the six regions used by WHO.

South East Asian Region (SEARO)

90%	Nepal (90%, 90%)
85%	India (85%, 85%)
85%	Thailand (85%, 85%)
80%	Sri Lanka (80%, 80%)
75%	Myanmar (75%, 75%)
50%	Bangladesh (50%, 50%)

European Region (EURO)

65%	EU countries (65%, 65%)
65%	San Marino (65%, 65%)
65%	Turkey (65%, 65%)
65%	Turkmenistan (65%, 65%)
56%	Liechtenstein (48%, 63%)
56%	Switzerland (48%, 63%)

Americas Region (AMRO)

80%	Uruguay (80%, 80%)
75%	Canada (75%, 75%)
65%	Brazil (30%, 100%)
65%	Mexico (30%, 100%)
65%	Venezuela (30%, 100%)
60%	Ecuador (60%, 60%)
60%	Jamaica (60%, 60%)

Western Pacific Region (WPRO)

90%	Vanuatu (90%, 90%)
82.5%	Australia (75%, 90%)
75%	Brunei (75%, 75%)
75%	Lao P.D.R. (75%, 75%)
70%	Kiribati (70%, 70%)
60%	Cook Islands (30%, 90%)
60%	Fiji (30%, 90%)
60%	New Zealand (30%, 90%)
60%	Samoa (30%, 90%)

Eastern Mediterranean Region (EMRO)

50%	Bahrain (50%, 50%)
50%	Djibouti (50%, 50%)
50%	Egypt (50%, 50%)
50%	Iran (50%, 50%)
50%	Kuwait (50%, 50%)
50%	Oman (50%, 50%)
50%	Qatar (50%, 50%)
50%	Saudi Arabia (50%, 50%)
50%	U.A.E. (50%, 50%)
50%	Yemen (50%, 50%)

African Region (AFRO)

70%	Chad (70%, 70%)
65%	Togo (65%, 65%)
65%	Mauritius (60%, 70%)
63%	Gabon (60%, 65%)
58%	Namibia (53%, 63%)
50%	Cameroon (50%, 50%)
50%	Ghana (50%, 50%)
50%	Madagascar (50%, 50%)
50%	Seychelles (50%, 50%)



Namibia (Back)



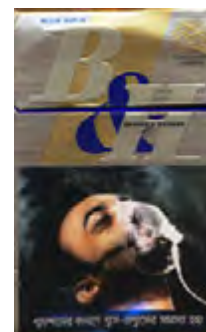
Japan



Turkmenistan



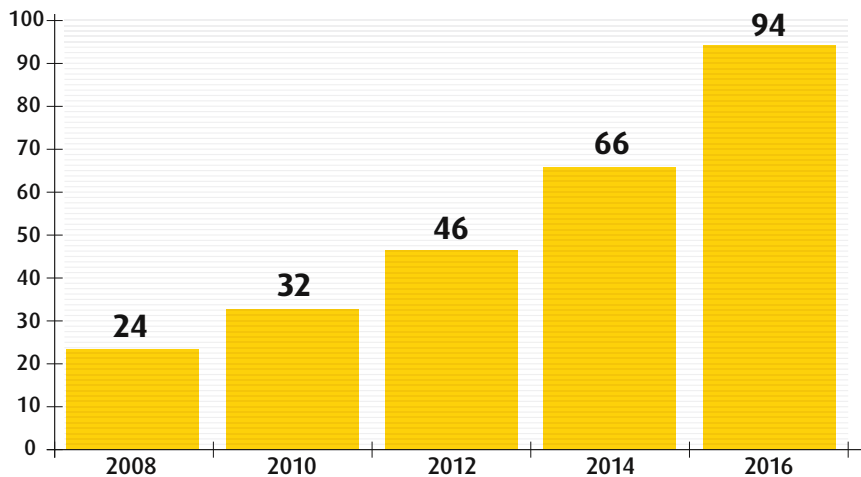
Vietnam



Bangladesh

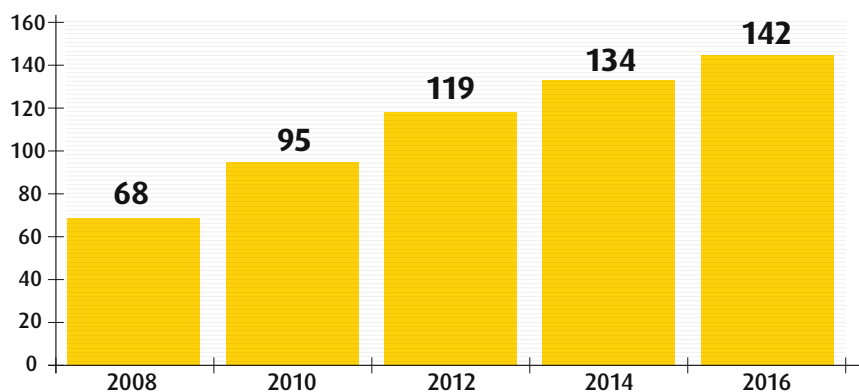
50%+

Countries /jurisdictions requiring warnings of at least 50% of package front /back (on average)



30%+

Countries /jurisdictions requiring warnings on at least 30% of package front /back (on average)



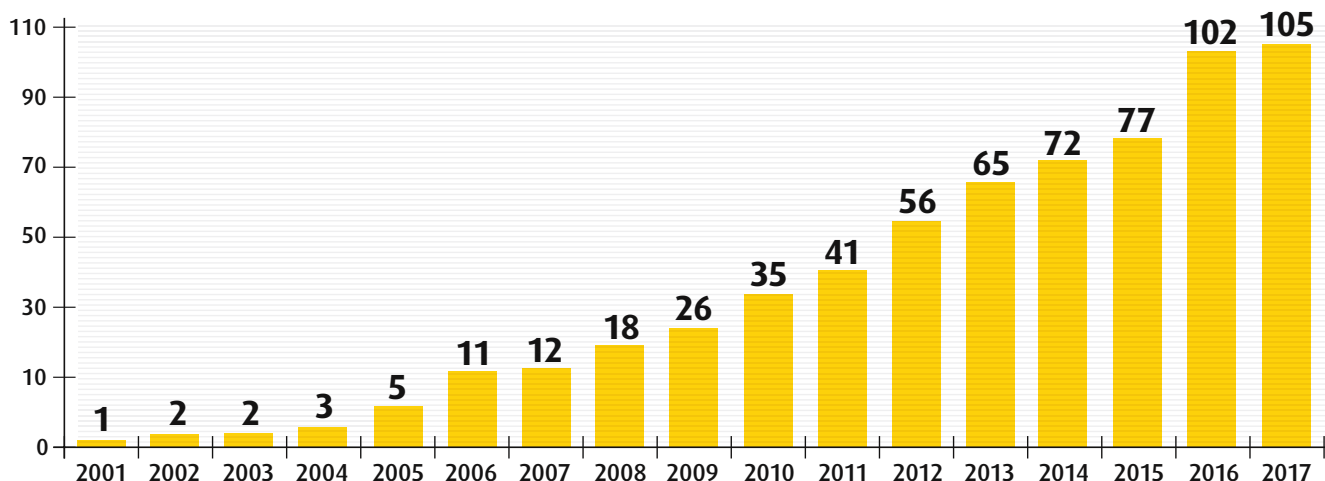
Obligations under the WHO Framework Convention on Tobacco Control

Pursuant to Article 11 of the WHO Framework Convention on Tobacco Control (FCTC),⁴⁶ the international tobacco control treaty, Parties to the Convention must require that all packages of tobacco products carry health warnings describing the harmful effects of tobacco use or other appropriate messages which “should be 50% or more of the principal display areas but shall be no less than 30% of the display areas” and may be in the form of or include pictorial warnings. For most cigarette packages, the “principal display areas” are the front and back of the package. Warnings must be in the national language or languages, must be rotated (a single warning is insufficient), must apply to cartons and other outer packages sold to consumers, and must be applied to all categories of tobacco products. Non-health messages (e.g. “Quit, save money”) may be included. Under the FCTC, no exceptions are allowed for duty-free stores, or for small volume brands. Each Party must implement warning requirements pursuant to Article 11 within three years after the FCTC comes into force for that Party.

Article 11 also has a provision regarding emission information elsewhere on the package, with the Article 11 Guidelines providing that qualitative information should be used without tar and nicotine ISO yield numbers. Further, Article 11 requires Parties to ensure that the industry’s use of the package is not “false, misleading, deceptive or likely to create an erroneous impression”. More than 100 countries/jurisdictions have specifically prohibited “light” and “mild” descriptors, and often other misleading descriptors as well.



Countries/Jurisdictions Requiring Pictorial Warnings on Cigarette Packages



Effectiveness of Warnings Increases with Larger Size, Use of Pictures

Health warnings on packages of tobacco products are a highly cost-effective means of health communication. Package warnings reach every smoker (and consumers of other tobacco products) every day. Warnings are always working — 24 hours per day, 7 days per week. A pack a day smoker would take his or her pack out 20 times per day, 7300 times per year. Warnings are also seen by those around the consumers, such as family, friends and co-workers.

Effective package warnings increase awareness of the health effects and reduce tobacco use. As a result of health warnings, consumers receive more information, not less. Consumers are entitled to be fully informed of the many health effects of tobacco products, and the package is the best way to do that. Studies show that consumers, including children, underestimate the health effects, in low, middle and high income countries.

Health departments determine the content of warnings, but the tobacco industry pays the cost. With such an extraordinary reach, it is not surprising that so many governments are improving package warning requirements. The tobacco industry opposes larger, pictorial warnings as a way to protect sales volumes — if such warnings would not work, then why is the industry so often opposed? An abundance of research studies⁴⁵ as well as country experience provide overwhelming evidence about the beneficial impact of larger, pictorial warnings.

Larger size is more effective

The FCTC Article 11 Guidelines⁴⁶ recognize that the effectiveness of health warnings increases with size, and that “Parties should consider [...] more than 50%” and “aim to cover as much of the principal display areas as possible”. A larger size means that warnings are more visible, more important, and have more impact.

A larger size allows for bigger and better pictures, a larger font size and/or additional information, including cessation information. Further, a larger size makes it more difficult for the branded promotional part of the package to distract the consumer’s attention away from the warning. That larger sizes are more effective is confirmed by the considered decisions of governments worldwide where the trend is very much to increase warning size.

A picture says a thousand words

Pictures can convey a message with far more impact than can a text-only message. A picture really does say a thousand words. Pictures are particularly significant for individuals who are illiterate or who have low literacy, an aspect especially important in many countries. Pictures are also important to immigrants, temporary workers as well as individuals from minority language groups who may not yet be able to read the national language(s).

Where tobacco advertising is not yet banned, tobacco companies use colour pictures in tobacco advertising. Further, the tobacco industry has often printed colour pictures on packages. If tobacco companies have used pictures to promote tobacco products, then governments should be able to use pictures to discourage tobacco use.

The feasibility of implementing pictorial warnings has been demonstrated in more than 100 countries/jurisdictions. If these countries can do it, then all countries can. It is notable that often in the very same cigarette factory some packages have pictorial warnings and some do not, depending on the country of destination.

To ensure better visibility and impact, pictorial warnings should be placed on both the front and back of the package (not just one of these), and should be placed at the top of the front/back, not the bottom, as provided in the Article 11 Guidelines.⁴⁶ The table on pages 8–11 lists sizes for both the package front and back, recognizing that the front is more important due to greater visibility.

International Rankings

	Rank	Country / Jurisdiction	Pictorial Warnings	Average	Front	Back	EU Member States	Less Than 30% Minimum Size	Article 11 FCTC Deadline	Pictorial Warnings Year(s)
1	1	Nepal	√	90	90	90				2014, 2015
2	1	Vanuatu	√	90	90	90				2017
3	3	India	√	85	85	85				2009, 2011, 2013, 2016
4	3	Thailand	√	85	85	85				2005, 2007, 2010, 2014
5	5	Australia (1)	√	82.5	75	90				2006, 2012
6	6	Sri Lanka (2)	√	80	80	80				2015
7	6	Uruguay	√	80	80	80				2006, 2008, 2009, 2010, 2012, 2013, 2014, 2015
8	8	Brunei	√	75	75	75				2008, 2012
9	8	Canada	√	75	75	75				2001, 2012
10	8	Lao P.D.R.	√	75	75	75				2016
11	8	Myanmar	√	75	75	75				2016
12	12	Chad	√	70	70	70				2015
13	12	Kiribati		70	70	70				
14	14	Austria	√	65	65	65	√			2016
15	14	Belgium	√	65	65	65	√			2006, 2011, 2016
16	14	Bulgaria	√	65	65	65	√			2016
17	14	Czech Republic	√	65	65	65	√			2016
18	14	Denmark	√	65	65	65	√			2012, 2016
19	14	Estonia	√	65	65	65	√			2016
20	14	Finland	√	65	65	65	√			2016
21	14	France	√	65	65	65	√			2011, 2016
22	14	Germany	√	65	65	65	√			2016
23	14	Greece	√	65	65	65	√			2016
24	14	Hungary (3)	√	65	65	65	√			2012, 2016
25	14	Ireland	√	65	65	65	√			2013, 2016
26	14	Italy	√	65	65	65	√			2016
27	14	Latvia	√	65	65	65	√			2010, 2016
28	14	Lithuania	√	65	65	65	√			2016
29	14	Malta	√	65	65	65	√			2011, 2016
30	14	Netherlands	√	65	65	65	√			2016
31	14	Poland	√	65	65	65	√			2016
32	14	Portugal	√	65	65	65	√			2016
33	14	San Marino (4)	√	65	65	65	*			2016
34	14	Slovakia	√	65	65	65	√			2016
35	14	Sweden	√	65	65	65	√			2016
36	14	Togo		65	65	65				
37	14	Turkey	√	65	65	65				2010
38	14	Turkmenistan	√	65	65	65				2015
39	14	United Kingdom	√	65	65	65	√			2008, 2016
40	40	Mauritius	√	65	60	70				2009
41	41	Brazil	√	65	30	100				2002, 2004, 2009
42	41	Mexico (5)	√	65	30	100				2010, 2011, 2012, 2013, 2014, 2015, 2016
43	41	Venezuela	√	65	30	100				2005, 2009, 2014
44	44	Gabon		63	60	65				
45	45	Ecuador	√	60	60	60				2012, 2013, 2014, 2015, 2016
46	45	Jamaica	√	60	60	60				2014
47	47	Cook Islands (6)	√	60	30	90				2008
48	47	Fiji	√	60	30	90				2013
49	47	New Zealand (7)	√	60	30	90				2008

	Rank	Country / Jurisdiction	Pictorial Warnings	Average Front	Back	EU Member States	Less Than 30% Minimum Size	Article 11	FCYD Deadline	Pictorial Warnings Year(s)
50	47	Samoa	√	60	30	90				2014
51	51	Namibia (8)	√	58	53	63				2015
52	52	Liechtenstein (9)	√	56	48	63	*	#		2010
53	52	Switzerland (10)	√	56	48	63	*	#		2010
54	54	Cambodia	√	55	55	55				2016
55	55	Malaysia	√	55	50	60				2009, 2014
56	56	Solomon Islands	√	50	70	30				2015
57	57	Albania		50	50	50				
58	57	Argentina	√	50	50	50		#		2012, 2014, 2016
59	57	Armenia	√	50	50	50				2017
60	57	Bahrain	√	50	50	50				2012
61	57	Bangladesh	√	50	50	50				2016
62	57	Belarus	√	50	50	50				2017
63	57	Bolivia	√	50	50	50				2011, 2015
64	57	Cameroon		50	50	50				
65	57	Chile (11)	√	50	50	50				2006,2007,2008,2009,2010,2011,2012,2013,2016
66	57	Costa Rica	√	50	50	50				2014, 2015, 2016
67	57	Djibouti	√	50	50	50				2009
68	57	Egypt	√	50	50	50				2008, 2010, 2012, 2014, 2016
69	57	El Salvador	√	50	50	50				2012, 2015
70	57	Ghana (12)		50	50	50				
71	57	Honduras (13)	√	50	50	50				2012,2013,2014
72	57	Hong Kong (S.A.R., China)	√	50	50	50		#		2007
73	57	Iran	√	50	50	50				2009
74	57	Kazakhstan	√	50	50	50				2013, 2017
75	57	Kuwait	√	50	50	50				2012
76	57	Kyrgyzstan	√	50	50	50				2016, 2017
77	57	Macau (S.A.R., China)	√	50	50	50		#		2013
78	57	Madagascar	√	50	50	50				2012,2013,2015,2016
79	57	Mongolia	√	50	50	50				2010, 2013
80	57	Oman	√	50	50	50				2012
81	57	Panama	√	50	50	50				2006, 2009, 2010, 2012, 2014, 2015, 2016
82	57	Peru	√	50	50	50				2009, 2011, 2014, 2015, 2016
83	57	Philippines	√	50	50	50				2016
84	57	Qatar	√	50	50	50				2012
85	57	Russian Federation	√	50	50	50				2013, 2017
86	57	Saudi Arabia	√	50	50	50				2012
87	57	Seychelles	√	50	50	50				2013, 2016
88	57	Singapore	√	50	50	50				2004, 2006, 2013
89	57	South Korea (Republic of Korea)	√	50	50	50				2016
90	57	Suriname	√	50	50	50				2014
91	57	Ukraine	√	50	50	50				2012
92	57	United Arab Emirates	√	50	50	50				2012
93	57	Viet Nam	√	50	50	50				2013
94	57	Yemen	√	50	50	50				2014
95	95	Guernsey (14)	√	48	43	53	*			2011
96	95	Iceland	√	48	43	53	*			2013
97	95	Jersey (14)	√	48	43	53	*			2012
98	95	Norway	√	48	43	53	*			2011
99	95	Romania (15)	√	48	43	53	√			2008
100	95	Slovenia (15)		48	43	53	√			
101	95	Spain (15)	√	48	43	53	√			2011
102	102	Lebanon (16)		45	45	45				

Rank	Country / Jurisdiction	Pictorial Warning	Average Front / Back		EU Member States	Less Than 30% Minimum Size	Article 11	FCITC Deadline	Pictorial Warnings Year(s)
103	103 Jordan (17)	√	43	43	43				2006, 2013
104	103 Nigeria (18)		43	43	43				
105	105 Bosnia and Herzegovina		43	35	50	*			
106	106 Comoros		40	40	40				
107	106 Indonesia	√	40	40	40		#		2014
108	106 Pakistan (19)	√	40	40	40				2010
109	106 Uzbekistan		40	40	40				
110	110 Kenya	√	40	30	50				2016
111	111 Luxembourg (15)		39	32	45	√			
112	111 Cyprus (15)		39	32	45	√			
113	111 Greenland (Denmark)	√	39	32	45		#		2016
114	111 Kosovo		39	32	45	*	#		
115	115 China (20)		35	35	35				
116	115 Taiwan, China	√	35	35	35		#		2009, 2014
117	116 Croatia (15)		35	30	40	√			
118	116 Faroe Islands (Denmark)		35	30	40	*	#		
119	116 Macedonia, The F.Y.R.	√	35	30	40	*			2010
120	116 Moldova, Republic of		35	30	40	*			
121	116 Montenegro	√	35	30	40	*			2013
122	116 Serbia		35	30	40	*			
123	123 Azerbaijan		30	30	30				
124	123 Benin		30	30	30				
125	123 Bermuda (UK)		30	30	30		#		
126	123 Colombia	√	30	30	30				2010, 2011, 2012, 2013, 2014, 2015, 2016
127	123 Congo, Republic of		30	30	30				
128	123 D. R. Congo		30	30	30				
129	123 Eritrea (21)		30	30	30		#		
130	123 Ethiopia		30	30	30				
131	123 Gambia		30	30	30				
132	123 Georgia		30	30	30				
133	123 Israel		30	30	30				
134	123 Japan		30	30	30				
135	123 Khartoum (state in Sudan)	√	30	30	30		#		2016
136	123 Maldives		30	30	30				
137	123 Mali		30	30	30				
138	123 Nauru		30	30	30				
139	123 Rwanda		30	30	30				
140	123 Tonga		30	30	30				
141	123 Uganda		30	30	30				
142	142 Cuba (22)		30	0	60		#		
143	143 Mozambique		28	30	25		#		
144	144 Libya		25	50	0	X	Sep. 5, 2008		
145	145 South Africa (23)		21	16	26	X	Jul. 18, 2008		
146	146 Zimbabwe		20	15	25	X	Mar 4. 2018		
147	147 Algeria		15	15	15	X	Sep. 28, 2009		
148	148 Cayman Islands (UK) (24)	√	15	0	30		#		2009
149	149 Guatemala		13	25	0	X	Feb. 14, 2009		
150	150 West Bank and Gaza Strip		10	20	0		#		
151	151 Morocco (25)		5	0	10		#		
152	152 Zambia (26)		3	3	3	X	Aug. 21, 2011		
153	153 Afghanistan (27)		0	0	0	X	Nov. 11, 2013		
154	153 Andorra (28)		0	0	0		#		
155	153 Angola		0	0	0	X	Dec. 19, 2010		

Rank	Country / Jurisdiction	Pictorial Warning	Average Front / Back	Front	Back	EU Member States	Less Than 30% Minimum Size	Article 11 FC/TC Deadline	Pictorial Warnings Year(s)
156	153 Antigua and Barbuda		0	0	0		X	Sep. 3, 2009	
157	153 Bahamas		0	0	0		X	Feb. 1, 2013	
158	153 Barbados		0	0	0		X	Feb. 1, 2009	
159	153 Belize		0	0	0		X	Mar. 15, 2009	
160	153 Bhutan (29)		0	0	0			Feb. 27, 2008	
161	153 Botswana		0	0	0		X	May 1, 2008	
162	153 Burkina Faso (30)		0	0	0		X	Oct. 29, 2009	
163	153 Burundi		0	0	0		X	Feb. 20, 2009	
164	153 Cape Verde		0	0	0		X	Jan. 2, 2009	
165	153 Central African Republic		0	0	0		X	Feb. 5, 2009	
166	153 Côte d'Ivoire		0	0	0		X	Nov. 11, 2013	
167	153 D.P.R. Korea (31)		0	0	0		X	Aug. 14, 2008	
168	153 Dominica		0	0	0		X	Oct. 22, 2009	
169	153 Dominican Republic		0	0	0			#	
170	153 Equatorial Guinea		0	0	0		X	Dec. 16, 2008	
171	153 Grenada		0	0	0		X	Nov. 12, 2010	
172	153 Guinea		0	0	0		X	Feb. 5, 2011	
173	153 Guinea-Bissau		0	0	0		X	Feb. 5, 2012	
174	153 Guyana		0	0	0		X	Dec. 14, 2008	
175	153 Haiti		0	0	0			#	
176	153 Iraq		0	0	0		X	Jun. 15, 2011	
177	153 Lesotho		0	0	0		X	Apr. 14, 2008	
178	153 Liberia		0	0	0		X	Dec. 14, 2012	
179	153 Malawi		0	0	0			#	
180	153 Marshall Islands		0	0	0		X	Mar. 8, 2008	
181	153 Mauritania		0	0	0		X	Jan. 26, 2009	
182	153 Micronesia		0	0	0		X	Jun. 16, 2008	
183	153 Monaco (32)		0	0	0			#	
184	153 Nicaragua		0	0	0		X	Jul. 8, 2011	
185	153 Niger (33)		0	0	0		X	Aug. 25, 2008	
186	153 Niue		0	0	0		X	Sep. 1, 2008	
187	153 Palau		0	0	0		X	Feb. 27, 2008	
188	153 Papua New Guinea		0	0	0		X	Aug. 23, 2009	
189	153 Paraguay		0	0	0		X	Dec. 27, 2009	
190	153 Saint Kitts and Nevis		0	0	0		X	Sep. 19, 2014	
191	153 Saint Lucia		0	0	0		X	Feb. 5, 2009	
192	153 Sao Tome and Principe		0	0	0		X	Jul. 11, 2009	
193	153 Senegal (34)		0	0	0		X	Apr. 27, 2008	
194	153 Sierra Leone		0	0	0		X	Aug. 20, 2012	
195	153 Somalia		0	0	0			#	
196	153 South Sudan		0	0	0			#	
197	153 St Vincent and the Grenadines		0	0	0		X	Jan. 27, 2014	
198	153 Sudan (35)		0	0	0		X	Jan. 29, 2009	
199	153 Swaziland		0	0	0		X	Apr. 13, 2009	
200	153 Tajikistan		0	0	0		X	Sep. 19, 2016	
201	153 Tanzania		0	0	0		X	Jul. 29, 2010	
202	153 Trinidad and Tobago (36)		0	0	0		X	Feb. 27, 2008	
203	153 Tunisia		0	0	0		X	Sep. 5, 2013	
204	153 Tuvalu		0	0	0		X	Dec. 25, 2008	
205	153 United States of America		0	0	0			#	

Countries/jurisdictions that are not Parties to the FCTC. * Countries/jurisdictions that follow the EU Directive 2001/37/EC (San Marino follows EU Directive 2014/40/EU)

In the table, the indicated average size for the front and back has been rounded; for example 17.5% appears as 18%. In the case of Australia, the average size has not been rounded. Other countries: The following two countries are not listed in this report: Timor-Leste,³⁷ Syrian Arab Republic.

Plain packaging – tremendous international momentum

Plain packaging prohibits brand colours, logos and design elements on packages, and would require that packages only come in a standard shape, material and format. (Plain packaging is also referred to as “standardized packaging”, or “plain and standardized packaging”, or “generic packaging”.) Under plain packaging, health warnings would continue to appear, but the brand portion of the package would have the same colour (e.g. drab brown) for all brands. The brand name would be allowed on packages, but only in a standard location, colour (e.g. light grey), font style and size.

Plain packaging would curb the industry’s use of the package as a promotional vehicle, would reduce the appeal of tobacco products, would increase the effectiveness of package warnings, would curb package deception, and would decrease tobacco use. Packages should not be used as mini-billboards promoting tobacco use. Both the Article 11⁴⁶ and the Article 13⁴⁷ Guidelines under the FCTC recommend that Parties consider implementing plain packaging. Plain packaging is supported by extensive evidence.⁴⁸ The theme for the World Health Organization’s World No Tobacco Day on May

31, 2016 was “Get Ready for Plain Packaging”.⁴⁹ Australia’s world precedent setting plain packaging had full implementation at the retail level as of December 1, 2012.

There is tremendous international momentum on plain packaging. Four countries have now finalized requirements for plain packaging: Australia implemented in 2012; the United Kingdom and France implemented at the manufacturer level May 20, 2016, and Hungary will implement in 2018. At least 14 more countries are in the process of requiring plain packaging or are formally considering doing so: New Zealand, Ireland, Norway, Canada, Slovenia, Uruguay, Thailand, Singapore, Belgium, Romania, Turkey, Finland, Chile and South Africa. Expressions of support for implementation of plain packaging have also been made by the governments of Mauritius,⁵⁰ Kenya,⁵¹ Gambia,⁵² Botswana,⁵³ and Brazil.⁵⁴ The new EU Directive expressly provides that plain packaging is an option for the EU’s 28 member countries.

Below is an overview of status by country.

Australia – Plain packaging legislation adopted Dec. 1, 2011 and fully implemented Dec. 1, 2012.⁵⁵ Constitutional challenge dismissed by High Court of Australia Aug. 15, 2012.⁵⁶ A Philip Morris legal claim under bilateral Hong Kong-Australia investment agreement dismissed Dec. 17, 2015.⁵⁷

United Kingdom – Plain packaging regulations approved Mar. 16, 2015⁵⁸ and came into force May 20, 2016 at the manufacturer level, applying to England, Wales⁵⁹ Northern Ireland⁶⁰ and Scotland.⁶¹ On May 19, 2016, a tobacco industry legal challenge was dismissed.⁶²

France – Plain packaging legislation adopted Dec. 17, 2015 and came into force May 20, 2016 at the manufacturer level.⁶³ This legislation was upheld on Jan. 21, 2016 as constitutional by France’s Constitutional Council.⁶⁴

Hungary – On Aug. 16, 2016, Hungary adopted a Decree requiring plain packaging effective May 20, 2018 at the manufacturer level.⁶⁵

New Zealand – Plain packaging legislation adopted Sept. 14, 2016. On May 31, 2016, draft regulations were released for consultation until July 29, 2016, and are awaiting final adoption.⁶⁶

Ireland – Plain packaging legislation enacted Mar. 10, 2015, with some strengthening amendments currently before Parliament. Draft regulations were notified Nov. 20, 2015. Legislation intended to come into force in 2017.⁶⁷

Norway – Government bill introduced in Parliament June 10, 2016.⁶⁸

Canada – New Government elected Oct. 19, 2015 committed in electoral platform to implement plain packaging.⁶⁹ On Nov. 13, 2015, the Prime Minister’s mandate letter to the Minister of Health included plain packaging as a “top priority”.⁷⁰ On May 31, 2016, Health Minister launched a public consultation ending Aug. 31, 2016.

Slovenia – Draft plain packaging legislation notified Mar. 16, 2016.⁷¹

Chile – Bill approved by Senate, July 9, 2015, and forwarded to House of Deputies.⁷²

Uruguay – President stated Nov. 24, 2015 and reiterated on July 8, 2016 that plain packaging is being considered.⁷³ A Philip Morris legal claim under bilateral Switzerland-Uruguay investment agreement dismissed July 8, 2016, regarding significant packaging restrictions (though not plain packaging).⁷⁴

Thailand – In November 2015, a Thailand government representative stated that plain packaging was under consideration.⁷⁵

Singapore – On Dec. 29, 2015, Singapore launched a public consultation on plain packaging ending Mar. 29, 2016.⁷⁶

Belgium – Public Health Minister announced Apr. 9, 2016 that Belgium to have plain packaging by 2019.⁷⁷

Romania – Bill approved by Senate June 7, 2016 includes a provision authorizing government to adopt decision requiring plain packaging. Bill forwarded to Chamber of Deputies.⁷⁸

Finland – Government national action plan (June 2014) includes plain packaging as planned measure.⁷⁹

Turkey – Plain packaging included in government national action plan for 2015-2018. In August, 2016, the Health Minister stated that plain packaging is under consideration.⁸⁰

South Africa – Health Minister stated July 24, 2014 that he wants to implement plain packaging, and stated Mar. 18, 2015 and May 31, 2016 that legislation will be introduced in Parliament. A bill is expected to be introduced in 2017.⁸¹

European Union – new Tobacco Products Directive adopted April 3, 2014 explicitly states that the 28 EU member countries have the option of implementing plain packaging,⁸² a provision upheld on May 4, 2016 by the European Court of Justice as valid when dismissing a tobacco industry legal challenge.⁸³



AUSTRALIA (FRONT)
Before Plain Packaging



AUSTRALIA (FRONT)
After Plain Packaging



AUSTRALIA (BACK)
After Plain Packaging

“Strip back the glamour and glossy packaging that contain tobacco products, and what is left? A product that kills almost 6 million people every year. Tobacco packaging is a form of advertising and promotion that often misleads consumers and serves to hide the deadly reality of tobacco use. ... plain packaging works.”

WHO Director-General
Dr Margaret Chan,

World No Tobacco Day, May 31, 2016



HUNGARY MOCK-UP



NORWAY MOCK-UP



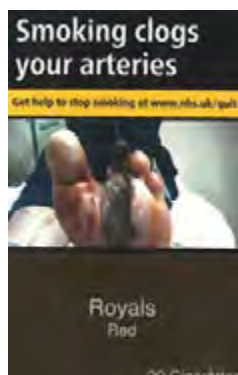
NEW ZEALAND MOCK-UP



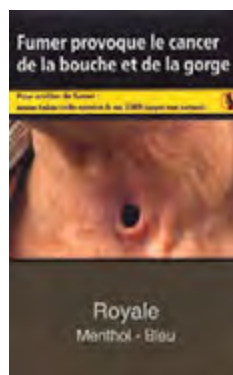
CANADA MOCK-UP



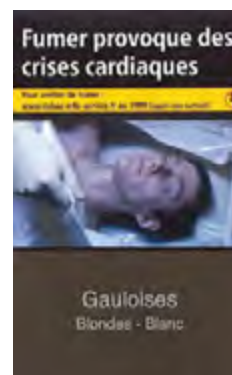
UNITED KINGDOM



UNITED KINGDOM



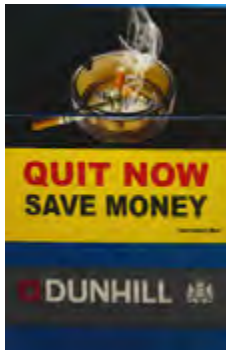
FRANCE



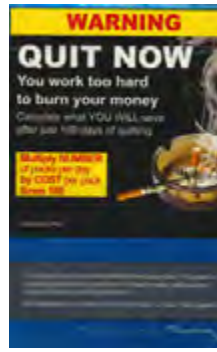
FRANCE



FRANCE



JAMAICA (FRONT)



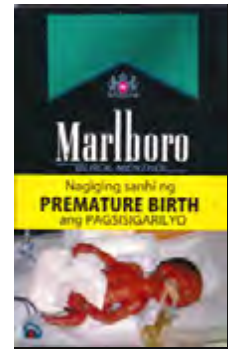
JAMAICA (BACK)



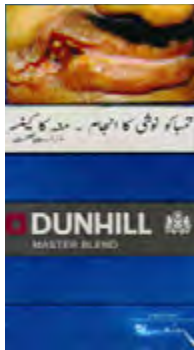
URUGUAY



UAE/GCC



PHILIPPINES



PAKISTAN



SURINAME



CHILE



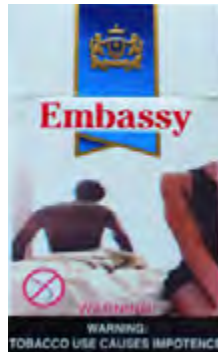
LEBANON



KYRGYZSTAN



INDONESIA



KENYA



CONGO



CANADA



CAMBODIA



EGYPT (WATER PIPE)



IRAN (WATER PIPE)



MADAGASCAR (FRONT)



VENEZUELA (BACK)



TURKMENISTAN



PANAMA



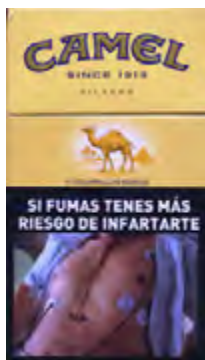
HONDURAS



COLOMBIA



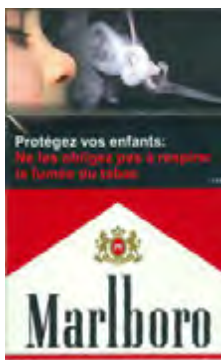
COLOMBIA



ARGENTINA



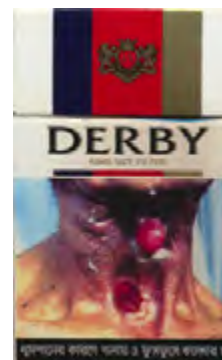
VENEZUELA (BACK)



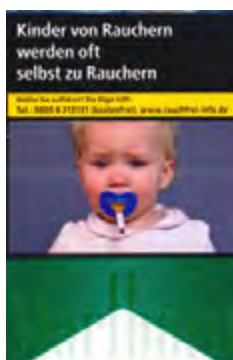
DJIBOUTI



GERMANY



BANGLADESH



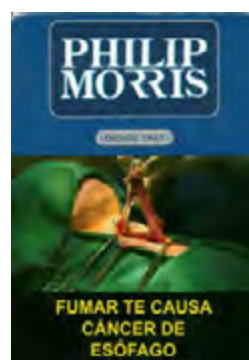
GERMANY



BELGIUM



MEXICO (FRONT)



ECUADOR (FRONT)



ECUADOR (BACK)

Information Collection

Considerable effort was made to ensure the accuracy of the information contained in this report. Information obtained as of October 17, 2016 has been included to ensure that the report was as up-to-date as possible before publication. However, for a few countries, it was not possible to confirm national requirements prior to press time. Moreover, national requirements for package warnings are constantly evolving and, as such, it may be that for some countries listed in this report further progress may have been made but is not reflected in this report.

Country information was only included in this report once legal requirements (such as an Act, regulation, or decree) were finalized,

and no further approval steps were needed. For some countries, the transition period for warning implementation on packages has not been completed; however if no further approval steps were needed, these new requirements were included in the report. Where new information for a country could not be confirmed prior to publication, this new information was not included.

This report provides information only for packages of cigarettes, not other tobacco products. Information for cigarette cartons has not been compiled.

For more information

Tobacco Labelling Resource Centre

www.tobaccolabels.org

Campaign for Tobacco-Free Kids

http://global.tobaccofreekids.org/en/solutions/international_issues/warning_labels/

www.tobaccocontrollaws.org

Physicians for a Smoke-Free Canada

www.smoke-free.ca/warnings

World Lung Foundation

http://67.199.72.89/packwarning/pw_index.html

FCTC Guidelines for Article 11 (packaging and labelling)

http://www.who.int/fctc/guidelines/adopted/article_11/en/

WHO Framework Convention on Tobacco Control

<http://www.who.int/fctc>

WHO Warnings Database

www.who.int/tobacco/healthwarningsdatabase/en/index.html

Alphabetical Index to Country/Jurisdiction Ranking

153. Afghanistan	216. Croatia	14. Ireland	123. Nauru	153. St Vincent and the Grenadines
57. Albania	143. Cuba	123. Israel	1. Nepal	153. Sudan
147. Algeria	112. Cyprus	14. Italy	14. Netherlands	57. Suriname
153. Andorra	14. Czech Republic	45. Jamaica	47. New Zealand	153. Swaziland
153. Angola	123. D. R. Congo	123. Japan	153. Nicaragua	14. Sweden
153. Antigua and Barbuda	153. D.P.R. Korea	95. Jersey	153. Niger	52. Switzerland
57. Argentina	14. Denmark	103. Jordan	103. Nigeria	N/A Syrian Arab Republic
57. Armenia	57. Djibouti	57. Kazakhstan	153. Niue	115. Taiwan, China
5. Australia	153. Dominica	110. Kenya	95. Norway	153. Tajikistan
14. Austria	153. Dominican Republic	123. Khartoum (Sudan)	57. Oman	153. Tanzania
123. Azerbaijan	45. Ecuador	12. Kiribati	106. Pakistan	3. Thailand
153. Bahamas	57. Egypt	112. Kosovo	153. Palau	N/A Timor-Leste
57. Bahrain	57. El Salvador	57. Kuwait	57. Panama	14. Togo
57. Bangladesh	153. Equatorial Guinea	57. Kyrgyzstan	153. Papua New Guinea	123. Tonga
153. Barbados	123. Eritrea	8. Lao P.D.R.	153. Paraguay	153. Trinidad and Tobago
57. Belarus	14. Estonia	14. Latvia	57. Peru	153. Tunisia
14. Belgium	123. Ethiopia	102. Lebanon	57. Philippines	14. Turkey
153. Belize	116. Faroe Islands(Denmark)	153. Lesotho	14. Poland	14. Turkmenistan
123. Benin	47. Fiji	153. Liberia	14. Portugal	153. Tuvalu
123. Bermuda (UK)	14. Finland	144. Libya	57. Qatar	123. Uganda
153. Bhutan	14. France	52. Liechtenstein	95. Romania	57. Ukraine
57. Bolivia	44. Gabon	14. Lithuania	57. Russian Federation	153. United Arab Emirates
105. Bosnia and Herzegovina	123. Gambia	111. Luxembourg	123. Rwanda	14. United Kingdom
153. Botswana	123. Georgia	57. Macau (S.A.R., China)	153. Saint Kitts and Nevis	153. United States of America
41. Brazil	14. Germany	116. Macedonia, The F.Y.R.	153. Saint Lucia	6. Uruguay
8. Brunei	57. Ghana	57. Madagascar	47. Samoa	106. Uzbekistan
14. Bulgaria	14. Greece	153. Malawi	14. San Marino	1. Vanuatu
153. Burkina Faso	112. Greenland (Denmark)	55. Malaysia	153. Sao Tome and Principe	41. Venezuela
153. Burundi	153. Grenada	123. Maldives	57. Saudi Arabia	57. Viet Nam
54. Cambodia	149. Guatemala	123. Mali	153. Senegal	150. West Bank and Gaza Strip
57. Cameroon	95. Guernsey	14. Malta	116. Serbia	57. Yemen
8. Canada	153. Guinea	153. Marshall Islands	57. Seychelles	152. Zambia
153. Cape Verde	153. Guinea-Bissau	153. Mauritania	153. Sierra Leone	146. Zimbabwe
148. Cayman Islands (UK)	153. Guyana	40. Mauritius	57. Singapore	
153. Central African Republic	153. Haiti	41. Mexico	14. Slovakia	
12. Chad	57. Honduras	153. Micronesia	95. Slovenia	
57. Chile	57. Hong Kong (S.A.R., China)	116. Moldova, Republic of	56. Solomon Islands	
115. China	14. Hungary	153. Monaco	153. Somalia	
123. Colombia	95. Iceland	57. Mongolia	145. South Africa	
106. Comoros	3. India	116. Montenegro	57. South Korea (Republic of Korea)	
123. Congo, Republic of	106. Indonesia	151. Morocco	153. South Sudan	
47. Cook Islands	57. Iran	143. Mozambique	95. Spain	
57. Costa Rica	153. Iraq	8. Myanmar	6. Sri Lanka	
153. Côte d'Ivoire		51. Namibia		

The Previous European Union Directive — Explanatory Comment

The new EU Directive, 2014/40/EU, requires pictorial warnings covering the top 65% of the package front and back, effective May 20, 2016 at the manufacturer level.^{38, 39} The previous EU Directive, adopted in 2001, specified the warning size as follows, plus a border (3-4mm in width) that is to be in addition to the space for the warnings:

35%	(30% front, 40% back) for unilingual countries
39%	(32% front, 45% back) for bilingual countries ⁴⁰
43%	(35% front, 50% back) for trilingual countries ⁴¹

Once the required border is factored in, the required size in effect increases to the following:⁴²

48%	(43% front, 53% back) for unilingual countries
52%	(45% front, 58% back) for bilingual countries
56%	(48% front, 63% back) for trilingual countries

Many EU countries were not compliant with the 2001 EU Directive that requires the border to be in addition to the warning. Packages were able to be collected from all 28 EU countries to assess compliance. Based on this review, 13 of these 28 EU countries appeared to be in compliance with the Directive in this respect,⁴³ while 15 of 28 were not in compliance because packages indicate that the border has been included in the space for the warning, instead of in addition to the warning.⁴⁴ A limitation of this is that the assessment is based on the packaging material received, and not a comprehensive examination of all brands sold on the market in each country. Some European countries outside the EU continue to implement the 2001 EU Directive.

Notes

- Australia:** Rotation of two sets of 7 warnings every 12 months, for both 2006 and 2012 rounds. In addition to the 90% warning on the package back, Australia also requires a fire risk statement, which appears on the bottom 10% of the package back.
- Sri Lanka:** There is a partial change every six months to the set of warnings required to appear on packages.
- Hungary:** For the first (2012) round, 42 pictorial warnings were to be rotated over 3 years, with the difference between the most and least frequently appearing warnings not allowed to be more than 10%.
- San Marino:** Cigarettes are imported from Italy and follow Italian package warning requirements.
- Mexico:** The required warnings on packages change every 4 months. In previous years, warnings changed every 3 months or every 6 months.
- Cook Islands:** Warnings are to either comply with the Australian or New Zealand requirements (which include pictures), or to require 50% text warnings with specified messages in English and in Cook Islands Maori. In practice, packages have contained pictures as required in Australia/New Zealand.
- New Zealand:** Rotation of two sets every 12 months. On May 31, 2016, the New Zealand Government proposed for consultation plain packaging regulations accompanied by an increase in warning size to 75% front, 90% back.
- Namibia:** 50% front, 60% back, plus a border of unspecified size. Size estimated based on available packages.
- Liechtenstein:** Rotation of one of three sets every 24 months. Liechtenstein is in a customs union with Switzerland. Liechtenstein law requires that tobacco packages depict Switzerland's health warnings.
- Switzerland:** Rotation of one of three sets every 24 months.
- Chile:** From 2006 to 2012 inclusive, Chile required only one pictorial warning to appear at a time on all packages, with the warning changed every 12 months. Effective 2013, Chile required a series of warnings to appear concurrently.
- Ghana:** Warnings are in place through mandatory contractual arrangements between Ghana's Food and Drug Board and tobacco importers/distributors.
- Honduras:** The information on rounds of pictorial warnings is based on best available information at press time.
- Guernsey, Jersey:** Guernsey and Jersey are Crown dependencies located in the English Channel that are neither part of the UK nor part of the EU.
- European Union:** Directive 2014/40/EU provides that the 28 EU member countries must require 65% pictorial warnings at the manufacturer level effective May 20, 2016. Three sets of 14 pictorial warnings are to be changed every 12 months. As of press time, 22 EU member countries had implemented the EU Directive into national law but 6 EU member countries (Croatia, Cyprus, Luxembourg, Romania, Slovenia, Spain) had not yet finished doing so. For these 6 countries, the indicated warning requirements in this report are based on implementation of previous Directive 2001/37/EC (see also subsequent endnotes re EU).
- Lebanon:** Size is 40% plus a border, with size estimated based on available packs. The Decree provides for a maximum border width of 3mm, provides no minimum, and provides a mockup with a 3mm width.
- Jordan:** Size is 40% plus a border as illustrated in the national standard.
- Nigeria:** Size includes a border as illustrated in the national standard.
- Pakistan:** Amendments to the *Cigarettes (Printing of Warning) Rules, 2009* and the prescribing of warning content were approved January 29, 2015, and published in The Gazette of Pakistan February 27, 2015, to require 85% pictorial warnings effective March 30, 2015. However, subsequent amendments extended the effective date, and the 85% pictorial warning requirements have not been implemented.
- China:** The increase from 30% text warnings to 35% text warnings was effective October 1, 2016.
- Eritrea:** *The Proclamation to Provide for Tobacco Control* provides that warnings shall be 30% or more, and should be 50% or more, of the package front and back.
- Cuba:** Warnings may appear on either 30% of both the front and back, or 60% of one of the front or back. Packages obtained depict warnings on 60% of the back.
- South Africa:** 15% front, 25% back plus a border of unspecified width.
- Cayman Islands:** Regulations require a graphic health warning to appear on either front or back. The size shall be at least 30%, and no less than the size required by the country of origin.
- Morocco:** Size estimated based on available packs. Legislation requires a warning on the back, but does not specify a minimum size.
- Zambia:** Size estimated based on available packs. Legislation requires a warning on the front and back, but does not specify a minimum size.
- Afghanistan:** *The Tobacco Control Law*, published February 17, 2015, requires 50% pictorial warnings but does not specify warning content. A Ministry of Public Health Notice to Ministry of Foreign Affairs dated Feb. 9, 2016 re "Health Warning/Pictorial Labeling on Tobacco Products Including Cigarette Package" specifies warning content, but there have been implementation delays.
- Andorra:** In practice, packages tend to depict pictorial warnings from France or Spain.
- Bhutan:** bans tobacco product sales, but allows importation by individuals of limited quantities for personal consumption provided certain conditions are met, including that the packaging containing a health warning (no minimum warning size specified).
- Burkina Faso:** *Joint Administrative Decree No. 2015- No. 366 /MS/MICA concerning setting the procedures for the implementation of Decree No. 2011-1051/PRES/PM/MS/MEF of December 30, 2011, concerning the packaging and labeling of tobacco products in Burkina Faso*, approved April 7, 2015, requires 60% pictorial warnings effective 12 months after coming into force, but there have been implementation delays.
- D.P.R. Korea:** *The Tobacco Control Law of DPR Korea*, Decree No.1176 of June 24, 2016 (revised and consolidated), provides that a warning is to be required on packages, but does not specify the size, location or content.
- Monaco:** In practice, packs follow France requirements. *The Convention of Neighbours of May 18, 1963*, an agreement between France and Monaco, provides that Monaco will purchase tobacco products for consumption in Monaco from the Service d'Exploitation Industrielle des Tabacs et Allumettes (SEITA) of France.
- Niger:** *Decision No. 442 MSP/DGSP/DHP/ES of December 2, 2013 regulating the composition, packaging and labelling of tobacco products in Niger* provides that pictorial warnings are to cover 50% of the package front and back, but the picture content has not yet been specified.
- Senegal:** *Law No. 2014-14 concerning the manufacture, packaging, labelling, sale and use of tobacco, dated March 28, 2014, and Decree No. 2016-1008 regarding application of Law No. 2014-14 of March 28, 2014 regarding the manufacture, packaging, labelling, sale and use of tobacco*, dated July 26, 2016, provide that pictorial warnings are to cover at least 70% of the front and back, but a Decision specifying the content of warnings has not yet been adopted.
- Sudan:** Though there is not a national requirement for warnings to appear on the package front and back, the state of Khartoum requires 30% pictorial warnings on the front/back.
- Trinidad and Tobago:** *The Tobacco Control Regulations, 2013*, published January 10, 2014, require 50% pictorial warnings 12 months after publication, but there have been implementation delays.
- Timor-Leste:** *Tobacco Control Regime*, Decree-Law No. 14/2016 of June 8, 2016, provides that pictorial warnings shall cover at least 50% of the package external surface area, with the Decree-Law entering into force 180 days after publication. However the content of pictorial warnings has not yet been specified.
- EU:** *Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC*.
- EU:** Bilingual EU countries that have not yet implemented the new EU Directive 2014/40/EU are Cyprus and Luxembourg; these two countries were non-compliant with the border/size requirement of the previous Directive. Unilingual countries that have not yet implemented the new EU Directive are Croatia, Romania, Slovenia and Spain - Romania, Slovenia and Spain were compliant with the border/size requirement of the previous Directive; Croatia was not.
- EU:** Bilingual EU Member States are Cyprus, Finland, Ireland, Luxembourg, Malta.
- EU:** Belgium is a trilingual EU Member State. Switzerland, Bosnia and Herzegovina, and Liechtenstein are non-EU countries that require trilingual warnings with EU size requirements pursuant to the 2001 Directive.
- EU:** The overall size including the border may vary depending on the package format (e.g. the overall size increases on smaller packages, and on Super Slims packages).
- EU:** Proper implementation of border/size requirement pursuant to Directive 2001/37/EC, (13): Belgium, Estonia, Finland, France, Hungary, Ireland, Latvia, Portugal, Romania, Slovenia, Spain, Sweden, United Kingdom. The following non-EU countries/jurisdictions have implemented the EU Directive, and have done so properly in terms of the border: Guernsey, Iceland, Jersey, Liechtenstein, Norway, Switzerland.
- EU:** Non-compliant with border/size requirement, Directive 2001/37/EC, (15): Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Germany, Greece, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Slovakia. The following non-EU countries/jurisdictions have implemented the 2001 EU Directive, but are non-compliant in terms of the border: Bosnia and Herzegovina, Faroe Islands, Kosovo, Macedonia The F.Y.R., Moldova, Montenegro, Serbia.
- See Tobacco Labelling Resource Centre, www.tobaccolabels.org

46. *Guidelines for implementation of Article 11 of the WHO Framework Convention on Tobacco Control (Packaging and labelling of tobacco products)*.

47. *Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship)*.

Notes for Plain Packaging

48. For example, see David Hammond, "Standardised Packaging of Tobacco Products: Evidence Review. Prepared on behalf of the Irish Department of Health" March 2014; Sir Cyril Chantler, "Standardised Packaging of Tobacco: Report of the independent review undertaken by Sir Cyril Chantler" April 2014; C. Moodie, M. Stead, et al., "Plain tobacco packaging: a systematic review", 2011, University of Stirling: Stirling, Scotland, United Kingdom; *Tobacco Control*, April 2015, Volume 24, Supplement 2; Australian Department of Health, "Post-Implementation Review Tobacco Plain Packaging 2016" released February 26, 2016; Cancer Council Victoria, "Plain packaging. The facts." (website); Quit Victoria, Cancer Council Victoria, "Plain packaging of tobacco products: a review of the evidence" August 12, 2011.

49. World Health Organization, "World No Tobacco Day: Get ready for plain packaging. Plain packaging of tobacco products to reduce demand, to save lives" May 31, 2016.

50. **Mauritius** Government Information Service, Prime Minister's Office, "WNTD: Government's commitment to introduce plain packaging, stressed by Health Minister" June 6, 2016 (news release).

51. **Kenya**: Pauline Kairu, "New headache for tobacco companies as Health ministry seeks to enforce plain packaging for cigarettes" Daily Nation, May 31, 2016.

52. **Gambia**: Arfang MS Camara, "Gambia to Embrace Plain Packaging of Tobacco Products" Daily Observer, August 4, 2016.

53. **Botswana** Ministry of Health, "World no tobacco day" (news item on website) 2016; Baboki Kayawe, "Plain, standardised tobacco packaging in the offing" Mmegi online, June 1, 2016.

54. **Brazil**: Natalia Cancian, "Brazil proposes tobacco tracking in Mercosur to prevent illegal trade", *Folha de S. Paulo*, June 17, 2016; See also, National Commission for Implementation of the Framework Convention on Tobacco Control (CONICQ), "Standardized packaging of tobacco products: Technical notes for tobacco control" 2014. Bills have been introduced by individual members in Congress, in the House of Deputies (PL1744 / 2015; May 28, 2015) and in the Senate (PL769 / 2015, Dec. 3, 2015).

55. **Australia**: *Tobacco Plain Packaging Act 2011, No. 148, 2011; Trade Marks Amendment (Tobacco Plain Packaging) Act 2011, No. 149, 2011; Tobacco Plain Packaging Regulations 2011*, Select Legislative Instrument 2011 No. 263 as amended.

56. **Australia**: *JT International SA v Commonwealth of Australia* [2012] HCA 43, High Court of Australia, Order August 15, 2012, Reasons October 5, 2012.

57. **Australia**: *Philip Morris Asia Ltd. v. The Commonwealth of Australia*, Permanent Court of Arbitration, PCA Case No. 2012-12, decision Dec. 17, 2015, reasons May 16, 2016.

58. **United Kingdom**: *Children and Families Act 2014*, 2014 no. 6, section 94, adopted March 13, 2014; *The Standardised Packaging of Tobacco Products Regulations 2015*, approved by House of Commons March 11, 2015 and by House of Lords March 16, 2015.

59. **Welsh Government**, "Health Minister gives go-ahead for standardised packaging for cigarettes to be introduced in Wales" (news release) January 29, 2015.

60. **Northern Ireland** Department of Health, Social Services and Public Safety, "Standardised Packaging for Tobacco Products to be Introduced in Northern Ireland" (press release) February 2, 2015.

61. **Scottish** Government, "Plain tobacco packaging" (news release) January 22, 2015.

62. **United Kingdom**: *British American Tobacco & others v Department of Health*, [2016] EWHC 1169 (Admin), England and Wales High Court of Justice, Queen's Bench Division, Administrative Court, May 19, 2016.

63. **France**: *Bill relating to health, no. 2302, approved by Parliament December 17, 2015; Decree no 2016-334 of 21 March 2016 relating to plain packaging of cigarettes and of certain tobacco products, NOR: AFSP1603141D; Decision of 21 March 2016 relating to conditions of plain and standardized packaging and cigarette paper and rolling tobacco, NOR: AFSP1607269A*.

64. **France**: Constitutional Council, *Law to modernize our health system*, Decision n° 2015-727 DC of 21 January 2016.

65. **Hungary**: *Decree 239/2016 of 16 August 2016, Amendment to Government Decree 39/2013 of 14 February 2013 on the manufacture, placement on the market and control of tobacco products, combined warnings and the detailed rules for the application of the health-protection fine*. The implementation date is May 20, 2018 at the manufacturer level, and May 20, 2019 at the retail level.

66. **New Zealand**: *Smoke-free Environments (Tobacco Standardised Packaging) Amendment Act 2016*, 2016 no 43, adopted September 14, 2016. New Zealand Ministry

of Health, "Standardised Tobacco Products and Packaging Draft Regulations. Consultation document" May 31, 2016.

67. **Ireland**: *Public Health (Standardised Packaging of Tobacco) Act 2015*, Number 4 of 2015, adopted March 10, 2015; amendments to plain packaging legislation included in *Health (Miscellaneous Provisions) Bill 2016* (Number 9 of 2016) presented in Dail Jan. 15, 2016, approved at second stage and referred to Committee, October 5, 2016; draft *Public Health (Standardised Packaging of Tobacco) Regulations 2016* notified to European Commission Nov. 20, 2015; Marie O'Halloran, "Plain packaging on cigarettes and tobacco due in May 2017" Irish Times, October 4, 2016

68. **Norway**: Bill 142L, *Amendments to the Tobacco Control Act (implementation of Directive 2014/40/EU and standardised tobacco packaging)*, introduced in Norwegian Parliament June 10, 2016.

69. **Canada**: In the campaign for the October 19, 2015 national election, the Liberal Party (which won a majority) included plain packaging in its electoral platform.

70. **Canada**: Prime Minister Justin Trudeau, letter to Dr. Jane Philpott, Minister of Health, November 13, 2015 (Minister of Health Mandate Letter).

71. **Canada**: Health Canada, "Minister Philpott Launches Public Consultations on Tobacco Plain Packaging" May 31, 2016 (news release); Health Canada, "Consultation on "Plain and Standardized Packaging" for Tobacco Products. Potential measures for regulating the appearance, shape and size of tobacco packages and of tobacco products. Document for consultation." May 2016 (released May 31, 2016).

72. **Slovenia**: *Draft Act restricting the use of tobacco and related products*, notification provided to the European Commission, May 26, 2016.

73. **Chile**: Bill N° 162/SEC/15 approved by Senate July 9, 2015, and forwarded to House of Deputies. Implementing regulations would be needed following adoption of the bill.

74. **Uruguay**: "Vazquez announces more measures to combat smoking" *El Diario*, November 24, 2015; "Next stage in the anti-tobacco campaign: Plain packs" *El Pais*, July 10, 2016.

75. **Uruguay**: *Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay*, International Centre for Settlement of Investment Disputes, ICSID Case No. ARB/10/7, July 8, 2016. The Philip Morris claim was brought under a bilateral Switzerland-Uruguay trade and investment treaty. ICSID is an arbitration body affiliated with the World Bank.

76. **Thailand**: World Trade Organization, Trade Policy Review Body, "Trade Policy Review, Thailand, Minutes of the Meeting, Revision", November 24 and 26, 2015, document WT/TPR/M/326/Add.1/Rev.1, dated April 8, 2016; World Trade Organization, Trade Policy Review Body, "Trade Policy Review, Report by the Secretariat, Thailand" Document WT/TPR/S/326, October 10, 2015; Achara Deboonme, "Thailand faces tough fight on plain packaging", *The Nation*, August 16, 2016.

77. **Singapore** Health Promotion Board, "Public Consultation on Potential Measures to Enhance Singapore's Tobacco Control Policies" December 29, 2015 (news release).

78. **Belgium**: Minister of Social Affairs and Public Health, "Anti-tobacco plan with smoking ban in vehicles with children and excise increases" April 9, 2016 (news release).

79. **Romania**: *Law regarding the conditions for manufacturing, presentation and selling of tobacco products and modifying the Law no. 349/2002 regarding prevention and counteracting the effects of tobacco consumption*, PLx 272/2016, approved by Senate June 7, 2016, forwarded to Chamber of Deputies.

80. **Finland**: Finland Ministry of Social Affairs and Health, "Roadmap to a Tobacco-Free Finland: Action Plan on Tobacco Control" 2014 (published June 27, 2014).

81. **Turkey**: Government of Turkey, Turkish National Tobacco Control Program and Plan of Action 2015-2018; "Youth smoking on rise as authorities mull measures" *Daily Sabah*, August 27, 2016.

82. **South Africa**: Wendell Roelf, "S.Africa plans plain cigarette packaging by 2015 - minister" Reuters, July 24, 2014; Minister of Health statement at the 16th World Conference on Tobacco or Health, Abu Dhabi, United Arab Emirates, March 18, 2015; "No branding, logos or colours - SA gets tough on cigarettes" *City Press*, May 31, 2016; Rahima Essop, "Health dept pushes for plain packaged tobacco products" *Eyewitness News*, May 31, 2016.

83. **EU**: *Philip Morris Brands and Others*, European Court of Justice, May 4, 2016, Case C-547-14.

Front Cover: Packages from the United Kingdom, France

Back Cover: Packages from Australia

Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control

on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry

INTRODUCTION

1. World Health Assembly resolution WHA54.18 on transparency in tobacco control process, citing the findings of the Committee of Experts on Tobacco Industry Documents, states that “the tobacco industry has operated for years with the express intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic”.

2. The Preamble of the WHO Framework Convention on Tobacco Control recognized the Parties¹ “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”.

3. Further, Article 5.3 of the Convention requires that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”.

4. The Conference of the Parties, in decision FCTC/COP2(14), established a working group to elaborate guidelines for implementation of Article 5.3 of the Convention.

5. Without prejudice to the sovereign right of the Parties to determine and establish their tobacco control policies, Parties are encouraged to implement these guidelines to the extent possible in accordance with their national law.

Purpose, scope and applicability

6. Use of the guidelines for implementation of Article 5.3 of the Convention will have an overarching impact on countries’ tobacco control policies and on implementation of the Convention, because the guidelines recognize that tobacco industry interference, including that from the State-owned tobacco industry, cuts across a number of tobacco control policy areas, as stated in the Preamble of the Convention, articles referring to specific tobacco control policies and the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

¹ “The term ‘Parties’ refers to States and other entities with treaty-making capacity which have expressed their consent to be bound by a treaty and where the treaty is in force for such States and entities.” (Source: United Nations Treaty Collections: <http://untreaty.un.org/English/guide.asp#signatories>).

7. The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control.

8. The aim of these guidelines is to assist Parties² in meeting their legal obligations under Article 5.3 of the Convention. The guidelines draw on the best available scientific evidence and the experience of Parties in addressing tobacco industry interference.

9. The guidelines apply to setting and implementing Parties' public health policies with respect to tobacco control. They also apply to persons, bodies or entities that contribute to, or could contribute to, the formulation, implementation, administration or enforcement of those policies.

10. The guidelines are applicable to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable.

11. The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

12. While the measures recommended in these guidelines should be applied by Parties as broadly as necessary, in order best to achieve the objectives of Article 5.3 of the Convention, Parties are strongly urged to implement measures beyond those recommended in these guidelines when adapting them to their specific circumstances.

GUIDING PRINCIPLES

Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.

13. The tobacco industry produces and promotes a product that has been proven scientifically to be addictive, to cause disease and death and to give rise to a variety of social ills, including increased poverty. Therefore, Parties should protect the formulation and implementation of public health policies for tobacco control from the tobacco industry to the greatest extent possible.

² Where appropriate, these guidelines also refer to regional economic integration organizations.

Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

14. Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent.

Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent.

15. The tobacco industry should be required to provide Parties with information for effective implementation of these guidelines.

Principle 4: Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.

16. Any preferential treatment of the tobacco industry would be in conflict with tobacco control policy.

RECOMMENDATIONS

17. The following important activities are recommended for addressing tobacco industry interference in public health policies:

- (1) Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
- (2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
- (3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
- (4) Avoid conflicts of interest for government officials and employees.
- (5) Require that information provided by the tobacco industry be transparent and accurate.
- (6) Denormalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility".
- (7) Do not give preferential treatment to the tobacco industry.
- (8) Treat State-owned tobacco industry in the same way as any other tobacco industry.

18. Agreed measures for protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry are listed below. Parties are encouraged to implement measures beyond those provided for by these guidelines, and nothing in these guidelines shall prevent a Party from imposing stricter requirements that are consistent with these recommendations.

(1) *Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.*

19. All branches of government and the public need knowledge and awareness about past and present interference by the tobacco industry in setting and implementing public health policies with respect to tobacco control. Such interference requires specific action for successful implementation of the whole Framework Convention.

Recommendations

1.1 Parties should, in consideration of Article 12 of the Convention, inform and educate all branches of government and the public about the addictive and harmful nature of tobacco products, the need to protect public health policies for tobacco control from commercial and other vested interests of the tobacco industry and the strategies and tactics used by the tobacco industry to interfere with the setting and implementation of public health policies with respect to tobacco control.

1.2 Parties should, in addition, raise awareness about the tobacco industry's practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry.

(2) *Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.*

20. In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

Recommendations

2.1 Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.

2.2 Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public.

(3) *Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.*

21. The tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health.

Recommendations

3.1 Parties should not accept, support or endorse partnerships and non-binding or non-enforceable agreements as well as any voluntary arrangement with the tobacco industry or any entity or person working to further its interests.

3.2 Parties should not accept, support or endorse the tobacco industry organizing, promoting, participating in, or performing, youth, public education or any initiatives that are directly or indirectly related to tobacco control.

3.3 Parties should not accept, support or endorse any voluntary code of conduct or instrument drafted by the tobacco industry that is offered as a substitute for legally enforceable tobacco control measures.

3.4 Parties should not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry.

(4) *Avoid conflicts of interest for government officials and employees.*

22. The involvement of organizations or individuals with commercial or vested interests in the tobacco industry in public health policies with respect to tobacco control is most likely to have a negative effect. Clear rules regarding conflicts of interest for government officials and employees working in tobacco control are important means for protecting such policies from interference by the tobacco industry.

23. Payments, gifts and services, monetary or in-kind, and research funding offered by the tobacco industry to government institutions, officials or employees can create conflicts of interest. Conflicting interests are created even if a promise of favourable consideration is not given in exchange, as the potential exists for personal interest to influence official responsibilities as recognized in the International Code of Conduct for Public Officials adopted by the United Nations General Assembly and by several governmental and regional economic integration organizations.

Recommendations

4.1 Parties should mandate a policy on the disclosure and management of conflicts of interest that applies to all persons involved in setting and implementing public health policies with respect to tobacco control, including government officials, employees, consultants and contractors.

4.2 Parties should formulate, adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.

4.3 Parties should not award contracts for carrying out any work related to setting and implementing public health policies with respect to tobacco control to candidates or tenderers who have conflicts of interest with established tobacco control policies.

4.4 Parties should develop clear policies that require public office holders who have or have had a role in setting and implementing public health policies with respect to tobacco control to inform their institutions about any intention to engage in an

occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service.

4.5 Parties should develop clear policies that require applicants for public office positions which have a role in setting and implementing public health policies with respect to tobacco control to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

4.6 Parties should require government officials to declare and divest themselves of direct interests in the tobacco industry.

4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry.

4.8 Parties should not allow any person employed by the tobacco industry or any entity working to further its interests to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.

4.9 Parties should not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

4.10 Parties should not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in-kind, from the tobacco industry.

4.11 Taking into account national law and constitutional principles, Parties should have effective measures to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates or campaigns, or to require full disclosure of such contributions.

(5) *Require that information provided by the tobacco industry be transparent and accurate.*

24. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner. Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law.

25. Article 20.4 of the Convention requires, inter alia, Parties to promote and facilitate exchanges of information about tobacco industry practices and the cultivation of tobacco. In accordance with Article 20.4(c) of the Convention, each Party should endeavour to cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

Recommendations

5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent.³

5.2 Parties should require the tobacco industry and those working to further its interests to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities not prohibited or not yet prohibited under Article 13 of the Convention.¹

5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.

5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law.

5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository.

(6) *Denormalize and, to the extent possible, regulate activities described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.*

26. The tobacco industry conducts activities described as socially responsible to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. Activities that are described as “socially responsible” by the tobacco industry, aiming at the promotion of tobacco consumption, is a marketing as well as a public relations strategy that falls within the Convention’s definition of advertising, promotion and sponsorship.

27. The corporate social responsibility of the tobacco industry is, according to WHO,⁴ an inherent contradiction, as industry’s core functions are in conflict with the goals of public health policies with respect to tobacco control.

Recommendations

6.1 Parties should ensure that all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.

6.2 Parties should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.

³ Without prejudice to trade secrets or confidential information protected by law.

⁴ WHO. *Tobacco industry and corporate social responsibility – an inherent contradiction*. Geneva, World Health Organization, 2004.

6.3 Parties should not allow public disclosure by the tobacco industry or any other person acting on its behalf of activities described as socially responsible or of the expenditures made for these activities, except when legally required to report on such expenditures, such as in an annual report.⁵

6.4 Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.

(7) *Do not give preferential treatment to the tobacco industry.*

28. Some governments encourage investments by the tobacco industry, even to the extent of subsidizing them with financial incentives, such as providing partial or complete exemption from taxes otherwise mandated by law.

29. Without prejudice to their sovereign right to determine and establish their economic, financial and taxation policies, Parties should respect their commitments for tobacco control.

Recommendations

7.1 Parties should not grant incentives, privileges or benefits to the tobacco industry to establish or run their businesses.

7.2 Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures. Parties with a State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the WHO Framework Convention on Tobacco Control.

7.3 Parties should not provide any preferential tax exemption to the tobacco industry.

(8) *Treat State-owned tobacco industry in the same way as any other tobacco industry.*

30. Tobacco industry can be government-owned, non-government-owned or a combination thereof. These guidelines apply to all tobacco industry, regardless of its ownership.

Recommendations

8.1 Parties should ensure that State-owned tobacco industry is treated in the same way as any other member of the tobacco industry in respect of setting and implementing tobacco control policy.

8.2 Parties should ensure that the setting and implementing of tobacco control policy are separated from overseeing or managing tobacco industry.

⁵ The guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control address this subject from the perspective of tobacco advertising, promotion and sponsorship.

8.3 Parties should ensure that representatives of State-owned tobacco industry does not form part of delegations to any meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

Enforcement and monitoring

Enforcement

31. Parties should put in place enforcement mechanisms or, to the extent possible, use existing enforcement mechanisms to meet their obligations under Article 5.3 of the Convention and these guidelines.

Monitoring implementation of Article 5.3 of the Convention and of these guidelines

32. Monitoring implementation of Article 5.3 of the Convention and of these guidelines is essential for ensuring the introduction and implementation of efficient tobacco control policies. This should also involve monitoring the tobacco industry, for which existing models and resources should be used, such as the database on tobacco industry monitoring of the WHO Tobacco Free Initiative.

33. Nongovernmental organizations and other members of civil society not affiliated with the tobacco industry could play an essential role in monitoring the activities of the tobacco industry.

34. Codes of conduct or staff regulations for all branches of governments should include a “whistleblower function”, with adequate protection of whistleblowers. In addition, Parties should be encouraged to use and enforce mechanisms to ensure compliance with these guidelines, such as the possibility of bringing an action to court, and to use complaint procedures such as an ombudsman system.

INTERNATIONAL COLLABORATION AND UPDATING AND REVISION OF THE GUIDELINES

35. International cooperation is essential for making progress in preventing interference by the tobacco industry with the formulation of public health policies on tobacco control. Article 20.4 of the Convention provides the basis for collecting and exchanging knowledge and experience with respect to tobacco industry practices, taking into account and addressing the special needs of developing country Parties and Parties with economies in transition.

36. Efforts have already been made to coordinate the collection and dissemination of national and international experience with regard to the strategies and tactics used by the tobacco industry and to the monitoring of tobacco industry activities. Parties would benefit from sharing legal and strategic expertise for countering tobacco industry strategies. Article 21.4 of the Convention provides that information exchange should be subject to national laws regarding confidentiality and privacy.

Recommendations

37. As the strategies and tactics used by the tobacco industry evolve constantly, these guidelines should be reviewed and revised periodically to ensure that they continue to provide

effective guidance to Parties on protecting their public health policies on tobacco control from tobacco industry interference.

38. Parties reporting via the existing reporting instrument of the Framework Convention should provide information on tobacco production and manufacture and the activities of the tobacco industry that affect the Convention or national tobacco control activities. To facilitate this exchange, the Convention Secretariat should ensure that the principal provisions of these guidelines are reflected in the next phases of the reporting instrument, which the Conference of the Parties will gradually adopt for use by Parties.

39. In view of the paramount importance of preventing tobacco industry interference in any public health policy with respect to tobacco control, the Conference of the Parties may, in the light of experience with implementing these guidelines, consider whether there is a need to elaborate a protocol in relation to Article 5.3 of the Convention.

USEFUL SOURCES OF INFORMATION

Relevant literature

Brandt AM. *The cigarette century. The rise, fall, and deadly persistence of the product that defined America*. New York, Basic Books, 2007.

Chapman S. *Making smoking history. Public health advocacy and tobacco control*. Oxford, Blackwell Publishing, 2007.

Callard C, Thompson D, Collishaw N. *Curing the addiction to profits: a supply-side approach to phasing out tobacco*. Ottawa, Canadian Centre for Policy Alternatives and Physicians for a Smoke-free Canada, 2005.

Feldman EA, Bayer R (Editors). *Unfiltered: conflicts over tobacco policy and public health*. Boston, Harvard University Press, 2004.

Gilmore A et al. Continuing influence of tobacco industry in Germany. *Lancet*, 2002, 360:1255.

Hastings G, Angus K. *The influence of the tobacco industry on European tobacco control policy*. In: *Tobacco or health in the European Union. Past, present and future*. Luxembourg, Office for Official Publications of the European Commission, 2004:195–225.

Lavack A. *Tobacco industry denormalization campaigns: a review and evaluation*. Ottawa, Health Canada, 2001.

Mahood G. *Tobacco industry denormalization. Telling the truth about the tobacco industry's role in the tobacco epidemic*. Toronto, Campaign for Tobacco Industry Denormalization, 2004.

Pan American Health Organization. *Profits over people. Tobacco industry activities to market cigarettes and undermine public health in Latin America and the Caribbean*. Washington DC, Pan American Health Organization, 2002.

Simpson D. Germany: still sleeping with the enemy. *Tobacco Control*, 2003, 12:343–344.

Hammond R, Rowell A. *Trust us. We're the tobacco industry*. Baltimore, Johns Hopkins University Press, 2001.

World Health Organization. *Tobacco company strategies to undermine tobacco control activities at the World Health Organization*. Geneva, World Health Organization, 2000.

World Health Organization. *Tobacco industry and corporate social responsibility – an inherent contradiction*. Geneva, World Health Organization, 2004.

Yach D, Bialous S. Junking science to promote tobacco. *American Journal of Public Health*, 2001, 91:1745–1748.

Web resources

WHO sites:

Tobacco Free Initiative: <http://www.who.int/tobacco/en/>

WHO publications on tobacco: <http://www.who.int/tobacco/resources/publications/en/>

WHO European Regional Office:

<http://www.euro.who.int/healthtopics/HT2ndLvlPage?HTCode=smoking>

Tobacco control in the Americas (in English and Spanish):

<http://www.paho.org/english/ad/sde/ra/Tobabout.htm>

Sites with general, regional or national information and topics related to tobacco control:

Action on Smoking and Health, UK (and special page for the tobacco industry):

http://www.newash.org.uk/ash_r3iitasl.htm

Corporate Accountability International and the Network for Accountability of Tobacco Transnationals: www.stopcorporateabuse.org

Economics of tobacco control: <http://www1.worldbank.org/tobacco/>

European Commission:

http://ec.europa.eu/health/ph_determinants/life_style/Tobacco/tobacco_en.htm

European Network for Smoking Prevention: <http://www.ensp.org/>

Framework Convention Alliance for Tobacco Control: <http://www.fctc.org/>

International Union for Health Promotion and Education:

<http://www.iuhpe.org/?page=18&lang=en>

Model Legislation for Tobacco Control manual:

http://www.iuhpe.org/?lang=en&page=publications_report2

Tobacco industry: http://tobacco.health.usyd.edu.au/site/supersite/links/docs/tobacco_ind.htm

Smokefree Partnership: <http://www.smokefreepartnership.eu/>

Thailand Health Promotion Institute: <http://www.thpinhf.org/>

Tobaccopedia: the online tobacco encyclopaedia: <http://www.tobaccopedia.org/>

More links to tobacco sites:

Various international and national tobacco control web sites:

<http://www.tobacco.org/resources/general/tobsites.html>

National tobacco control web sites:

<http://www.smokefreepartnership.eu/National-Tobacco-Control-websites>

Centre de ressources anti-tabac: <http://www.tabac-info.net/>

Comité National Contre le Tabagisme (France): <http://www.cnct.org>

Office Français de Prévention du Tabagisme: <http://www.ofp-asso.fr/>

Latest news on smoking and tobacco control: <http://www.globalink.org/news/fr>

Ministère de la santé, de la jeunesse et des sports: <http://www.sante.gouv.fr/>

Latest news on smoking and tobacco control: <http://www.globalink.org/news/es>

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13 March 2017

Dear Professor Lee,

In June 2015, and October 2016, I had the honour to write and congratulate the Hong Kong Special Administrative Region (SAR) on its ongoing progress in the field of tobacco control and to offer my full support as the Government updates graphic health warnings and increases their size.

As I understand it, the proposal to enlarge graphic health warnings from 50% to 85% of the principal display areas of packaging is still under consideration. Accordingly, I am again writing to offer my full support as Hong Kong SAR strengthens this important tobacco control measure.

I am happy to share my enthusiasm for the proposed changes to the current graphic health warnings, particularly in light of the WHO Framework Convention on Tobacco Control (WHO FCTC). As Guidelines to Article 11 of the Convention recognize, “evidence demonstrates that the effectiveness of health warnings and messages increases with their prominence.” This is reflected in rapid advances in tobacco packaging and labelling around the globe. Large warnings are becoming the norm and Hong Kong (SAR) would join a leading group. Countries within this group include Nepal (90%), India (85%), Thailand (85%), Australia (82.5%), Sri Lanka (80%), Uruguay (80%), Brunei (75%) and Canada (75%).

Other jurisdictions are also going further than Hong Kong SAR's proposal. Following Australia's lead in 2012, France and the United Kingdom of Great Britain and Northern Ireland began implementation of tobacco plain packaging, alongside large graphic warnings, in May 2016. Hungary, Ireland, New Zealand and Norway have passed plain packaging laws while Canada, Slovenia and Thailand are considering draft legislation, and other countries have announced plans to implement plain packaging.

cc: The Director-General, Department of International Cooperation, National Health and Family Planning Commission of China, Beijing
The Permanent Representative of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland

The lessons learnt during the last years of implementing larger graphic warnings include the critical need for applying such warnings on all tobacco products. Despite predictable tobacco industry opposition, these recent developments confirm the merits of Hong Kong SAR enlarging tobacco health warnings.

You have my personal support and that of WHO as you take this forward.

Yours sincerely,



Dr Margaret Chan
Director-General

世界卫生组织
日内瓦，瑞士

世界卫生组织烟草控制框架公约



世界卫生组织

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前言

世界卫生组织烟草控制框架公约（WHO FCTC）是在世界卫生组织主持下谈判制定的第一份条约。世界卫生组织烟草控制框架公约是一份以证据为基础的条约，它重申所有人民享有最高健康水平的权利。世界卫生组织烟草控制框架公约在制定一项处理成瘾物质的管制战略方面体现了一种观念的转变；与以往的药物控制条约不同的是，世界卫生组织烟草控制框架公约坚持减少需求战略和供应问题的重要性。

世界卫生组织烟草控制框架公约的制定是对烟草流行全球化作出的反应。烟草的流行通过各种具有跨境影响的复杂因素得以迅速扩散，这些因素包括贸易自由化和外国直接投资。诸如全球推销、跨国界烟草广告、促销和赞助以及假冒伪劣香烟的国际流动等其它因素也是造成烟草使用爆炸式增长的原因。

世界卫生组织烟草控制框架公约的序言第一段指出，“本公约缔约方决心优先考虑其保护公众健康的权力”，这使公约成为一项全球的创新公约。

世界卫生组织烟草控制框架公约中减少需求的主要规定列于第 6-14 条：

- 减少烟草需求的价格和税收措施，以及
- 减少烟草需求的非价格措施，即：
 - 防止接触烟草烟雾；
 - 烟草制品成分管制；
 - 烟草制品披露的规定；
 - 烟草制品的包装和标签；
 - 教育、交流、培训和公众意识；
 - 烟草广告、促销和赞助；以及
 - 与烟草依赖和戒烟有关的降低烟草需求的措施。

世界卫生组织烟草控制框架公约中减少供应的主要规定列于第 15-17 条：

世界卫生组织烟草控制框架公约

- 烟草制品非法贸易；
- 向未成年人销售和由未成年人销售；以及
- 对经济上切实可行的替代活动提供支持。

公约的另一个新特点是列入一项处理责任问题的规定。有关科学和技术合作及信息交流的机制列于第 20-22 段。

世界卫生组织烟草控制框架公约自 2003 年 6 月 16 日至 6 月 22 日在日内瓦，其后自 2003 年 6 月 30 日至 2004 年 6 月 29 日于条约存放处纽约联合国总部开放供签字。这部现已结束签署的条约有 168 个签署者，包括欧洲共同体，使之成为联合国历史上最广泛受到热诚接受的条约之一。签署公约的会员国表明他们将真诚地努力批准、接受或核准公约并显示不破坏公约所列目标的政治承诺。截至 2004 年 6 月 29 日时未签署公约但希望成为缔约方的国家可通过加入方式这样做，这是一种相当于批准的一步法。

公约于 2005 年 2 月 27 日 -- 自 40 个国家予以加入、批准、接受或核准后第九十天起生效。从这一天开始，条约的规定对这 40 个缔约方具有法律约束力。对于在第 36 条第 1 款确定的生效条件达到之后批准、接受或核准公约或加入公约的每一国家，公约将在交存其批准、接受、核准或加入文书之日后第九十天起对之生效。对于区域经济一体化组织，公约在交存其正式确认或加入文书之日后第九十天起对之生效。

在世界卫生组织烟草控制框架公约谈判期间建立的全球网络对于在国家级为实施公约作好准备至关重要。世界卫生组织总干事李钟郁博士说：

“世界卫生组织烟草控制框架公约谈判已经发动了一个进程，导致在国家级产生显著的变化。世界卫生组织烟草控制框架公约作为公共卫生的一项手段能否取得成功将取决于未来数年我们在国家中为实施这项公约所做的努力和政治承诺。一项成功的结果将是全球所有人在公共卫生方面获益。”

为实现这项目标，必须将在公约谈判期间强烈体现出的动力和承诺扩散至国家和地方级，使世界卫生组织烟草控制框架公约在最重要的地方即国家成为一个具体的现实。

序言

本公约缔约方，

决心优先考虑其保护公众健康的权利，

认识到烟草的广泛流行是一个对公众健康具有严重后果的全球性问题，呼吁所有国家就有效、适宜和综合的国际应对措施开展尽可能广泛的国际合作，

顾及国际社会关于烟草消费和接触烟草烟雾对全世界健康、社会、经济和环境造成的破坏性后果的关注，

严重关注全世界，特别是发展中国家，卷烟和其他烟草制品消费和生产的增加，以及它对家庭、穷人和国家卫生系统造成的负担，

认识到科学证据明确确定了烟草消费和接触烟草烟雾会造成死亡、疾病和残疾，以及接触烟草烟雾和以其他方式使用烟草制品与发生烟草相关疾病之间有一段时间间隔，

还认识到卷烟和某些其他烟草制品经过精心加工，籍以引起和维持对烟草的依赖，它们所含的许多化合物和它们所产生的烟雾具有药理活性、毒性、致突变性和致癌性，并且在主要国际疾病分类中将烟草依赖单独分类为一种疾病，

承认存在着明确的科学证据，表明孕妇接触烟草烟雾是儿童健康和发育的不利条件，

深切关注全世界的儿童和青少年吸烟和其他形式烟草消费的增加，特别是开始吸烟的年龄愈来愈小，

震惊于全世界妇女和少女吸烟及其他形式烟草制品消费的增加；铭记妇女需充分参与各级决策和实施工作，并铭记需要有性别针对性的烟草控制战略，

深切关注土著居民吸烟和其他形式烟草消费处于高水平，

世界卫生组织烟草控制框架公约

严重关注旨在鼓励使用烟草制品的各种形式的广告、促销和赞助的影响，

认识到需采取合作行动以取缔各种形式的卷烟和其他烟草制品非法贸易，包括走私、非法生产和假冒，

承认各级烟草控制，特别是在发展中国家和经济转轨国家，需要与目前和预计的烟草控制活动需求相称的充足的财政和技术资源，

认识到需建立适宜的机制以应对有效地减少烟草需求战略所带来的长期社会和经济影响，

铭记烟草控制规划可能在某些发展中国家和经济转轨国家造成的中、长期社会和经济困难，并认识到它们需要在国家制定的可持续发展战略的框架下获得技术和财政支持，

意识到许多国家正在开展的卓有成效的烟草控制工作，并赞赏世界卫生组织的领导以及联合国系统其他组织和机构与其他国际和区域政府间组织在发展烟草控制措施方面所作的努力，

强调不隶属于烟草业的非政府组织和民间社会其他成员，包括卫生专业机构，妇女、青年、环境和消费者团体，以及学术机构和卫生保健机构，对国家和国际烟草控制努力的特殊贡献，及其参与国家和国际烟草控制努力的极端重要性，

认识到需警惕烟草业阻碍或破坏烟草控制工作的任何努力，并需掌握烟草业采取的对烟草控制工作产生负面影响的活动，

忆及联合国大会 1966 年 12 月 16 日通过的《经济、社会、文化权利国际公约》第 12 条规定人人有权享有能达到的最高的身心健康的标准，

还忆及世界卫生组织《组织法》序言，它宣称享受最高而能获致之健康标准，为人人基本权利之一，不因种族、宗教、政治信仰、经济或社会情境各异，而分轩轻。

世界卫生组织烟草控制框架公约

决心在考虑目前和有关的科学、技术和经济问题的基础上促进烟草控制措施，

忆及联合国大会 1979 年 12 月 18 日通过的《消除对妇女一切形式歧视公约》规定，该公约各缔约国应采取适当的措施，在卫生保健领域消除对妇女的歧视，

进一步忆及联合国大会 1989 年 11 月 20 日通过的《儿童权利公约》规定，该公约各缔约国确认儿童有权享有可达到的最高标准的健康，

兹议定如下：

第 I 部分：引言

第 1 条

术语的使用

为本公约目的：

- (a) “非法贸易”系指法律禁止的，并与生产、装运、接收、持有、分发、销售或购买有关的任何行径或行为，包括意在便利此类活动的任何行径或行为；
- (b) “区域经济一体化组织”系指若干主权国家组成的组织，它已由其成员国让渡处理一系列事项，包括就这些事项做出对其成员国有约束力的决定的授权¹；
- (c) “烟草广告和促销”系指任何形式的商业性宣传、推介或活动，其目的、效果或可能的效果在于直接或间接地推销烟草制品或促进烟草使用；
- (d) “烟草控制”系指通过消除或减少人群消费烟草制品和接触烟草烟雾，旨在促进其健康的一系列减少烟草供应、需求和危害的战略；
- (e) “烟草业”系指烟草生产商、烟草制品批发商和进口商；
- (f) “烟草制品”系指全部或部分由烟叶作为原材料生产的供抽吸、吸吮、咀嚼或鼻吸的制品；
- (g) “烟草赞助”系指目的、效果或可能的效果在于直接或间接地推销烟草制品或促进烟草使用的，对任何事件、活动或个人的任何形式的捐助。

¹ 在相关处，“国家的”亦指区域经济一体化组织。

第2条

本公约与其他协定和法律文书的关系

1. 为了更好地保护人类健康，鼓励各缔约方实施本公约及其议定书要求之外的其他措施，这些文书不应阻碍缔约方实行符合其规定并符合国际法的更加严格的要求。
2. 本公约及其议定书的各项规定决不影响各缔约方就与本公约及其议定书有关的事项或本公约及其议定书之外的其他事项达成双边或多边协定，包括区域或次区域协定的权利，只要此类协定与本公约及其议定书所规定的义务相一致。有关缔约方应通过秘书处将此类协定通报缔约方会议。

第II部分：目标、指导原则和一般义务

第3条

目标

本公约及其议定书的目标是提供一个由各缔约方在国家、区域和全球各级实施烟草控制措施的框架，以便使烟草使用和接触烟草烟雾持续大幅度下降，从而保护当代和后代免受烟草消费和接触烟草烟雾对健康、社会、环境和经济造成的破坏性影响。

第4条

指导原则

各缔约方为实现本公约及其议定书的目标和实施其各项规定，除其他外，应遵循下列指导原则：

1. 宜使人人了解烟草消费和接触烟草烟雾造成的健康后果、成瘾性和致命威胁，并宜在适当的政府级别考虑有效的立法、实施、行政或其他措施，以保护所有人免于接触烟草烟雾。

2. 在国家、区域和国际层面需要强有力的政治承诺以制定和支持多部门的综合措施和协调一致的应对行动，考虑：

- (a) 需采取措施防止所有人接触烟草烟雾；
- (b) 需采取措施防止初吸，促进和支持戒烟以及减少任何形式的烟草制品消费；
- (c) 需采取措施促进土著居民和社区参与制定、实施和评价在社会和文化方面与其需求和观念相适应的烟草控制规划；以及
- (d) 需采取措施，在制定烟草控制战略时考虑不同性别的风险。

3. 结合当地文化、社会、经济、政治和法律因素开展国际合作，尤其是技术转让、知识和经济援助以及提供相关专长，以制定和实施有效烟草控制规划，是本公约的一个重要组成部分。

4. 在国家、区域和全球各级采取多部门综合措施和对策以减少所有烟草制品的消费至关重要，以便根据公共卫生原则防止由烟草消费和接触烟草烟雾引起的疾病、过早丧失功能和死亡的发生。

5. 各缔约方在其管辖范围内明确与责任相关的事项是烟草综合控制的重要组成部分。

6. 宜在国家制定的可持续发展战略框架下认识和强调技术和财政援助的重要性，以便帮助发展中国家缔约方和经济转轨国家缔约方因烟草控制规划而使其生计受到严重影响的烟草种植者和工人进行经济过渡。

7. 为了实现本公约及其议定书的目标，民间社会的参与是必要的。

第5条

一般义务

1. 每一缔约方应根据本公约及其作为缔约方的议定书，制定、实施、定期更新和审查国家多部门综合烟草控制战略、计划和规划。
2. 为此目的，每一缔约方应根据其能力：
 - (a) 设立或加强并资助国家烟草控制协调机构或联络点；和
 - (b) 采取和实行有效的立法、实施、行政和/或其他措施并酌情与其他缔约方合作，以制定适当的政策，防止和减少烟草消费、尼古丁成瘾和接触烟草烟雾。
3. 在制定和实施烟草控制方面的公共卫生政策时，各缔约方应根据国家法律采取行动，防止这些政策受烟草业的商业和其他既得利益的影响。
4. 各缔约方应开展合作，为实施本公约及其作为缔约方的议定书制定提议的措施、程序和准则。
5. 各缔约方应酌情同有关国际和区域政府间组织及其他机构合作，以实现本公约及其作为缔约方的议定书的目标。
6. 各缔约方应在其拥有的手段和资源范围内开展合作，通过双边和多边资助机制为本公约的有效实施筹集财政资源。

第 III 部分：减少烟草需求的措施

第6条

减少烟草需求的价格和税收措施

1. 各缔约方承认价格和税收措施是减少各阶层人群特别是青少年烟草消费的有效和重要手段。

2. 在不损害各缔约方决定和制定其税收政策的主权时，每一缔约方宜考虑其有关烟草控制的国家卫生目标，并酌情采取或维持可包括以下方面的措施：

(a) 对烟草制品实施税收政策并在适宜时实施价格政策，以促进旨在减少烟草消费的卫生目标；和

(b) 酌情禁止或限制向国际旅行者销售和/或由其进口免除国内税和关税的烟草制品。

3. 各缔约方应根据第 21 条在向缔约方会议提交的定期报告中提供烟草制品税率及烟草消费趋势。

第7条

减少烟草需求的非价格措施

各缔约方承认综合的非价格措施是减少烟草消费的有效和重要手段。每一缔约方应采取和实行依照第 8 条至第 13 条履行其义务所必要的有效的立法、实施、行政或其他措施，并应酌情为其实施直接或通过有关国际机构开展相互合作。缔约方会议应提出实施这些条款规定的适宜准则。

第8条

防止接触烟草烟雾

1. 各缔约方承认科学已明确证实接触烟草烟雾会造成死亡、疾病和功能丧失。

2. 每一缔约方应在国家法律规定的现有国家管辖范围内采取和实行，并在其他司法管辖权限内积极促进采取和实行有效的立法、实施、行政和/或其他措施，以防止在室内工作场所、公共交通工具、室内公共场所，适当时，包括其他公共场所接触烟草烟雾。

第9条

烟草制品成分管制

缔约方会议应与有关国际机构协商提出检测和测量烟草制品成分和燃烧释放物的指南以及对这些成分和释放物的管制指南。经有关国家当局批准，每一缔约方应对此类检测和测量以及此类管制采取和实行有效的立法、实施和行政或其他措施。

第10条

烟草制品披露的规定

每一缔约方应根据其国家法律采取和实行有效的立法、实施、行政或其他措施，要求烟草制品生产商和进口商向政府当局披露烟草制品成分和释放物的信息。每一缔约方应进一步采取和实行有效措施以公开披露烟草制品有毒成分和它们可能产生的释放物的信息。

第11条

烟草制品的包装和标签

1. 每一缔约方应在本公约对该缔约方生效后三年内，根据其国家法律采取和实行有效措施以确保：

(a) 烟草制品包装和标签不得以任何虚假、误导、欺骗或可能对其特性、健康影响、危害或释放物产生错误印象的手段推销一种烟草制品，包括直接或间接产生某一烟草制品比其他烟草制品危害小的虚假印象的任何词语、描述、商标、图形或任何其他标志。其可包括“低焦油”、“淡味”、“超淡味”或“柔和”等词语；和

(b) 在烟草制品的每盒和单位包装及这类制品的任何外部包装和标签上带有说明烟草使用有害后果的健康警句，并可包括其他适宜信息。这些警句和信息：

- (i) 应经国家主管当局批准，
- (ii) 应轮换使用，
- (iii) 应是大而明确、醒目和清晰的，
- (iv) 宜占据主要可见部分的 50%或以上，但不应少于 30%，
- (v) 可采取或包括图片或象形图的形式。

2. 除本条第 1(b)款规定的警语外，在烟草制品的每盒和单位包装及这类制品的任何外部包装和标签上，还应包含国家当局所规定的有关烟草制品成分和释放物的信息。

3. 每一缔约方应规定，本条第 1(b)款以及第 2 款规定的警语和其他文字信息，应以其一种或多种主要语言出现在烟草制品每盒和单位包装及这类制品的任何外部包装和标签上。

4. 就本条而言，与烟草制品有关的“外部包装和标签”一词，适用于烟草制品零售中使用的任何包装和标签。

第12条

教育、交流、培训和公众意识

每一缔约方应酌情利用现有一切交流手段，促进和加强公众对烟草控制问题的认识。为此目的，每一缔约方应采取和实行有效的立法、实施、行政或其他措施以促进：

- (a) 广泛获得有关烟草消费和接触烟草烟雾对健康危害，包括成瘾性的有效综合的教育和公众意识规划；
- (b) 有关烟草消费和接触烟草烟雾对健康的危害，以及第 14.2 条所述的戒烟和无烟生活方式的益处的公众意识；

- (c) 公众根据国家法律获得与本公约目标有关的关于烟草业的广泛信息；
- (d) 针对诸如卫生工作者、社区工作者、社会工作者、媒体工作者、教育工作者、决策者、行政管理人员和其他有关人员的有关烟草控制的有效适宜的培训或宣传和情况介绍规划；
- (e) 与烟草业无隶属关系的公立和私立机构以及非政府组织在制定和实施部门间烟草控制规划和战略方面的意识和参与；以及
- (f) 有关烟草生产和消费对健康、经济和环境的不利后果信息的公众意识和获得。

第13条

烟草广告、促销和赞助

1. 各缔约方认识到广泛禁止广告、促销和赞助将减少烟草制品的消费。
2. 每一缔约方应根据其宪法或宪法原则广泛禁止所有的烟草广告、促销和赞助。根据该缔约方现有的法律环境和技术手段，其中应包括广泛禁止源自本国领土的跨国广告、促销和赞助。就此，每一缔约方在公约对其生效后的五年内，应采取适宜的立法、实施、行政和/或其他措施，并按第 21 条的规定相应地进行报告。
3. 因其宪法或宪法原则而不能采取广泛禁止措施的缔约方，应限制所有的烟草广告、促销和赞助。根据该缔约方目前的法律环境和技术手段，应包括限制或广泛禁止源自其领土并具有跨国影响的广告、促销和赞助。就此，每一缔约方应采取适宜的立法、实施、行政和/或其他措施并按第 21 条的规定相应地进行报告。
4. 根据其宪法或宪法原则，每一缔约方至少应：

- (a) 禁止采用任何虚假、误导或欺骗或可能对其特性、健康影响、危害或释放物产生错误印象的手段，推销烟草制品的所有形式的烟草广告、促销和赞助；
 - (b) 要求所有烟草广告，并在适当时包括促销和赞助带有健康或其他适宜的警句或信息；
 - (c) 限制采用鼓励公众购买烟草制品的直接或间接奖励手段；
 - (d) 对于尚未采取广泛禁止措施的缔约方，要求烟草业向有关政府当局披露用于尚未被禁止的广告、促销和赞助的开支。根据国家法律，这些政府当局可决定向公众公开并根据第 21 条向缔约方会议提供这些数字；
 - (e) 在五年之内，在广播、电视、印刷媒介和酌情在其他媒体如因特网上广泛禁止烟草广告、促销和赞助，如某一缔约方因其宪法或宪法原则而不能采取广泛禁止的措施，则应在上述期限内和上述媒体中限制烟草广告、促销和赞助；以及
 - (f) 禁止对国际事件、活动和/或其参加者的烟草赞助；若缔约方因其宪法或宪法原则而不能采取禁止措施，则应限制对国际事件、活动和/或其参加者的烟草赞助。
5. 鼓励缔约方实施第 4 款所规定义务之外的措施。
 6. 各缔约方应合作发展和促进消除跨国界广告的必要技术和其他手段。
 7. 已实施禁止某些形式的烟草广告、促销和赞助的缔约方有权根据其国家法律禁止进入其领土的此类跨国界烟草广告、促销和赞助，并实施与源自其领土的国内广告、促销和赞助所适用的相同处罚。本款并不构成对任何特定处罚的认可或赞成。
 8. 各缔约方应考虑制定一项议定书，确定需要国际合作的广泛禁止跨国界广告、促销和赞助的适当措施。

第14条

与烟草依赖和戒烟有关的降低烟草需求的措施

1. 每一缔约方应考虑到国家现状和重点，制定和传播以科学证据和最佳实践为基础的适宜、综合和配套的指南，并应采取有效措施以促进戒烟和对烟草依赖的适当治疗。
2. 为此目的，每一缔约方应努力：
 - (a) 制定和实施旨在促进戒烟的有效的规划，诸如在教育机构、卫生保健设施、工作场所和体育环境等地点的规划；
 - (b) 酌情在卫生工作者、社区工作者和社会工作者的参与下，将诊断和治疗烟草依赖及对戒烟提供的咨询服务纳入国家卫生和教育规划、计划和战略；
 - (c) 在卫生保健设施和康复中心建立烟草依赖诊断、咨询、预防和治疗规划；以及
 - (d) 依照第22条的规定，与其他缔约方合作促进获得可负担得起的对烟草依赖的治疗，包括药物制品。此类制品及其成分适当时可包括药品、给药所用的产品和诊断制剂。

第IV部分：减少烟草供应的措施

第15条

烟草制品非法贸易

1. 各缔约方认识到消除一切形式的烟草制品非法贸易，包括走私、非法生产和假冒，以及制定和实施除次区域、区域和全球协定之外的有关国家法律，是烟草控制的基本组成部分。

2. 每一缔约方应采取和执行有效的立法、实施、行政或其他措施，以确保所有烟草制品每盒和单位包装以及此类制品的任何外包装有标志以协助各缔约方确定烟草制品的来源，并且根据国家法律和有关的双边或多边协定协助各缔约方确定转移地点并监测、记录和控制烟草制品的流通及其法律地位。此外，每一缔约方应：

(a) 要求在其国内市场用于零售和批发的烟草制品的每盒和单位包装带有一项声明：“只允许在（插入国家、地方、区域或联邦的地域名称）销售”，或含有说明最终目的地或能帮助当局确定该产品是否可在国内市场合法销售的任何其他有效标志；和

(b) 酌情考虑发展实用的跟踪和追踪制度以进一步保护销售系统并协助调查非法贸易。

3. 每一缔约方应要求以清晰的形式和/或以本国一种或多种主要语言提供本条第 2 款中规定的包装信息或标志。

4. 为消除烟草制品非法贸易，每一缔约方应：

(a) 监测和收集关于烟草制品跨国界贸易，包括非法贸易的数据，并根据国家法律和适用的有关双边或多边协定在海关、税务和其他有关部门之间交换信息；

(b) 制定或加强立法，通过适当的处罚和补救措施，打击包括假冒和走私卷烟在内的烟草制品非法贸易；

(c) 采取适当措施，确保在可行的情况下采用有益于环境的方法，销毁或根据国家法律处理没收的所有生产设备、假冒和走私卷烟及其他烟草制品；

(d) 采取和实施措施，以监测、记录和控制在其管辖范围内持有或运送的免除国内税或关税的烟草制品的存放和销售；以及

(e) 酌情采取措施，使之能没收烟草制品非法贸易所得。

5. 根据第 21 条的规定，各缔约方应在给缔约方会议的定期报告中酌情以汇总形式提供依照本条第 4(a)和 4(d)款收集的信息。

6. 各缔约方应酌情并根据国家法律促进国家机构以及有关区域和国际政府间组织之间在调查、起诉和诉讼程序方面的合作，以便消除烟草制品非法贸易。应特别重视区域和次区域级在打击烟草制品非法贸易方面的合作。

7. 每一缔约方应努力采取和实施进一步措施，适宜时，包括颁发许可证，以控制或管制烟草制品的生产和销售，从而防止非法贸易。

第16条

向未成年人销售和由未成年人销售

1. 每一缔约方应在适当的政府级别采取和实行有效的立法、实施、行政或其他措施禁止向低于国内法律、国家法律规定的年龄或 18 岁以下者出售烟草制品。这些措施可包括：

(a) 要求所有烟草制品销售者在其销售点内设置关于禁止向未成年人出售烟草的清晰醒目告示，并且当有怀疑时，要求每一购买烟草者提供适当证据证明已达到法定年龄；

(b) 禁止以可直接选取烟草制品的任何方式，例如售货架等出售此类产品；

(c) 禁止生产和销售对未成年人具有吸引力的烟草制品形状的糖果、点心、玩具或任何其他实物；以及

(d) 确保其管辖范围内的自动售烟机不能被未成年人所使用，且不向未成年人促销烟草制品。

2. 每一缔约方应禁止或促使禁止向公众尤其是未成年人免费分发烟草制品。

3. 每一缔约方应努力禁止分支或小包装销售卷烟，因这种销售会提高未成年人对此类制品的购买能力。
4. 各缔约方认识到，防止向未成年人销售烟草制品的措施宜酌情与本公约中所包含的其他规定一并实施，以提高其有效性。
5. 当签署、批准、接受、核准或加入本公约时，或在其后的任何时候，缔约方可通过有约束力的书面声明表明承诺在其管辖范围内禁止使用自动售烟机，或在适宜时完全禁止自动售烟机。依据本条所作的声明应由保存人周知本公约所有缔约方。
6. 每一缔约方应采取和实行有效的立法、实施、行政或其他措施，包括对销售商和批发商实行处罚，以确保遵守本条第 1-5 款中包含的义务。
7. 每一缔约方宜酌情采取和实行有效的立法、实施、行政或其他措施，禁止由低于国内法律、国家法律规定的年龄或 18 岁以下者销售烟草制品。

第17条

对经济上切实可行的替代活动提供支持

各缔约方应相互合作并与有关国际和区域政府间组织合作，为烟草工人、种植者，以及在某些情况下对个体销售者酌情促进经济上切实可行的替代生计。

第 V 部分：保护环境

第18条

保护环境和人员健康

各缔约方同意在履行本公约之下的义务时，在本国领土内的烟草种植和生产方面对保护环境和与环境有关的人员健康给予应有的注意。

第 VI 部分：与责任有关的问题

第19 条

责 任

1. 为烟草控制的目的，必要时，各缔约方应考虑采取立法行动或促进其现有法律，以处理刑事和民事责任，适当时包括赔偿。
2. 根据第 21 条的规定，各缔约方应相互合作，通过缔约方会议交换信息，包括：
 - (a) 根据第 20.3(a)条有关烟草制品消费和接触烟草烟雾对健康影响的信息；和
 - (b) 已生效的立法、法规以及相关判例的信息。
3. 各缔约方在适当时并经相互同意，在其国家立法、政策、法律惯例和可适用的现有条约安排的限度内，就本公约涉及的民事和刑事责任的诉讼相互提供协助。
4. 本公约不应以任何方式影响或限制缔约方已有的、相互利用对方法院的任何权力。
5. 如可能，缔约方会议可在初期阶段，结合有关国际论坛正在开展的工作，审议与责任有关的事项，包括适宜的关于这些事项的国际方式和适宜的手段，以便应缔约方的要求支持其根据本条进行立法和其他活动。

第 VII 部分：科学和技术合作与信息通报

第20 条

研究、监测和信息交换

1. 各缔约方承诺开展和促进烟草控制领域的国家级的研究，并在区域和国际层面内协调研究规划。为此目的，每一缔约方应：

- (a) 直接或通过有关国际和区域政府间组织及其他机构，启动研究和科学评估并在该方面进行合作，以促进和鼓励有关烟草消费和接触烟草烟雾的影响因素和后果的研究及确定替代作物的研究；和
 - (b) 在相关国际和区域政府间组织及其他机构的支持下，促进和加强对所有从事烟草控制活动，包括从事研究、实施和评价人员的培训和支持。
2. 各缔约方应酌情制定烟草消费和接触烟草烟雾的流行规模、模式、影响因素和后果的国家、区域和全球的监测规划。为此，缔约方应将烟草监测规划纳入国家、区域和全球健康监测规划，使数据具有可比性，并在适当时在区域和国际层面进行分析。
3. 各缔约方认识到国际和区域政府间组织及其他机构提供的财政和技术援助的重要性。各缔约方应努力：
- (a) 逐步建立烟草消费和有关社会、经济及健康指标的国家级的流行病学监测体系；
 - (b) 在区域和全球烟草监测，以及关于本条第 3(a)款所规定指标的信息交换方面与相关的国际和区域政府间组织及其他机构合作，包括政府机构和非政府机构；以及
 - (c) 与世界卫生组织合作，针对烟草相关监测资料的收集、分析和传播制定一般的指导原则或工作程序。
4. 各缔约方应根据国家法律促进和便利可公开获得的与本公约有关的科学、技术、社会经济、商业和法律资料以及有关烟草业业务和烟草种植的信息交换，同时这种做法应考虑并注意到发展中国家及经济转轨国家缔约方的特殊需求。每一缔约方应努力：
- (a) 逐步建立和保持更新的烟草控制法律和法规，及适当的执法情况和相关判例数据库，并合作制定区域和全球烟草控制规划；

- (b) 根据本条第 3(a)款逐步建立和保持国家监测规划的更新数据；以及
 - (c) 与有关国际组织合作，逐步建立并保持全球系统，定期收集和传播烟草生产、加工和对本公约或国家烟草控制活动有影响的烟草业有关活动的信息。
5. 各缔约方宜在其为成员的区域和国际政府间组织、以及金融和开发机构中进行合作，促进和鼓励向本公约秘书处提供技术和财务资源，以协助发展中国家缔约方及经济转轨国家缔约方履行其关于研究、监测和信息交换的承诺。

第 21 条

报告和信息交换

1. 各缔约方应定期通过秘书处向缔约方会议提交实施本公约的情况报告，其中宜包括以下方面：
 - (a) 为执行本公约所采取的立法、实施、行政或其他措施的信息；
 - (b) 在本公约实施中遇到的任何制约或障碍以及为克服这些障碍所采取措施的适宜信息；
 - (c) 为烟草控制活动提供或接受的财政和技术援助的适宜信息；
 - (d) 第 20 条中规定的监测和研究信息；以及
 - (e) 第 6.3、13.2、13.3、13.4 (d)、15.5 和 19.2 条中规定的信息。
2. 各缔约方提供此类报告的频率和格式应由缔约方会议确定。各缔约方应在本公约对其生效后两年内提供第一次报告。
3. 依照第 22 和 26 条，缔约方会议应考虑作出安排，以便协助有此要求的发展中国家缔约方和经济转轨国家缔约方履行其在本条下的义务。

4. 依照本公约进行的报告和信息交换应遵循本国有关保密和隐私权的法律。经共同商定，各缔约方应对交换的机密信息提供保护。

第22条

科学、技术和法律方面的合作及有关专业技术的提供

1. 考虑到发展中国家缔约方和经济转轨国家缔约方的需求，各缔约方应直接或通过有关国际机构进行合作，以增强履行由本公约产生的各项义务的能力。经相互同意，此类合作应促进技术、科学和法律专长及工艺技术的转让，以制定和加强国家烟草控制战略、计划和规划。除其他外，其目的是：

- (a) 促进与烟草控制有关的技术、知识、技能、能力和专长的开发、转让和获得；
- (b) 除其他外，通过下列方式提供技术、科学、法律和其他专业技术专长，其目的是制定和加强国家烟草控制战略、计划和规划以执行本公约：
 - (i) 根据要求，协助建立强有力的立法基础以及技术规划，包括预防初吸、促进戒烟和防止接触烟草烟雾的规划；
 - (ii) 以经济上切实可行的方式酌情帮助烟草工人开发经济上和法律上切实可行的适宜的替代生计；以及
 - (iii) 以经济上切实可行的方式酌情帮助烟草种植者从烟草种植转向其他替代农作物；
- (c) 根据第12条支持对有关人员的适宜的培训或宣传规划；
- (d) 酌情为烟草控制战略、计划和规划提供必要的物资、设备、用品和后勤支持；
- (e) 确定烟草控制方法，包括对尼古丁成瘾的综合治疗；以及

(f) 酌情促进对综合治疗尼古丁成瘾方法的研究，以增强对该方法的经济承受能力。

2. 缔约方会议应利用根据第 26 条获得的财政支持，促进和推动技术、科学和法律专长以及工艺的转让。

第 VIII 部分：机构安排和财政资源

第 23 条

缔约方会议

1. 特此设立缔约方会议。缔约方会议第一次会议应由世界卫生组织于本公约生效后一年内召开。缔约方会议将在其第一次会议上决定其后的常会地点和时间。

2. 缔约方会议可于其认为必要的其他时间，或经任何缔约方书面要求，在公约秘书处将该要求通报各缔约方后六个月内至少有三分之一缔约方表示支持的情况下，举行特别会议。

3. 缔约方会议应在其第一次会议上以协商一致的方式通过其《议事规则》。

4. 缔约方会议应以协商一致的方式通过其本身的以及指导资助任何可能设立的附属机构的财务细则以及管理秘书处运转的财务规则。它应在每次常会上通过直至下次常会的财务周期预算。

5. 缔约方会议应定期审评本公约的实施情况和做出促进公约有效实施的必要决定，并可根据第 28、29 和 33 条通过议定书、附件及对公约的修正案。为此目的，它应：

(a) 促进和推动依照第 20 和 21 条进行的信息交换；

(b) 促进和指导除第 20 条的规定外与实施本公约有关的研究和数据收集的可比方法的制订和定期改进；

- (c) 酌情促进战略、计划、规划以及政策、立法和其他措施的制定、实施和评价；
 - (d) 审议各缔约方根据第 21 条提交的报告并通过关于本公约实施情况的定期报告；
 - (e) 根据第 26 条促进和推动实施本公约的财政资源的筹集；
 - (f) 设立为实现本公约的目标所需的附属机构；
 - (g) 酌情要求联合国系统的适当和相关组织和机构、其他国际和区域政府间组织以及非政府组织和机构为加强本公约的实施提供服务、合作和信息；以及
 - (h) 依据实施本公约所取得的经验，酌情考虑采取其他行动以实现本公约的目标。
6. 缔约方会议应制订观察员参加其会议的标准。

第24条

秘书处

1. 缔约方会议应指定一个常设秘书处并为其运转作出安排。缔约方会议应努力在其第一次会议完成此项工作。
2. 在指定和成立常设秘书处之前，本公约秘书处的职能应由世界卫生组织提供。
3. 秘书处的职能应为：
 - (a) 为缔约方会议及任何附属机构的各届会议作出安排并提供所需的服务；
 - (b) 转递它收到的依照本公约提交的报告；

- (c) 在公约规定提供的信息的汇编和交换方面，向提出要求的各缔约方，特别是发展中国家缔约方和经济转轨国家缔约方提供支持；
- (d) 在缔约方会议的指导下，编写其在本公约下开展活动的报告，并提交给缔约方会议；
- (e) 在缔约方会议的指导下，确保与有关国际和区域政府间组织及其他机构的必要协调；
- (f) 在缔约方会议的指导下，为有效履行其职能，进行有关行政或契约安排；以及
- (g) 履行本公约及其任何议定书所规定的其他秘书处职能和缔约方会议可能决定的其他职能。

第25条

缔约方会议与政府间组织的关系

为了提供实现本公约目标所需的技术和财政合作，缔约方会议可要求有关国际和区域政府间组织，包括金融和开发机构开展合作。

第26条

财政资源

1. 各缔约方认识到财政资源在实现本公约目标方面发挥的重要作用。
2. 每一缔约方应根据其国家计划、优先事项和规划为其旨在实现本公约目标的国家活动提供财政支持。
3. 各缔约方应酌情促进利用双边、区域、次区域和其他多边渠道，为制定和加强发展中国家缔约方和经济转轨国家缔约方的多部门综合烟草控制规划提供资金。因此，应在国家制定的可持续发展战略中强调和支持经济上切实可行的烟草生产替代生计，包括作物多样化。

4. 参加有关区域和国际政府间组织以及金融和开发机构的缔约方，应鼓励这些机构为发展中国家缔约方和经济转轨国家缔约方提供财政援助，以协助其实现本公约规定的义务，并且不限制其在这些组织中的参与权利。

5. 各缔约方同意：

(a) 为协助各缔约方实现本公约规定的义务，宜筹集和利用一切可用于烟草控制活动的潜在的和现有的，无论公共的还是私人的财政、技术或其他资源，以使所有缔约方，尤其是发展中国家和经济转轨国家缔约方受益；

(b) 秘书处应根据发展中国家缔约方和经济转轨国家缔约方的要求，通报现有的可用于帮助其实现公约规定义务的资金来源；

(c) 缔约方会议应在其第一次会议上根据秘书处进行的研究和其他有关信息，审查现有和潜在的援助资源和机制，并考虑其充分性；以及

(d) 缔约方会议应根据审查结果，确定加强现有机制或建立一个自愿全球基金或其他适当财政资源的必要性，以便为发展中国家缔约方和经济转轨国家缔约方的需求提供额外财政资源，帮助其实现本公约的目标。

第 IX 部分：争端解决

第 27 条

争端解决

1. 如两个或两个以上缔约方之间就本公约的解释或适用发生争端时，有关缔约方应通过外交途径谈判或寻求其自行选择的任何其他和平方式解决此争端，包括斡旋、调停或和解。未能通过斡旋、调停或和解达成一致的，并不免除争端各当事方继续寻求解决该争端的责任。

2. 当批准、接受、核准、正式确认或加入本公约时，或在其后的任何时候，国家或区域经济一体化组织可书面向保存人声明，对未能根据本条第 1 款解决

的争端，其接受根据缔约方会议以协商一致方式通过的程序进行的特别仲裁作为强制性手段。

3. 除非有关议定书另有规定，本条规定应适用于各缔约方之间的任何议定书。

第 X 部分：公约的发展

第 28 条

公约的修正

1. 任何缔约方可提出对本公约的修正案。此类修正案将由缔约方会议进行审议。

2. 本公约的修正案应由缔约方会议通过。对本公约提出的任何修正案的案文，应由秘书处拟议通过该修正案的会议之前至少六个月通报各缔约方。秘书处还应将提出的修正案案文通报本公约各签署方，并送交保存人以供参考。

3. 各缔约方应尽一切努力以协商一致方式，就对本公约提出的任何修正案达成协议。如为谋求协商一致已尽了一切努力，仍未达成协议，作为最后的方式，该修正案应以出席会议并参加表决的缔约方四分之三多数票通过。为本条之目的，出席会议并参加表决的缔约方系指出席会议并投赞成或反对票的缔约方。通过的任何修正案应由秘书处送交保存人，再由保存人转送所有缔约方以供其接受。

4. 对修正案的接受文书应交存于保存人。根据本条第 3 款通过的修正案，对接受该修正案的缔约方，应于保存人收到本公约至少三分之二缔约方的接受文书之日后的第九十天起生效。

5. 对于任何其他缔约方，修正案应在该缔约方向保存人交存接受该修正案的接受书之日后第九十天起对其生效。

第29条

公约附件的通过和修正

1. 本公约的附件及其修正案应根据第28条中规定的程序提出、通过和生效。
2. 本公约的附件应构成本公约不可分割的组成部分，除另有明文规定外，凡提到本公约即同时提到其任何附件。
3. 附件应限于与程序、科学、技术或行政事项有关的清单、表格及任何其他描述性材料。

第 XI 部分：最后条款

第30条

保 留

对本公约不得作任何保留。

第31条

退 约

1. 自本公约对一缔约方生效之日起两年后，该缔约方可随时向保存人发出书面通知退出本公约。
2. 任何退出，应自保存人收到退出通知之日起一年期满时生效，或在退出通知中所指明的一年之后的某日期生效。
3. 退出本公约的任何缔约方应被视为也退出其作为缔约方的任何议定书。

第32条

表 决 权

1. 除本条第2款所规定外，本公约每一缔约方应有一票表决权。

2. 区域经济一体化组织在其权限内的事项上应行使票数与其作为本公约缔约方的成员国数目相同的表决权。如果一个此类组织的任一成员国行使自己的表决权，则该组织不得再行使表决权，反之亦然。

第33条

议定书

1. 任何缔约方可提议议定书。此类提案将由缔约方会议进行审议。
2. 缔约方会议可通过本公约的议定书。在通过议定书时，应尽一切努力达成一致意见。如为谋求协商一致已尽了一切努力，仍未达成协议，作为最后的方式，该议定书应以出席会议并参加表决的缔约方四分之三多数票通过。为本条之目的，出席会议并参加表决的缔约方系指出席会议并投赞成或反对票的缔约方。
3. 提议的任何议定书文本，应由秘书处拟议通过该议定书的会议至少六个月之前通报各缔约方。
4. 只有本公约的缔约方可成为议定书的缔约方。
5. 本公约的任何议定书只应对所述议定书的缔约方有约束力。只有某一议定书的缔约方可做出限于该议定书相关事项的决定。
6. 任何议定书的生效条件应由该议定书予以确定。

第34条

签署

本公约应自2003年6月16日至2003年6月22日在日内瓦世界卫生组织总部，其后自2003年6月30日至2004年6月29日在纽约联合国总部，开放供世界卫生组织所有会员国、非世界卫生组织会员国但系联合国成员国的任何国家以及区域经济一体化组织签署。

第35条

批准、接受、核准、正式确认或加入

1. 本公约应由各国批准、接受、核准或加入和各区域经济一体化组织正式确认或加入。公约应自签署截止日之次日起开放供加入。批准、接受、核准、正式确认或加入的文书应交存于保存人。
2. 任何成为本公约缔约方而其成员均非缔约方的区域经济一体化组织，应受本公约一切义务的约束。如那些组织的一个或多个成员国为本公约的缔约方，该组织及其成员国应决定各自在履行公约义务方面的责任。在此情况下，该组织及其成员国无权同时行使本公约规定的权利。
3. 区域经济一体化组织应在其有关正式确认的文书或加入的文书中声明其在本公约所规定事项上的权限。这些组织还应将其权限范围的任何重大变更通知保存人，再由保存人通知各缔约方。

第36条

生效

1. 本公约应自第四十份批准、接受、核准、正式确认或加入的文书交存于保存人之日后第九十天起生效。
2. 对于在本条第1款中规定的生效条件达到之后批准、接受、核准或加入本公约的每个国家，本公约应自其交存、批准、接受、核准或加入的文书之日后第九十天起生效。
3. 对于在达到本条第1款规定的生效条件之后交存正式确认的文书或加入的文书的每个区域经济一体化组织，本公约应自其交存正式确认或加入的文书之日后第九十天起生效。
4. 为本条之目的，区域经济一体化组织所交存的任何文书不应被视为该组织成员国所交存文书之外的额外文书。

第37条

保存人

联合国秘书长应为本公约及其修正案和根据第 28、29 和 33 条通过的议定书和附件的保存人。

第38条

作准文本

本公约正本交存于联合国秘书长，其阿拉伯文、中文、英文、法文、俄文和西班牙文文本同为作准。

下列签署人，经正式授权，在本公约上签字，以昭信守。

二〇〇三年五月二十一日订于日内瓦。

附件 1: WHA56.1 世界卫生组织烟草控制框架公约

第五十六届世界卫生大会，

忆及 WHA49.17 和 WHA52.18 号决议，要求根据世界卫生组织《组织法》第 19 条制定世界卫生组织烟草控制框架公约；

决心保护当代和后代避免烟草消费和接触烟草烟雾；

深为关切地注意到全世界吸烟和其它形式烟草使用的增加；

赞赏地确认政府间谈判机构主席关于政府间谈判工作结果的报告²；

确信本公约是在推进国家、区域和国际行动及全球合作方面的开拓性步骤以保护人类健康免受烟草消费和接触烟草烟雾的破坏性影响，并铭记应特别考虑发展中国家和经济转轨国家的特殊情况；

强调有必要使公约迅速生效和有效实施，

1. **通过**本决议所附公约；
2. **注意到**，根据公约第 34 条，公约应自 2003 年 6 月 16 日至 2003 年 6 月 22 日在日内瓦世界卫生组织总部，其后自 2003 年 6 月 30 日至 2004 年 6 月 29 日在纽约联合国总部，开放供签署；
3. **吁请**有权这样做的所有国家和区域经济一体化组织一有机会就考虑签署、批准、接受、核准、正式确认或加入公约，以便使公约尽早生效；
4. **敦促**所有国家和区域经济一体化组织在公约生效前采取一切适当措施控制烟草消费和接触烟草烟雾；

² 文件 A56/INF.DOC./7 Rev.1。

5. **敦促**所有会员国、区域经济一体化组织、观察员和其它有关方面支持本决议中提及的准备活动，并有效地鼓励公约迅速生效和实施；
6. **吁请**联合国并促请其它有关国际组织继续为加强国家和国际烟草控制规划提供支持；
7. 根据《世界卫生大会议事规则》第 42 条，**决定**建立一个不限成员名额的政府间工作小组，该小组应对公约第 34 条提及的所有国家以及区域经济一体化组织开放，以便审议和准备关于公约中所确定问题的建议供第一届缔约方会议酌情审议和通过；这些问题应包括：
 - (1) 缔约方会议议事规则（第 23.3 条），包括观察员参加缔约方会议的标准（第 23.6 条）；
 - (2) 指定常设秘书处并就其职能作出安排的方案（第 24.1 条）；
 - (3) 缔约方会议及其附属机构的财务细则以及管理秘书处运转的财务规则（第 23.4 条）；
 - (4) 第一个财务期的预算草案（第 23.4 条）；
 - (5) 审查协助各缔约方实现公约所规定义务的现有和潜在的资源机制（第 26.5 条）；
8. **进一步决定**，不限成员名额的政府间工作小组还应监督第一届缔约方会议的筹备工作并直接向其报告；
9. **决定**，政府间谈判机构就非政府组织的参与对世界卫生组织烟草控制框架公约所作出的决定应适用于不限成员名额的政府间工作小组的活动；

10. **要求**总干事:

- (1) 在指定和设立常驻秘书处之前提供公约下的秘书处职能;
- (2) 采取适宜措施向会员国,特别是发展中国家和经济转轨国家提供支持,为公约的生效作好准备;
- (3) 按必要的频率,在 2003 年 6 月 16 日至第一届缔约方会议之间召开不限成员名额的政府间工作小组会议;
- (4) 继续确保世界卫生组织在向全球烟草控制工作提供技术咨询、指导和支持方面发挥主要作用;
- (5) 向卫生大会通报关于公约生效方面取得的进展和正在进行的缔约方会议第一次会议的筹备工作。

附件 2: 烟草控制框架公约的历史

随着 1995 年 5 月通过 WHA48.11 号决议，提出了一项国际烟草文书的思想。该决议要求总干事向第四十九届世界卫生大会报告制定一份国际文书如准则、宣言或国际烟草控制公约的可行性。

由于 WHA48.11 号决议，世界卫生组织被要求起草一项可行性研究，总干事向世界卫生组织执行委员会第九十七届会议提交了此项可行性研究（“一份烟草控制国际文书的可行性”（EB97/INF.DOC./4））。在该届会议期间，执行委员会通过了关于“国际烟草控制框架公约”的 EB97.R8 号决议。

随后，当年第四十九届世界卫生大会通过了关于“国际烟草控制框架公约”的 WHA49.17 号决议，要求总干事开始制定一项烟草控制框架公约。由于这一决议，世界卫生组织制定第一份条约的事业得以正式启动。

1998 年，新当选的世界卫生组织总干事格罗·哈莱姆·布伦特兰博士通过建立无烟草行动内阁项目将全球烟草控制作为一项重点，使国际注意力、资源和行动集中于全球烟草流行。反映行动性质的新的多部门伙伴关系得以发展。更重要的是，布伦特兰博士与会员国一起致力于获得烟草控制框架公约谈判职权和开始从事动员公众和政治舆论的任务以支持烟草控制的全球规则。

1999 年 5 月第五十二届世界卫生大会为开展关于世界卫生组织烟草控制框架公约和可能的相关议定书的多边谈判铺平了道路。WHA52.18 号决议设立了两个机构，以起草框架公约，完成谈判和提交最后文本供第五十六届世界卫生大会审议。这两个机构包括制定框架公约拟议内容草案的技术工作小组以及起草和谈判拟议框架公约和可能的相关议定书的政府间谈判机构。这两个机构均向所有会员国和其成员国已向其转让烟草控制相关事项的权限的区域经济一体化组织开放。

工作小组在日内瓦举行了两次会议（1999 年 10 月 25-29 日和 2000 年 3 月 27-29 日）。其产出为一份包含建议的框架公约内容草案临时文本的文件，连同工作小组的意见已提交给第五十三届世界卫生大会¹。在 WHA53.16 号决议中，

卫生大会呼吁政府间谈判机构着手进行谈判，最初重点为框架公约草案，但不能干扰今后对可能议定书的讨论，向第五十四届世界卫生大会报告进展，以及审查扩大非政府组织作为观察员参加的问题。

在政府间谈判机构第一次会议（2000年10月16-21日于日内瓦）之前，就围绕框架公约的问题举行了一次公开听证会。总干事召开这一听证会，为公共卫生界、烟草业和种植者团体提出他们的观点提供一个论坛。向谈判机构并通过世界卫生组织网站向公众提供了会议记录。在第一次会议上，巴西 Celso Amorim 大使当选为主席，并且成立了由来自澳大利亚、印度、伊朗伊斯兰共和国、南非、土耳其和美利坚合众国的副主席组成的主席团²。由工作小组准备的建议的世界卫生组织烟草控制框架公约内容草案临时文本被认为是开始进行谈判的可靠基础。其后，Amorim 大使制定了一份主席的烟草控制框架公约文本³。这份最初草案于2001年1月印发，作为在第二次会议上进一步谈判的基础。

2001年1月，向执行委员会第107届会议提交了一份关于非政府组织参与政府间谈判机构工作的报告⁴。根据执行委员会 EB107(2)号决定的规定，执委会主席与非政府组织常设委员会主席联合行动，接纳了两个非政府组织即国际非政府禁烟联盟和 Infact 从2001年4月26日起与世界卫生组织建立正式关系⁵。

在进一步筹备谈判机构第二次会议时，在大多数区域和亚区域举行了区域闭会期间协商会。为其后政府间谈判机构的每一次会议另外举行了区域和亚区域闭会期间协商会。

在政府间谈判机构第二次会议（2001年4月30日-5月5日于日内瓦）上，在三个工作小组之间划分了审议建议的内容草案的责任。主要产出是三个联合主席的一系列工作文件，一份将在会议上提出的文本提案与原主席文本合并的目录。这些工作文件成为框架公约的滚动文本草案。

在第三次会议（2001年11月22-28日于日内瓦）上，两个工作小组发表了修订的文本，第一工作小组在晚些时候草拟了一份文本。这些文件被用于在第四次会议期间推进谈判。

在接替 Amorim 大使担任巴西在日内瓦的常驻代表之后，Seixas Correa 大使在世界卫生组织烟草控制框架公约政府间谈判机构第四次会议（2002 年 3 月 18-23 日于日内瓦）期间当选为政府间谈判机构主席。

会议商定，Seixas Correa 大使应编制一份新的主席文本，作为谈判机构第五次会议（2002 年 10 月 14-25 日）期间谈判的基础。该文本于 2002 年 7 月印发。由美利坚合众国主持在纽约联合国总部举行了一次关于烟草制品非法贸易的国际技术会议（2002 年 7 月 30 日-8 月 1 日）。

谈判机构前四次会议审议了许多文本方案。在第五次会议上协调一致的讨论压缩了这些方案，从而导致更有重点的谈判。主席新文本在全体会议上宣读之后，确定了六个问题并在不限成员名额非正式会议上进行讨论：广告、促销和赞助；财政资源；烟草制品非法贸易；责任与赔偿；包装和标签；以及贸易与健康。非正式小组还就法律、机构和程序问题以及术语的使用进行了讨论。在谈判中取得了重大进展，并且在若干领域达成共识。根据非正式会议的产出以及与各代表团和各组代表团举行的闭会期间协商，Seixas Correa 大使于 2003 年 1 月 15 日发表了主席修订的烟草控制框架公约文本。

政府间谈判机构第六次即最后一次会议于 2003 年 2 月 17 日至 3 月 1 日举行。谈判是紧张的、范围广泛的。在两个非正式小组上讨论了两个重要问题，即广告、促销和赞助以及财政资源。在最后一次全体会议上，谈判机构同意将文本提交第五十六届世界卫生大会审议，以便根据《组织法》第 19 条通过。会议还同意，议定书的讨论和通过应推迟至该届卫生大会，届时将有时间审议此事。在其最后一次全体会议上，谈判机构同意，谈判机构主席应起草一项决议，建议卫生大会通过世界卫生组织烟草控制框架公约⁶。因此，根据 WHA52.18 号决议将世界卫生组织烟草控制框架公约最后草案⁷提交卫生大会审议通过。

第五十六届世界卫生大会于 2003 年 5 月 21 日一致通过了世界卫生组织烟草控制框架公约⁸。公约自 2003 年 6 月 16 日至 2003 年 6 月 22 日在日内瓦世界卫生组织总部，其后自 2003 年 6 月 30 日至 2004 年 6 月 29 日在纽约联合国总部，开放供签署，为期一年。

世界卫生组织烟草控制框架公约

世界卫生组织烟草控制框架公约对于全球公共卫生的未来是一个划时代的事件，并且对世界卫生组织的卫生目标产生重大影响。完全按照卫生大会决议结束谈判进程和一致通过世界卫生组织烟草控制框架公约是促进公众健康的一个里程碑，并为国际卫生合作提供新的法律范畴。

¹ 文件 A53/12。

² 文件 A/FCTC/INB2/1。

³ 文件 A/FCTC/INB2/2。

⁴ 文件 EB107/19。

⁵ 文件 A/FCTC/INB2/6 Add.1。

⁶ 此项决议草案包含在文件 A56/8 Rev.1 中。

⁷ 见文件 A56/8，附件。

⁸ 世界卫生组织文件 WHA56.1。

制定世界卫生组织烟草控制框架公约的目的是应对目前烟草流行的全球化。具有跨国影响的多种复杂因素促进了烟草流行的扩散，其中包括贸易自由化，外国直接投资以及其它活动，如全球市场营销，跨国烟草广告、促销和赞助，以及假冒和走私卷烟的国际流动。世界卫生组织烟草控制框架公约是一项以证据为基础的条约，它重申全体人民享有最高健康水准的权利。

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World Health Organization
Geneva, Switzerland

**WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL**



World Health Organization

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FOREWORD

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first treaty negotiated under the auspices of the World Health Organization. The WHO FCTC is an evidence-based treaty that reaffirms the right of all people to the highest standard of health. The WHO FCTC represents a paradigm shift in developing a regulatory strategy to address addictive substances; in contrast to previous drug control treaties, the WHO FCTC asserts the importance of demand reduction strategies as well as supply issues.

The WHO FCTC was developed in response to the globalization of the tobacco epidemic. The spread of the tobacco epidemic is facilitated through a variety of complex factors with cross-border effects, including trade liberalization and direct foreign investment. Other factors such as global marketing, transnational tobacco advertising, promotion and sponsorship, and the international movement of contraband and counterfeit cigarettes have also contributed to the explosive increase in tobacco use.

From the first preambular paragraph, which states that the “Parties to this Convention [are] determined to give priority to their right to protect public health”, the WHO FCTC is a global trend-setter.

The core demand reduction provisions in the WHO FCTC are contained in articles 6-14:

- Price and tax measures to reduce the demand for tobacco, and
- Non-price measures to reduce the demand for tobacco, namely:
 - Protection from exposure to tobacco smoke;
 - Regulation of the contents of tobacco products;
 - Regulation of tobacco product disclosures;
 - Packaging and labelling of tobacco products;
 - Education, communication, training and public awareness;
 - Tobacco advertising, promotion and sponsorship; and,
 - Demand reduction measures concerning tobacco dependence and cessation.

The core supply reduction provisions in the WHO FCTC are contained in articles 15-17:

- Illicit trade in tobacco products;
- Sales to and by minors; and,
- Provision of support for economically viable alternative activities.

Another novel feature of the Convention is the inclusion of a provision that addresses liability. Mechanisms for scientific and technical cooperation and exchange of information are set out in Articles 20-22.

The WHO FCTC opened for signature on 16 June to 22 June 2003 in Geneva, and thereafter at the United Nations Headquarters in New York, the Depositary of the treaty, from 30 June 2003 to 29 June 2004. The treaty, which is now closed for signature, has 168 Signatories, including the European Community, which makes it the most widely embraced treaties in UN history. Member States that have signed the Convention indicate that they will strive in good faith to ratify, accept, or approve it, and show political commitment not to undermine the objectives set out in it. Countries wishing to become a Party, but that did not sign the Convention by 29 June 2004, may do so by means of accession, which is a one-step process equivalent to ratification.

The Convention entered into force on 27 February 2005 -- 90 days after it has been acceded to, ratified, accepted, or approved by 40 States. Beginning on that date, the forty Contracting Parties are legally bound by the treaty's provisions. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of Article 36 for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession. For regional economic integration organizations, the Convention enters into force on the ninetieth day following the date of deposit of its instrument of formal confirmation or accession.

The global network developed over the period of the negotiations of the WHO FCTC will be important in preparing for the implementation of the Convention at country level. In the words of WHO's Director General, Dr Jong-wook LEE:

"The WHO FCTC negotiations have already unleashed a process that has resulted in visible differences at country level. The success of the WHO FCTC as a tool for public health will depend on the energy and political commitment that we devote to implementing it in countries in the coming years. A successful result will be global public health gains for all."

For this to materialize, the drive and commitment, which was so evident during the negotiations, will need to spread to national and local levels so that the WHO FCTC becomes a concrete reality where it counts most, in countries.

Preamble

The Parties to this Convention,

Determined to give priority to their right to protect public health,

Recognizing that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for the widest possible international cooperation and the participation of all countries in an effective, appropriate and comprehensive international response,

Reflecting the concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke,

Seriously concerned about the increase in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries, as well as about the burden this places on families, on the poor, and on national health systems,

Recognizing that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases,

Recognizing also that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases,

Acknowledging that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children,

Deeply concerned about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages,

Alarmed by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies,

Deeply concerned about the high levels of smoking and other forms of tobacco consumption by indigenous peoples,

Seriously concerned about the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products,

Recognizing that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting,

Acknowledging that tobacco control at all levels and particularly in developing countries and in countries with economies in transition requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities,

Recognizing the need to develop appropriate mechanisms to address the long-term social and economic implications of successful tobacco demand reduction strategies,

Mindful of the social and economic difficulties that tobacco control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

Conscious of the valuable work being conducted by many States on tobacco control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations in developing measures on tobacco control,

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,

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,

Recalling Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling also the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

Determined to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations,

Recalling that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care,

Recalling further that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health,

Have agreed, as follows:

PART I: INTRODUCTION

Article 1 *Use of terms*

For the purposes of this Convention:

- (a) “illicit trade” means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;
- (b) “regional economic integration organization” means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters;¹
- (c) “tobacco advertising and promotion” means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;
- (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;
- (e) “tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products;
- (f) “tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;
- (g) “tobacco sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

¹ Where appropriate, national will refer equally to regional economic integration organizations.

Article 2

Relationship between this Convention and other agreements and legal instruments

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.
2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS

Article 3

Objective

The objective of this Convention and its protocols is 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.

Article 4

Guiding principles

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, *inter alia*, by the principles set out below:

1. Every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke.

2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses, taking into consideration:
 - (a) the need to take measures to protect all persons from exposure to tobacco smoke;
 - (b) the need to take measures to prevent the initiation, to promote and support cessation, and to decrease the consumption of tobacco products in any form;
 - (c) the need to take measures to promote the participation of indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes that are socially and culturally appropriate to their needs and perspectives; and
 - (d) the need to take measures to address gender-specific risks when developing tobacco control strategies.
3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective tobacco control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.
4. Comprehensive multisectoral measures and responses to reduce consumption of all tobacco products at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to tobacco consumption and exposure to tobacco smoke.
5. Issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control.
6. The importance of technical and financial assistance to aid the economic transition of tobacco growers and workers whose livelihoods are seriously affected as a consequence of tobacco control programmes in developing country Parties, as well as Parties with economies in transition, should be recognized and addressed in the context of nationally developed strategies for sustainable development.
7. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

Article 5
General obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
 - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
 - (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.
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.
4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.
5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.
6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

**PART III: MEASURES RELATING TO THE REDUCTION
OF DEMAND FOR TOBACCO**

Article 6
Price and tax measures to reduce the demand for tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.

2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:

(a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and

(b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.

3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

Article 7

Non-price measures to reduce the demand for tobacco

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing tobacco consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

Article 8

Protection from exposure to tobacco smoke

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.

2. Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Article 9

Regulation of the contents of tobacco products

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

Article 10

Regulation of tobacco product disclosures

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.

Article 11

Packaging and labelling of tobacco products

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:

(i) shall be approved by the competent national authority,

(ii) shall be rotating,

(iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term “outside packaging and labelling” in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.

Article 12

Education, communication, training and public awareness

Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

(a) broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;

(c) public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;

- (d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;
- (e) awareness and participation of public and private agencies and nongovernmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and
- (f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption.

Article 13

Tobacco advertising, promotion and sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
 - (a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

- (b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;
 - (c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;
 - (d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;
 - (e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and
 - (f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.
5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.
6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.
7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.
8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

Article 14

Demand reduction measures concerning tobacco dependence and cessation

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.
2. Towards this end, each Party shall endeavour to:
 - (a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;
 - (b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;
 - (c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and
 - (d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

PART IV: MEASURES RELATING TO THE REDUCTION OF THE SUPPLY OF TOBACCO

Article 15

Illicit trade in tobacco products

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of

tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:

- (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “*Sales only allowed in (insert name of the country, subnational, regional or federal unit)*” or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
 - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in tobacco products, each Party shall:
 - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;
 - (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;
 - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;
 - (d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and
 - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.

5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.

6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.

7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

Article 16 *Sales to and by minors*

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen. These measures may include:

(a) requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;

(b) banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;

(c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and

(d) ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.

2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.

3. Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.

4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.
6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.
7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

Article 17

Provision of support for economically viable alternative activities

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers.

PART V: PROTECTION OF THE ENVIRONMENT

Article 18

Protection of the environment and the health of persons

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.

PART VI: QUESTIONS RELATED TO LIABILITY

Article 19

Liability

1. For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.
2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:
 - (a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and
 - (b) information on legislation and regulations in force as well as pertinent jurisprudence.
3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.
4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.
5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.

PART VII: SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION

Article 20

Research, surveillance and exchange of information

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control. Towards this end, each Party shall:

- (a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops; and
 - (b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.
2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Towards this end, the Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.
3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:
- (a) establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators;
 - (b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global tobacco surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and
 - (c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of tobacco-related surveillance data.
4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco, which is relevant to this Convention, and in so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:
- (a) progressively establish and maintain an updated database of laws and regulations on tobacco control and, as appropriate, information about their

enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global tobacco control;

(b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and

(c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on tobacco production, manufacture and the activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties with economies in transition to meet their commitments on research, surveillance and exchange of information.

Article 21 *Reporting and exchange of information*

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:

(a) information on legislative, executive, administrative or other measures taken to implement the Convention;

(b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;

(c) information, as appropriate, on financial and technical assistance provided or received for tobacco control activities;

(d) information on surveillance and research as specified in Article 20; and

(e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.

2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.

3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.

4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

Article 22

Cooperation in the scientific, technical, and legal fields and provision of related expertise

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes aiming at, *inter alia*:

- (a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to tobacco control;
- (b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco control strategies, plans and programmes, aiming at implementation of the Convention through, *inter alia*:
 - (i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, promotion of cessation and protection from exposure to tobacco smoke;
 - (ii) assisting, as appropriate, tobacco workers in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and
 - (iii) assisting, as appropriate, tobacco growers in shifting agricultural production to alternative crops in an economically viable manner;
- (c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;
- (d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for tobacco control strategies, plans and programmes;

- (e) identification of methods for tobacco control, including comprehensive treatment of nicotine addiction; and
 - (f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of nicotine addiction.
2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

PART VIII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES

Article 23 Conference of the Parties

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.
2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.
3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.
4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.
5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:
- (a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;

- (b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;
 - (c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;
 - (d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;
 - (e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;
 - (f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;
 - (g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and
 - (h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.
6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

Article 24 *Secretariat*

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.
2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.
3. Secretariat functions shall be:
 - (a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;

- (b) to transmit reports received by it pursuant to the Convention;
- (c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
- (d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;
- (e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
- (f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and
- (g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

Article 25

Relations between the Conference of the Parties and intergovernmental organizations

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

Article 26

Financial resources

1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.
2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.
3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of

multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development.

4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.

5. The Parties agree that:

(a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for tobacco control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;

(b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;

(c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and

(d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention.

PART IX: SETTLEMENT OF DISPUTES

Article 27

Settlement of disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation, or conciliation. Failure to reach agreement by good offices,

mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.

2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.

3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

PART X: DEVELOPMENT OF THE CONVENTION

Article 28

Amendments to this Convention

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.

2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 29

Adoption and amendment of annexes to this Convention

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.
2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.
3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

PART XI: FINAL PROVISIONS

Article 30

Reservations

No reservations may be made to this Convention.

Article 31

Withdrawal

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 32
Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Article 33
Protocols

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.
2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.
4. Only Parties to the Convention may be parties to a protocol.
5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.

Article 34
Signature

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at

the World Health Organization headquarters in Geneva from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

Article 35

Ratification, acceptance, approval, formal confirmation or accession

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.
2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.
3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 36

Entry into force

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.
2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.
3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the

ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

Article 37
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

Article 38
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at GENEVA this twenty-first day of May two thousand and three.

Annex 1: WHA 56.1 WHO Framework Convention on Tobacco Control

The Fifty-sixth World Health Assembly,

Recalling resolutions WHA49.17 and WHA52.18 calling for the development of a WHO framework convention on tobacco control in accordance with Article 19 of the Constitution of WHO;

Determined to protect present and future generations from tobacco consumption and exposure to tobacco smoke;

Noting with profound concern the escalation in smoking and other forms of tobacco use worldwide;

Acknowledging with appreciation the report of the Chair of the Intergovernmental Negotiating Body on the outcome of the work of the Intergovernmental Negotiating Body;²

Convinced that this convention is a groundbreaking step in advancing national, regional and international action and global cooperation to protect human health against the devastating impact of tobacco consumption and exposure to tobacco smoke, and mindful that special consideration should be given to the particular situation of developing countries and countries with economies in transition;

Emphasizing the need for expeditious entry into force and effective implementation of the convention,

1. ADOPTS the Convention attached to this resolution;
2. NOTES, in accordance with Article 34 of the Convention, that the Convention shall be open for signature at WHO headquarters in Geneva, from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004;
3. CALLS UPON all States and regional economic integration organizations entitled to do so, to consider signing, ratifying, accepting, approving, formally confirming or acceding to the Convention at the earliest opportunity, with a view to bringing the Convention into force as soon as possible;

² Document A56/INF.DOC./7 Rev.1.

4. URGES all States and regional economic integration organizations, pending entry into force of the Convention, to take all appropriate measures to curb tobacco consumption and exposure to tobacco smoke;
5. URGES all Member States, regional economic integration organizations, observers and other interested parties to support the preparatory activities referred to in this resolution and effectively to encourage prompt entry into force and implementation of the Convention;
6. CALLS UPON the United Nations and invites other relevant international organizations to continue to provide support for strengthening national and international tobacco control programmes;
7. DECIDES to establish, in accordance with Rule 42 of the Rules of Procedure of the World Health Assembly, an open-ended intergovernmental working group that shall be open to all States and regional economic integration organizations referred to in Article 34 of the Convention in order to consider and prepare proposals on those issues identified in the Convention for consideration and adoption, as appropriate, by the first session of the Conference of the Parties; such issues should include:
 - (1) rules of procedure for the Conference of the Parties (Article 23.3), including criteria for participation of observers at sessions of the Conference of the Parties (Article 23.6);
 - (2) options for the designation of a permanent secretariat and arrangements for its functioning (Article 24.1);
 - (3) financial rules for the Conference of the Parties and its subsidiary bodies, and financial provisions governing the functioning of the secretariat (Article 23.4);
 - (4) a draft budget for the first financial period (Article 23.4);
 - (5) a review of existing and potential sources and mechanisms of assistance to Parties in meeting their obligations under the Convention (Article 26.5);
8. FURTHER DECIDES that the Open-ended Intergovernmental Working Group shall also oversee preparations for the first session of the Conference of the Parties and report directly to it;
9. RESOLVES that decisions that had been taken by the Intergovernmental Negotiating Body on the WHO framework convention on tobacco control concerning the participation of nongovernmental organizations shall apply to the activities of the Open-ended Intergovernmental Working Group;

10. REQUESTS the Director-General:

- (1) to provide secretariat functions under the Convention until such time as a permanent secretariat is designated and established;
- (2) to take appropriate steps to provide support to Member States, in particular developing countries and countries with economies in transition, in preparation for entry into force of the Convention;
- (3) to convene, as frequently as necessary, between 16 June 2003 and the first session of the Conference of the Parties, meetings of the Open-ended Intergovernmental Working Group;
- (4) to continue to ensure that WHO plays a key role in providing technical advice, direction and support for global tobacco control;
- (5) to keep the Health Assembly informed of progress made toward entry into force of the Convention and of preparations under way for the first session of the Conference of the Parties.

Annex 2: History of the WHO FCTC process

The idea of an international instrument for tobacco was initiated with the adoption of Resolution WHA 48.11 in May 1995, requesting the Director-General to report to the Forty-ninth Session of the World Health Assembly on the feasibility of developing an international instrument such as guidelines, a declaration, or an international convention on tobacco control.

As a result of Resolution WHA48.11, WHO was requested to draft a feasibility study which was presented by the Director-General to the Ninety-seventh Session of the WHO Executive Board ("The Feasibility of an International Instrument for Tobacco Control" (EB97/INF.DOC.4)). During that same session, the Executive Board adopted Resolution EB97.R8, "International framework convention for tobacco control."

Later that year, the Forty-ninth Session of the WHA adopted Resolution WHA49.17, "International framework convention for tobacco control", requesting the Director-General to initiate the development of a Framework Convention on Tobacco Control. As a result of this resolution, WHO's first treaty-making enterprise was formally launched.

In 1998 newly-elected WHO Director-General, Dr Gro Harlem Brundtland made global tobacco control a priority through the establishment of a Cabinet Project, the Tobacco Free Initiative, to focus international attention, resources and action upon the global tobacco epidemic. New multisectoral partnerships reflecting the nature of the action were developed. More importantly, Dr Brundtland worked with Member States to secure a negotiating mandate for the Framework Convention on Tobacco Control and set about the task of mobilizing public and political opinion in favour of global rules for tobacco control.

In May 1999 the Fifty-second World Health Assembly paved the way for multilateral negotiations on the WHO Framework Convention on Tobacco Control and possible related protocols. Resolution WHA52.18 established two bodies to draft the framework convention, to complete negotiations and to submit the final text for consideration by the Fifty-sixth World Health Assembly. These two bodies included a technical working group to prepare the proposed draft elements of the Framework Convention; and an intergovernmental negotiating body to draft and negotiate the proposed Framework Convention and possible related protocols. Both bodies were open to all Member States and regional economic integration organizations to which their Member States had transferred competence over matters related to tobacco control.

The working group held two sessions in Geneva (25-29 October 1999 and 27-29 March 2000). Its output was a document with provisional texts of proposed draft elements for the Framework Convention, submitted to the Fifty-third World Health Assembly with the comments of the working group¹. In Resolution WHA53.16, the Health Assembly called upon the Intergovernmental Negotiating Body to commence negotiations with an initial focus

on the draft Framework Convention without prejudice to future discussions on possible protocols, to report progress to the Fifty-fourth World Health Assembly, and to examine the question of extended participation by nongovernmental organizations as observers.

The first session of the Intergovernmental Negotiating Body (Geneva, 16-21 October 2000) was preceded by a public hearing on issues surrounding the Framework Convention. The Director-General convened this hearing in order to provide a forum for the public health community, the tobacco industry and farmers' groups to submit their case; records of the proceedings were made available to the Negotiating Body and, through the WHO web site, to the public. At the first session, Ambassador Celso Amorim of Brazil was elected as Chair, and a bureau was established with Vice-Chairs from Australia, India, Islamic Republic of Iran, South Africa, Turkey and the United States of America. The provisional texts of the proposed draft elements for a WHO Framework Convention on Tobacco Control², which had been prepared by the working group, were accepted as a sound basis for initiating negotiations. Subsequently, Ambassador Amorim prepared a Chair's text of the Framework Convention on Tobacco Control³; this first draft was released in January 2001 as a basis for further negotiations at the second session.

A report on participation of nongovernmental organizations in the work of the Negotiating Body was presented to the Executive Board at its 107th session in January 2001⁴. In accordance with the provisions of decision EB107(2) of the Executive Board, the Chairman of the Board acting jointly with the Chairman of the Standing Committee on Non-Governmental Organizations admitted two nongovernmental organizations, the International Nongovernmental Coalition Against Tobacco and Infact, into official relations with WHO as of 26 April 2001⁵.

In further preparation for the second session of the Negotiating Body, regional intersessional consultations were convened in most regions and subregions. Additional regional and subregional intersessional consultations took place in preparation for each of the subsequent sessions of the Negotiating Body.

At the second session of the Negotiating Body (Geneva, 30 April – 5 May 2001), responsibility for consideration of the proposed draft elements was divided between three working groups. The principal output was the set of three Co-Chairs' working papers, an inventory of textual proposals made at the session merged with the Chair's original text. These working papers became the rolling draft text of the Framework Convention.

At the third session (Geneva, 22-28 November 2001), two working groups issued revised texts and Working Group One later drafted a text. These documents were used to further negotiations during the fourth session.

Having taken over as Permanent Representative of Brazil in Geneva in replacement of Ambassador Amorim, Ambassador Seixas Corrêa was elected as Chair of the

Intergovernmental Negotiating Body on the WHO Framework Convention on Tobacco Control during its fourth session (Geneva, 18-23 March 2002).

It was agreed that Ambassador Seixas Corrêa should prepare a new Chair's text, which would form the basis of negotiations during the fifth session of the Negotiating Body (14-25 October 2002). The text was released in July 2002. An international technical conference on illicit trade in tobacco products was hosted by the United States of America at the United Nations Headquarters in New York (30 July – 1 August 2002).

The first four sessions of the Negotiating Body had considered numerous textual alternatives. Concerted deliberations at the fifth session narrowed the options, resulting in more focused negotiations. After a first reading, in plenary, of the new Chair's text, six issues were identified and discussed in open-ended informal meetings: advertising, promotion and sponsorship; financial resources; illicit trade in tobacco products; liability and compensation; packaging and labelling; and trade and health. Informal groups also held discussions on legal, institutional and procedural issues and use of terms. Substantial advances in the negotiations were made and consensus was reached in several areas. On the basis of the outputs of the informal sessions and the intersessional consultations with various delegations and groups of delegations, Ambassador Seixas Corrêa issued a revised Chair's text of a Framework Convention on Tobacco Control on 15 January 2003.

The sixth and final session of the Negotiating Body ran from 17 February - 1 March 2003. The negotiations were intense and broad ranging. Two important issues, advertising, promotion and sponsorship and financial resources, were discussed in two informal groups. At the final plenary meeting, the Negotiating Body agreed to transmit the text to the Fifty-sixth World Health Assembly for consideration for adoption in accordance with Article 19 of the Constitution. It also agreed that the discussion of protocols should be postponed until that Health Assembly, at which there would be time for consideration of the matter. At its final plenary meeting, the Negotiating Body agreed that the Chair of the Negotiating Body should draft a resolution recommending adoption of the WHO Framework Convention on Tobacco Control by the Health Assembly⁶. The final draft of the WHO Framework Convention on Tobacco Control⁷ was thus submitted to the Health Assembly for consideration for adoption, pursuant to Resolution WHA52.18.

On 21 May 2003, the 56th World Health Assembly, unanimously adopted the WHO Framework Convention on Tobacco Control⁸. The Convention was opened for signature, for a period of one year, from 16 June 2003 to 22 June 2003 at WHO headquarters in Geneva and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

The WHO Framework Convention on Tobacco Control is a landmark for the future of global public health and has major implications for WHO's health goals. The conclusion of the negotiating process and the unanimous adoption of the WHO Framework Convention on Tobacco Control, in full accordance with Health Assembly resolutions, represents a milestone

for the promotion of public health and provides new legal dimensions for international health cooperation.

1 *Document A53/12.*

2 *Document A/FCTC/INB1/2.*

3 *Document A/FCTC/INB2/2.*

4 *Document EB107/19.*

5 *Document A/FCTC/INB2/6 Add.1.*

6 *This draft resolution is contained in document A56/8/REV.1.*

7 *See document A56/8, Annex.*

8 *WHO Document WHA56.1*