

### Summary of GATC Policy Briefs COP10

Tenth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control,  
5-10 February 2024, Panama City, Panama

Agenda Item	What is being Proposed	GATC Key Recommendations
<p>6.1 – Implementation of Articles 9 and 10 of the WHO FCTC (Regulation of contents and disclosure of tobacco products)</p> <p>Documents: <a href="#">FCTC/COP/10/5</a>, <a href="#">FCTC/COP/10/6</a> and <a href="#">FCTC/COP/10/7</a></p>	<p>The draft decision of the Bureau maintains the suspension of the Working Group on Articles 9 &amp; 10, and establishment of an Expert Group to do further work on developments, issues and evidence related to Articles 9 &amp; 10.</p>	<p>GATC recommends that the draft decision of the Bureau regarding Articles 9 and 10 be adopted without amendment.</p> <p>The draft decision would:</p> <ul style="list-style-type: none"> <li>maintain the suspension of the Working Group on Articles 9 &amp; 10; and</li> <li>establish an Expert Group to examine developments, issues and evidence related to Articles 9 &amp; 10.</li> </ul>
<p>6.2 - Article 13 Draft decision and the proposed Specific Guidelines to Address Cross-Border Tobacco Advertising, Promotion and Sponsorships (TAPS) and the Depiction of Tobacco in Entertainment Media</p> <p>Document: <a href="#">FCTC/COP/10/8</a></p>	<p>In the draft decision, Parties are asked to:</p> <ul style="list-style-type: none"> <li>• <b>Adopt</b> the proposed Specific Guidelines;</li> <li>• <b>Agree</b> that the specific guidelines apply in addition to, and do not replace or amend, Article 13 of the Convention and the existing Article 13 guidelines;</li> <li>• <b>Request</b> the Convention Secretariat to continue to provide technical assistance to support Parties in the implementation of Article 13; and</li> <li>• <b>Fully implement Article 13</b>, monitor and evaluate the effectiveness of their current measures, and <b>collaborate</b> with each other on cross-border enforcement.</li> </ul>	<p>GATC supports the draft decision and the proposed Specific Guidelines and recommends that Parties should adopt them as they are currently written.</p>
<p>6.3 - Novel and Emerging Products</p> <p>Documents: <a href="#">FCTC/COP/10/9</a> and <a href="#">FCTC/COP/10/10</a></p>	<p>There are two documents presented on new and emerging products for COP10.</p> <p>The first document (10/9) examines the challenges that new and emerging tobacco products are posing for the comprehensive application of the WHO FCTC, in particular those articles and guidelines referring to definitions and terminology and to tobacco smoke, and provides information on the adequate classification of such products, such as heated tobacco products, to support regulatory efforts, as requested in paragraph 3 of decision FCTC/COP8/ (22). Furthermore,</p>	<p>GATC commends the work carried out by the WHO, the WHO Tobacco Laboratory Network (TobLabNet) and the WHO Study Group on Tobacco Regulation (TobReg). We welcome the reports by the WHO to counteract challenges posed by the classification of new and emerging tobacco products (10/9) and its comprehensive report on research and evidence on novel and emerging tobacco products, in particular heated tobacco products in response to</p>

	<p>the report includes considerations for Parties to overcome these challenges and calls for the COP to note the present report and provide further guidance.</p> <p>The second document (10/10) summarizes Technical Report Series 1029, the eighth report of the WHO Study Group on Tobacco Product Regulation, and the outcomes of the Heated Tobacco Product (HTP) Expert meeting held in February 2020, both of which respond to paragraphs 2(a)–(d) of decision FCTC/COP8(22). It also reports on changes to the 2022 World Customs Organization Harmonized System Codes for nicotine and tobacco products. The report also includes updated evidence, market developments and some recent updates related to HTPs, including policy measures adopted up to 31 December 2022.</p> <p>The first report includes considerations for Parties to overcome the challenges that new and emerging tobacco products are posing for the comprehensive application of the WHO FCTC and both reports invite the COP to note the reports and provide further guidance.</p>	<p>paragraphs 2(a) – (d) of decision FCTC/COP8(22) (10/10).</p> <p>Given the rapid evolution of products that continue to flood the market, GATC requests the WHO to continue to carry out and expand its research to cover these emerging products that have evolved since its most recent report. This may include areas such as flavors, disposable ENDS and ENNDS, nicotine pouches and other new products, particularly those targeted towards youth.</p> <p>GATC recognizes the sovereignty of Parties in regulating emerging products in accordance with national law. Therefore, we encourage WHO regional offices to conduct assessments on the evolving needs and challenges faced by Parties and encourage Parties to reach out to WHO and regional offices for more technical support as needed.</p> <p>The term “novel” gives both the industry and its products an undeserved platform to promote itself and its products as being innovative and progressive. GATC therefore urges the WHO and Parties to move away from using the term “novel” when referring to the tobacco industry’s new and emerging products.</p>
<p>6.4 – Article 2.1 Forward Looking Tobacco Control Measures</p> <p>Document: FCTC/COP/10/11 and FCTC/COP/10/P/CONF./1</p>	<p>This is the first time in COP history that Article 2.1 has been placed on the official agenda. This agenda item was requested by Canada, which has also put forward a draft decision calling to establish an Expert Group. Article 2.1 urges Parties to the WHO FCTC to go beyond the minimum obligations specifically included in the treaty by stating the following:</p> <p><i>Article 2.1: In order to better protect human health, Parties are encouraged to implement</i></p>	<p>GATC welcomes the draft decision from Canada on forward looking tobacco control measures as currently written.</p> <p>GATC supports the recommendations in the draft decision for the Bureau to establish the mandate, scope and composition of the Expert Group.</p> <p>GATC encourages Parties to explore</p>

	<p><i>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.</i></p>	<p>and implement forward-looking measures prior to the expert group report at COP11. There are already several examples of such policies and a body of research to inform planning.</p>
<p>6.5 – Empowering Parties to Implement Article 19 of the WHO FCTC (Tobacco Industry Liability)</p> <p>Document: <a href="#">FCTC/COP/10/12</a></p>	<p>The draft decision reiterates that Parties need to strengthen their measures to hold the tobacco industry to account by adopting or adapting their domestic liability regimes, including administrative systems where applicable; applying effective, and dissuasive sanctions, and exchanging information with other Parties and in international fora including environmental and human rights meetings. It also highlights the importance of ensuring policy coherence at the global and national levels, and of monitoring tobacco tactics that could undermine public health policy.</p> <p>Specifically, the draft decision proposes the re-establishment of an Expert Group to:</p> <p>Review Parties’ current practice in the implementation of Article 19 measures;</p> <p>Provide options to Parties for detecting and countering tobacco industry efforts to evade liability, including corporate restructuring; and</p> <p>Explore the development of methodologies to quantify costs related to tobacco use that can be used as evidence in litigation.</p>	<p>GATC acknowledges the draft decision on the Implementation of Article 19 of the WHO FCTC and recognizes the importance of establishing liability as a recurring cross-cutting theme and agenda item for the COP.</p> <p>GATC supports the work of providing the COP with recommendations, options, and a methodology to advance liability-related measures.</p> <p>GATC acknowledges the need for guidance in developing measures that address all forms of liability including administrative, legislative and judicial measures.</p> <p>GATC welcomes the suggested exploration of synergies between Article 19 and Article 5.3.</p>
<p>7.1 – Improving the reporting system of the WHO FCTC</p> <p>Document: <a href="#">FCTC/COP/10/13</a></p>	<p>Document FCTC/COP/10/13 describes the work carried out under the guidance of the Bureau to improve the reporting system of the WHO FCTC. The report contains a proposal to improve the reporting system, including in relation to the reporting instrument of the WHO FCTC. The COP is invited to note document FCTC/COP/10/13, consider the proposed revised reporting instrument for the WHO FCTC contained in Annex 2 and adopt the draft decision contained in Annex 3 of the report.</p>	<p>GATC welcomes the proposed revised reporting instrument of the WHO FCTC that aims to decrease the reporting burden on the Parties, address duplications and better exploit existing data sources amongst others. We also welcome the Convention Secretariat’s proposal in the draft decision to develop a new online reporting platform which we would like to see being used for the next reporting cycle.</p>

<p>7.2 - Implementation Review and Support Mechanism</p> <p>Document: <a href="#">FCTC/COP/10/14</a></p>	<p>The Convention Secretariat is proposing to change the name of the subsidiary body from Implementation Review Mechanism (IRM) to Implementation Review and Support Mechanism (IRSM) to emphasize the non-mandatory aspect of mutual support.</p> <p>The objective of the IRSM is to assist Parties to comply with their obligations under the WHO FCTC in order to achieve comprehensive implementation of the Convention.</p> <p>The proposed IRSM will:</p> <ul style="list-style-type: none"> <li>Review and report on the status of implementation of 25 volunteer Parties;</li> <li>Comprise 25 experts, one each to be appointed by a volunteer Party;</li> <li>Produce reports based on desk research and a bilateral virtual engagement between the reviewer and the country being reviewed.</li> <li>Each report will identify gaps and challenges, make recommendations, and provide a summary of best practices.</li> </ul>	<p>GATC cannot support the establishment of the Implementation Review and Support Mechanism (IRSM) as currently proposed. Although the proposed voluntary IRSM could be seen as a subsidiary body aimed at the effective implementation of the WHO FCTC, in effect, it is merely a virtual desktop review of 25 volunteer Parties per biennium. It does not fulfill the transparent systematic peer review function that can assist Parties to effectively implement the WHO FCTC and therefore should be considered a Voluntary Peer Review, rather than an IRM/IRSM such as exists in other treaties.</p> <p>GATC acknowledges that the process for the initial IRM pilot project exercise was restructured and greatly impacted due to the COVID-19 pandemic. In full recognition of this context, the GATC recommends that the process for the proposed review process be assessed on a regular basis and requests the Convention Secretariat to consult with Parties and relevant stakeholders to review and propose revisions to the overall process, as necessary.</p> <p>GATC recognizes and respects the sovereignty of Parties. However, it is crucial that information derived from a review process be made publicly available. By not making finalized reports publicly available, the current proposal is a duplication of the existing Needs Assessment project. Furthermore, transparency of reports fosters civil society engagement and support, mutual assistance between Parties, and identification of the biggest collective needs to improve treaty implementation, which in turn provides valuable information to</p>
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		direct efficient resource allocation by the COP and can act as an excellent fund-raising tool.
<p>7.3 – Recognizing the Contribution of the WHO FCTC to the Promotion and Fulfilment of Human Rights</p> <p>Document: <a href="#">FCTC/COP/10/15</a> and <a href="#">FCTC/COP/10/P/CONF./3</a></p>	<p>The draft decision urges Parties to consider including WHO FCTC principles and implementation efforts when engaging with the United Nations human rights mechanisms.</p> <p>Furthermore, the draft decision also requests that the Convention Secretariat fosters coordination and collaboration with entities in the United Nations system pursuing human rights mandates to raise awareness of the importance of the WHO FCTC implementation in the fulfilment of human rights.</p> <p>There are no immediate cost implications associated with this decision.</p>	<p>GATC supports the adoption of the Draft Decision on Human Rights proposed by the government of Ecuador.</p> <p>GATC urges Parties to consider including WHO FCTC principles and implementation efforts when engaging with the United Nations human rights mechanisms.</p> <p>GATC requests the Convention Secretariat to foster coordination and collaboration with entities in the United Nations system pursuing human rights mandates to raise awareness of the importance of the WHO FCTC implementation in the fulfilment of human rights.</p>
<p>8.1 – Performance and progress reports</p> <p>Document: <a href="#">FCTC/COP/10/16</a></p>	<p>The COP is invited to note the performance and progress reports for the reported periods contained in document FCTC/COP/10/16. Further, the COP is invited to consider adopting the draft decision contained in Annex 5 of document FCTC/COP/10/16 to adopt an extension to 2030 of the Global Strategy to Accelerate Tobacco Control: Advancing Sustainable Development through the Implementation of the WHO FCTC 2019–2025, as recommended by the Bureau.</p>	<p>We commend the work of the Convention Secretariat over the last biennium, especially given the challenges faced during the COVID-19 pandemic. We support the proposed decision to extend the Global Strategy until 2030 to ensure coherence and alignment with the 2030 Agenda for Sustainable Development. We also would very much welcome the proposal for the Convention Secretariat to consult a group of experts and stakeholders, including civil society, especially those involved in the development of the Global Strategy, to assess the Global Strategy as a “living document to be reviewed as necessary” and provide suggestions concerning any necessary adjustments.</p>

<p>8.2 Proposed Work plan and Budget for the financial period 2024-2025</p> <p>Documents:  <a href="#">FCTC/COP/10/17</a> and  FCTC/COP/10/INF.DOC./1</p>	<p>The COP is invited to consider the report and adopt the Workplan and Budget for the financial period 2024–2025 contained in Annexes 1, 2 and 3 of document FCTC/COP/10/17, and to note the additional information contained in the Explanatory note FCTC/COP/10/INF.DOC./1.</p>	<p>GATC supports strengthening the investment in Secretariat staff from the Assessed Contributions to the budget to ensure the long-term sustainability of the WHO FCTC. GATC would like to remind Parties that as well as supporting the COP and the implementation of the FCTC, the Convention Secretariat plays a crucial role in promoting tobacco control at the national and global level.</p> <p>However, GATC is concerned that implementation of the WHO FCTC continues to come mainly from Extrabudgetary Funding and calls on Parties to seek to commit Extrabudgetary Contributions early in the biennium to support the crucial WHO FCTC implementation work.</p> <p>Assessed Contributions represent the only predictable income at present for the Convention Secretariat to carry out the workplan as agreed by the COP. GATC recognizes that the global economy is still recovering from the impact of the COVID-19 pandemic. However, given the short and long term economic, health and social return on investment from funding implementation of the WHO FCTC, we would recommend COP consider a modest increase in assessed contributions to support ongoing implementation.</p>
<p>8.3 – WHO FCTC Investment Fund  Document: <a href="#">FCTC/COP/10/18</a></p>	<p>Document FCTC/COP/10/18 describes the arrangements made to launch the WHO FCTC Investment Fund, in accordance with decision FCTC/COP9(13). The report proposes the establishment of a single Oversight Committee, which would serve the WHO FCTC Investment Fund and the Investment Fund to support implementation of the Protocol to Eliminate Illicit Trade in</p>	<p>Given the Convention Secretariat’s need for additional sustainable resources, GATC recognizes the need for and importance of launching the Investment Fund without any further delay. We therefore support the draft decision in Annex 2 to establish one single Oversight Committee serving both the WHO FCTC and the Protocol</p>

	<p>Tobacco Products, under the direction of the separate governing bodies of the treaties. The COP is invited to note document FCTC/COP/10/18, to consider the terms of reference for a single Oversight Committee contained in Annex 1 and to adopt the draft decision contained in Annex 2 of the report.</p>	<p>Investment Funds made up of up to six members, reflecting to as great an extent as possible equitable representation from the regions and one representative from an NGO accredited as observer to the COP and/or the MOP to act as an Observer on the Oversight Committee.</p> <p>We also support the terms of reference for the single Oversight Committee as proposed and Annex 1.</p> <p>We would also urge the Convention Secretariat to make the necessary arrangements to establish the Oversight Committee in a timely manner to ensure the Investment Fund is operational as soon as possible.</p>
<p>8.6 – Possible amendments to the Rules of Procedure of the Conference of the Parties Document: <a href="#">FCTC/COP/10/21</a></p>	<p>The COP is invited to consider possible amendments to the Rules of Procedures of the COP, as recommended by the Bureau, contained in Annex 1 of document FCTC/COP/10/21, and to adopt the draft decision contained in Annex 2 of the document.</p>	<p>GATC welcomes the changes made in the Rules of Procedure to ensure coordination between the governing bodies of the WHO FCTC and the Protocol. We also welcome the amendments to Rule 15 regarding webcasting and arranging for virtual sessions in extraordinary situations.</p> <p>We support the draft decision in annex 2 notably to apply with immediate effect the amendment of Rule 60 in relation to the provisional adoption of the report of each session of the COP and that verbatim records are understood to include audio files.</p>
<p>Maximizing Transparency Initiative (proposed by Ecuador and potentially supported by AFRO region)</p>		<p>GATC applauds the regional intervention presented by Ecuador. At the eighth session of the COP, and subsequently at the first Meeting of the Parties to the Protocol, Parties agreed on important measures to maximize transparency of treaty negotiations. These measures enhance Article 5.3 of the WHO FCTC, a fundamental aspect of the treaty</p>

		<p>which guides Parties to protect negotiations from the undue influence of the tobacco industry. We encourage Parties to follow in the spirit of this decision and the initiative undertaken by Ecuador one more time to ensure that we protect treaty negotiations free from the influence of the tobacco industry.</p>
<p>Protection of the Environment</p> <p>Document: FCTC/COP/10/X</p>	<p>The draft decision points to the significant environmental impact of tobacco production, consumption and post consumption including cigarette butts and notes that Article 18 is one of the least implemented articles in the WHO FCTC in part because of industry interference. The draft decision also recalls that implementation of the WHO FCTC helps progress towards the 2030 UN Development Agenda.</p> <p>Moreover, the draft decision calls on Parties to strengthen implementation of Article 18, it invites Parties to use litigation to hold the industry accountable for environmental harms and to explore ways to cooperate and advance sustainable agriculture to replace tobacco growing in alignment with Article 17.</p> <p>Furthermore, it calls on Parties to address the environmental harm caused by tobacco in UN environmental platforms like the negotiations of the UN Treaty to End Plastic Pollution, the UN Framework Convention on Climate Change and other UN treaties. The Decision also requests the Framework Convention Secretariat to support Parties with the implementation of Article 18 and to work with the Article 17-18 Knowledge Hub to promote cooperation in this area.</p>	<p>GATC welcomes and supports the spirit of the draft decision proposed by Brazil.</p> <p>GATC encourages Parties to address the environmental harms caused by the production, marketing, distribution, consumption and post consumption of tobacco and nicotine products at national level and to include WHO FCTC principles when engaging with UN environmental processes.</p> <p>GATC calls on the FCTC Secretariat to foster coordination and collaboration with entities in the United Nations(UN)system pursuing environmental mandates in order to raise awareness of the importance of the WHO FCTC in the fulfilment of environmental objectives and the UN Sustainable Development Goals.</p>