

Liability (Article 19 of the WHO FCTC)

This document relates to item 4.2 of the provisional COP agenda and corresponds to document [FCTC/COP/11/6](#)

Eleventh Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control,
17 – 22 November 2025, Geneva, Switzerland

Key recommendations

- GATC welcomes the work undertaken by the Article 19 Expert Group as detailed in the report and associated documents submitted to the Eleventh session of the COP.
- GATC supports the draft decision in Annex 2 of the Expert Group report and encourages Parties to apply the list of 30 recommended options by the Expert Group related to liability (civil and criminal liability and administrative measures to establish liability), information exchange and monitoring, and methodologies for estimating health-care costs caused by tobacco use, recognizing that Parties should assess the appropriateness of those recommendations in light of their national contexts and experiences.
- We urge Parties to use the tools and resources available in Annex 1 of the report and to share their relevant experiences, including challenges and lessons learned, on an ongoing basis to the COP.

Key messages

- Measures to address the liability of the tobacco industry, or its efforts to evade liability, can deter or even stop misconduct by the tobacco industry, raise public awareness of tobacco industry malfeasance and lead to the denormalization of the tobacco industry among the public.
- Consideration of Article 19 by the COP could influence, and be influenced by, deliberations regarding liability in other international fora such as the environment, human rights and corporate accountability.
- Parties' options to establish liability against the tobacco industry for the harms caused by tobacco include judicial and non-judicial procedures and can be used to maximize opportunities for holding the tobacco industry accountable.
- Epidemiology and statistical methodologies for estimating health-care costs caused by tobacco use should be recognized by judges and courts as being suitable for use in health-care cost recovery litigation.

What is being proposed

The draft decision attached to Annex 2 of the Expert Group report reiterates that liability is an important aspect of comprehensive tobacco control and recalls previous COP decisions on liability.

Specifically, the draft decision calls on Parties to:

- (a) to apply the recommendations and options provided by the Expert Group;

- (b) to use the tools and resources available for Parties to strengthen their implementation of Article 19; and
- (c) to share updated information including practice, challenges, lessons learned and expertise in relation to implementation of Article 19.

The draft decision requests the Convention Secretariat:

- (a) to disseminate the findings of the work of the Expert Group and to continue to raise awareness about Article 19, as well as the resources, expertise and tools available for Parties to strengthen its Article 19 implementation;
- (b) to continue efforts to provide support to Parties in their implementation of Article 19, including through facilitating information and experience sharing among Parties; and
- (c) to continue to update the COP on progress with implementation of Article 19 by the Parties, as necessary.

Why this is important

Article 19 is one of the most powerful yet underutilized articles of the WHO FCTC. The Expert Group surveyed Parties to review Article 19 implementation worldwide. Fifty-one (51) Parties responded to the survey, which included 50 responses from countries and a response from a regional economic integration organization:

- 5 countries reported full implementation
- 37 countries reported partial implementation
- 9 countries reported no action

The Expert Group provided a list of options of 30 recommendations, including recommendations on liability actions (civil and criminal liability and administrative measures to establish liability), information exchange and monitoring, and methodologies for estimating health-care costs caused by tobacco use.

Background

- Article 19 is one of the least-implemented articles by Parties to the WHO FCTC.
- The matter of the implementation of Article 19 was discussed in previous meetings of the COP. This is reflected in decisions COP5(9), COP6(7), COP7(11) and COP8 (18).
- At COP10, Parties adopted decision FCTC/COP10(13), re-establishing the Expert Group on Liability.
- The Expert Group was mandated:
 - (a) to review and collect information in respect of the practice that has evolved at Party level, taking into account the work being done in relevant international fora, and support Parties, as relevant, to strengthen their criminal and civil liability regimes, including administrative measures;
 - (b) to provide options for Parties to detect and counter tobacco industry efforts to evade applicable liability regimes or to undermine tobacco control, including through corporate reorganization or investments;
 - (c) to explore the possible development of a methodology that estimates or quantifies the health-care costs borne due to tobacco use, in order to support Parties in collecting evidence to be used in tobacco-related litigation; and
 - (d) to report on its work at the Eleventh session of the COP.