CONFERENCE OF THE PARTIES TO THE
WHO FRAMEWORK CONVENTION ON
TOBACCO CONTROL

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Reporting arrangements under the WHO FCTC:

Report by the expert group

INTRODUCTION

1. At the sixth session (Moscow, Russia, 13-18 October, 2014), the Conference of the Parties (COP) adopted decision FCTC/COP6(15) entitled “Reporting arrangements and analysis of implementation of the WHO FCTC”. The COP mandated the Bureau of the Conference of the Parties to establish an expert group to review reporting arrangements under the WHO Framework Convention on Tobacco Control (WHO FCTC). The group was established in accordance with the mandate of the COP. Two face-to-face meetings of the expert group were held (on 9–11 December 2015 and 11–13 May 2016 respectively) and additional work was conducted between the two meetings. This report presents the outcome of the expert group’s work.

ADDRESSING THE MANDATES OF THE EXPERT GROUP

The reporting process and utilization of data collected

2. The expert group considered the reporting instrument and processes under the WHO FCTC, drawing on the experience of the Convention Secretariat (the Secretariat) and the members of the expert group in previous reporting cycles. The expert group reached the following key conclusions:

- The questionnaires used are adopted by the COP and are regularly reviewed. The process for reporting and the reporting instruments have evolved, with a trend of adding questions to both the core questionnaire (mandatory) and additional questions (optional). For example, at the COP working group on sustainable measures it was suggested that an additional question be added to section D of the core questionnaire on the impact of international assistance.

- There has been good compliance with reporting by Parties in the past three reporting cycles (with around 75-80% of Parties submitting a report), although there are five Parties who have never reported. Furthermore, response rates for the additional questions (optional module) are very low. Further data on reporting and information from Parties’ progress in implementation is provided in FCTC/COP/7/4.

- Parties appear satisfied with the new online format of the reporting instrument, although there have been a number of suggestions to make online reporting more user friendly (e.g. facilitating access to the online questionnaire in countries where stable internet access is an issue; making a download function available, providing greater clarity on the use of the reporting instrument).

3. The Secretariat reviews Parties’ implementation reports and provides feedback on any gaps and makes suggestions for clarification and greater completeness of reports. It also develops biennial global progress reports. The value of the continued development by the Secretariat of the global progress report, and its
electronic public distribution, was acknowledged by the expert group. The Secretariat should complement information collected through the Parties’ reports with other information that it gathers.

4. The length of the questionnaire is a key issue for Parties. The expert group requests that the Secretariat undertake analysis of the reasons for low response rates to certain questions in the reporting instrument and develop suggestions for shortening the documents. Questionnaire length is discussed in the next section of this report.

5. A key factor is ensuring that Parties understand the value of the reporting process and that data submitted is being utilized. The expert group concluded that this can be assisted by: a) demonstrating that reported information is actively reviewed by the Secretariat; b) emphasizing the importance of the Global Progress Report in supporting discussions at COP and other global platforms; c) ensuring feedback is given to Parties on their reports; d) ensuring that implementation support to Parties is based on the information provided; e) ensuring lessons drawn from implementation reports improve the implementation process; and f) ensuring that needs assessments actively utilize information from Party reporting.

Simplifying the reporting process and identification of additional sources of information

6. The expert group had a substantive discussion on the value of the current reporting instrument and options for simplifying or otherwise improving its structure and content. The expert group considered three options for a reporting instrument of this nature:

- Maintaining the status quo, i.e. using the detailed instrument that requires Parties to report on each and every provision of the FCTC, with the option to respond to additional questions if desired
- Adopting a simplified instrument that provides a generic statement of implementation/issues experienced under all areas of the WHO FCTC
- Adopting a targeted instrument that prioritises certain areas for detailed reporting (it was noted that the option of the COP to identify certain focused questions in particular reporting periods is already available).

7. The expert group carefully examined the three options. It noted that a generic statement of implementation/issues would not provide a comprehensive account of the status of implementation and would also be limited in identifying the specific assistance needs of the Parties. The expert group therefore concluded that the first option provided the best method for capturing a comprehensive picture of Parties’ implementation of the WHO FCTC. However, to improve the reports further, the expert group recommends that the Secretariat continue or initiate the following steps:

- Periodic investigation of the operation of reporting systems under other international treaties with a view to drawing on experiences of other treaty reporting mechanisms when proposing any amendments to the WHO FCTC reporting instrument
- Investigation of how other relevant international data can be accessed with a view to using that additional information in assessing global progress and reducing individual Parties’ reporting burdens. The use of such data, at this stage, may complement the information collected from Parties by way of the reporting instrument (e.g. data relating to tobacco manufacturing, tobacco growing, illicit trade of tobacco products). Collaboration of the Secretariat with WHO and other partners in accessing data sets was therefore strongly supported by the expert group.
- The enhancement of the new online reporting system introduced in 2016 to provide the opportunity for Parties from 2018 onwards to re-open past reports for amendment in subsequent reporting cycles. The expert group noted that this has the potential to substantially reduce the reporting burden for Parties reporting online.
- Continuation of the Secretariat’s work with Parties, in particular developing country Parties and Parties with economies in transition, to ensure completion and timely submission of reports and the provision of capacity building support, including e-learning tools. The active engagement with, and provision of assistance to, non-reporting Parties should be a priority.

8. The expert group noted that the Secretariat, as a complementary activity to support Parties in their reporting, has already included some of the measures above in the 2016-2017 work plan and others are
planned, as part of the next biennium work plan. The expert group also noted that the Secretariat also proposes a second edition of the WHO FCTC indicator compendium, to include policy indicators (non-quantitative indicators of the reporting instrument). This would further promote standardization of indicators, which are not defined in the Convention or the guidelines.

9. The expert group agreed that Parties need to: 1) strengthen reporting capacity at the national level, including providing for systematic data collection and reporting; 2) ensure that reporting is at the Party-level, not just by Ministries of Health; 3) ensure that tobacco industry data is treated with caution and that the sources of all data are clearly identified in implementation reports; 4) recognize the value of civil society involvement in reporting, in the spirit of Article 4.7 of the Convention. The expert group also noted that Parties need to ensure, through internal validation procedures, that the reported data is the latest available, is accurate and reflective of the status quo, and describes both the content and implementation of legislation, regulations and policies.

10. The expert group also agreed that the optional questionnaire provides very helpful information on implementation of the WHO FCTC in relation to Convention guidelines, and that Parties should be strongly encouraged to complete this option.

11. The expert group recommends that the Secretariat consider including a feature in the reporting instrument asking Parties to submit an official letter, signed by the official authority, declaring the accuracy and completeness of information. The expert group further recommends that the reporting instrument include a provision for Parties to declare what agencies were involved in the development of their implementation reports.

Opportunities for the reporting mechanism to assist the Parties

12. The expert group noted that reporting under the Convention offers many opportunities for Parties:

- Reporting enables Parties to identify their priorities, needs, gaps, challenges and barriers. This can lead to focused requests for assistance from the Secretariat, including a formal needs assessment and identification of resourcing options and potential partnerships.

- The process of compiling a report and the report itself can be used to increase awareness of, and advocacy for, tobacco control obligations on the part of other (non-health) government sectors within the Party. This helps advance effective tobacco control measures.

- Parties’ reports are publicly available and provide an official source of information about implementation work, thus allowing civil society to identify opportunities for advocacy.

- Reporting under the WHO FCTC facilitates the sharing of information (knowledge exchange) through the utilization of data collected for case studies describing good practices, challenges, opportunities and tobacco industry tactics. This advances regional and global tobacco efforts through more in-depth analysis of information reported. It was noted that the Secretariat, according to its 2016-2017 work plan, is developing three topical reports based on the information collected from Parties.

13. The expert group made the following recommendations to promote WHO FCTC implementation reports and the information therein:

- Parties should take advantage of the work undertaken in the preparation of implementation reports, by publishing and disseminating them, as well as any discussion papers that derive from the reports.

- Any implementation review mechanism that may be established under the Convention (see discussion below) should analyze all reports on implementation by Parties and provide for the highlighting of good practice, opportunities and solutions to challenges faced.

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1 No Party that has submitted a report in the 2016 reporting cycle requested an implementation review as per Decision FCTC/COP6(15).
Parties should organize information sessions at a national or regional level, based on the content of the implementation reports. Parties should approach the Secretariat for assistance with this, if necessary.

14. The expert group reiterates the importance of providing support, including needs assessment, to those Parties that have not submitted implementation reports to date, including an emphasis on the value that the WHO FCTC reporting process can provide.

Using the reporting mechanism to promote compliance by the Parties

15. The expert group heard from the secretariats of other international treaties on the implementation review mechanisms they have adopted, and reviewed research on implementation review mechanisms operated by other international treaties, specifically in four areas: 1) the resourcing implications of various implementation review mechanisms; 2) precedents and options for civil society input in implementation reviews; 3) validation and/or checking the quality/reliability of reported data; 4) good practice from other international treaties that may be applicable to the WHO FCTC implementation review mechanism.

16. The expert group strongly agreed that an implementation review mechanism under the WHO FCTC is needed to improve implementation of the Convention, and that this mechanism could also facilitate provision of focused support to Parties. The group also reached a clear conclusion that the proposed implementation review mechanism should meet the following basic principles/criteria: it should be constructive and supportive for Parties, not a mechanism for criticism or rebuke; should be transparent and objective; and cost effective.

17. The expert group reflected on key issues related to the operation of an implementation review mechanism, including: the need to provide for civil society participation in the process; avoidance of any tobacco industry interference in the processes established by, or the work of, the implementation review mechanism; and the need to provide the mechanism with flexibility to manage and prioritize its work programme within the allotted budget.

18. The expert group recommends therefore the establishment of a WHO FCTC Implementation Review Committee as a subsidiary body under Article 23.5(f) of the Convention, and proposes terms of reference for this committee (Annex 1).

ACTION BY THE CONFERENCE OF THE PARTIES

19. The expert group recommends that the COP establish a WHO FCTC Implementation Review Committee, consistent with paragraphs 16 to 18 of this report and:

In relation to Parties to the Convention:

- Urge Parties to take additional measures, in line with paragraphs 9 and 10 of this report, to ensure compliance with its reporting obligations (accuracy, completeness and timeliness of country reports) and to improve information sharing;

- Encourage Parties to take full advantage of the opportunities that reporting under the WHO FCTC provides to support the implementation, and visibility of the WHO FCTC within their jurisdictions, as outlined in paragraphs 12 and 13;

In relation to international agencies:

- Invite international agencies that collect tobacco-related data globally to collaborate with the Secretariat to make available relevant data sets to support assessment of global progress in the implementation of the WHO FCTC.

In relation to the Convention Secretariat:

- Call upon the Secretariat to assist Parties in their compliance with Article 21 of the Convention, including, but not limited to the steps outlined in paragraphs 8 and 11.
Annex 1

Terms of reference for the WHO FCTC Implementation Review Committee

Objectives

1. The objective of the WHO FCTC Implementation Review committee (The Committee) is to assist Parties to comply with their obligations under the Convention and to facilitate, promote, monitor and secure the effective implementation of, and compliance with, obligations under the Convention.

Nature of the Committee

2. The Committee shall be objective, facilitative in nature, transparent and cost-effective, shall make non-binding recommendations, and be focused on assisting Parties to effectively implement the provisions of the WHO FCTC. It will pay particular attention to the special needs of developing countries and countries with economies in transition, and will promote cooperation among all Parties and partners.

Composition and tenure

3. The Committee is established as a subsidiary body of the Conference of the Parties (the COP) pursuant to Article 23.5(f) of the WHO FCTC. The Committee shall consist of up to 15 independent experts:

   - Up to 12 experts shall be nominated by the Parties and selected by the Bureau, based on expertise, serving in accordance with paragraph 5, below, and based on equal geographical representation of the six WHO regions.

   - In the spirit of Article 4.7 of the WHO FCTC which states that “the participation of civil society is essential in achieving the objectives of the Convention and its protocols”, up to three experts shall be nominated by NGO observers to the COP and selected by the Bureau, based on expertise and serving in accordance with paragraph 5, below.

   - The tenure of the experts will be for a term of four years, with one half of the membership of the Committee renewed every two years, bearing in mind the need to maintain equal geographical representation. For the purposes of this terms of reference, “term” means the period that begins when one ordinary session of the COP ends, and that terminates at the end of the second ordinary session of the COP thereafter.

4. If a Member of the Committee resigns or is otherwise unable to complete his or her term of office or to perform his or her functions, the Bureau, in consultation with the Party or NGO Observers who made the nomination, shall nominate an alternate to serve for the remainder of the mandate. The Bureau shall, in making its nomination, take into account the expertise required under paragraph 5 and the need for equal geographical representation of the six WHO regions.

5. Members of the Committee will act objectively and in the best interest of the Convention. Members will be expected to possess relevant expertise and sound knowledge of matters related to implementation of the WHO FCTC at national and international levels, as well as expertise in areas including, but not limited to: 1) Public health policy; 2) Epidemiology, surveillance and monitoring; 3) Health law, international treaties and national legislation; 4) Health economics, tax and price policies for health; 5) Matters related to the intersection between health and trade and investment policies; 6) International and development cooperation, multisectoral coordination for health; 7) Public policy, planning and evaluation; 8) Specific areas covered by the WHO FCTC, such as product regulation, cessation support, agricultural diversification, and illicit trade.

2 The expert group drew on the terms of reference of other international treaties’ implementation review mechanisms.
6. The Committee shall, in accordance with Article 5.3 of the Convention, “act to protect” its work “from commercial and other vested interests of the tobacco industry”. Additionally, each member of the committee will be required to sign a declaration of interest form stating that he or she is free of any conflict of interest.

7. Other than as specified in these terms of reference, the Committee will operate in accordance with the rules of procedure of the COP.

8. The Committee shall meet twice between regular sessions of the COP. The Secretariat shall arrange for and service the meetings of the Committee.

Implementation Review Process

9. The Committee will undertake reviews of approximately 50% of Parties’ implementation reports during each intercessional period between COPs. These reviews will be based primarily on Parties’ most current implementation reports. The following process will be followed:

- Step 1: The Committee will undertake an initial review of the Parties’ implementation reports, with a focus on both quality and completeness of data, any needs assessment reports and any other relevant sources of information. The Committee, with the assistance of the Secretariat, will consider the following:
  - Any gaps in reporting (e.g. timeliness, completeness, quality of information)
  - Any needs identified or resources sought or provided
  - Non-compliance with any obligations under the WHO FCTC
  - Inconsistencies of responses between the different reporting cycles
  - Consistency of data reported with background documents (e.g. national legislation, action plans, etc.) uploaded with the reporting instrument.

- Step 2: The Committee, with the support of the Secretariat, will develop a list of issues for each reviewed Party (preliminary analysis).

- Step 3: The Committee will review the preliminary analysis and will prioritize the Parties it deems necessary to engage with directly, and determine the means of engagement (e.g. written communication, video conference, direct meeting, country mission visit, etc.). The Committee will determine its own criteria and protocols on prioritization and engagement.

- Step 4: The Committee will undertake engagement with Parties and, based on that engagement, determine what, if any, further action is required (e.g. request for further clarification, country visits, development of Party implementation plans/voluntary compliance action plans, other forms of support, etc.).

- Step 5: The Committee may engage in further constructive dialogue with Parties to identify other means of support, including exploring resourcing options, in its implementation of the WHO FCTC.

- Step 6: The Committee will prepare conclusions/recommendations, which will be submitted to the COP, following the Committee’s internal review process.

Reporting

10. The Committee will provide a report to each reviewed Party on its observations and recommendations. These reports will be made available to the COP, at the completion of engagement with the Party.

11. The Committee will also report to COP on its work, including identified assistance needs of Parties.
Decision-making and confidentiality

12. The Members shall make every effort to reach agreement on all matters of substance by consensus. Where this is not possible, reports and recommendations shall reflect the views of all the Committee members.

13. The Committee, any Party, or others involved in the Committee’s deliberations, shall protect the confidentiality of information received in confidence.

Amendments to the Terms of Reference

14. Amendments to these Terms of Reference may be made by the Bureau on request by the Committee.

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