WHO Framework Convention on Tobacco Control
Outline

- WHO Framework Convention on Tobacco Control
  - General provisions
  - Obligations of Parties
  - Status

- The Importance of the WHO FCTC as a binding international treaty

- Obligations and guidelines in trade spotlight
WHO FCTC

- First international treaty negotiated under the auspices of WHO
- Developed in response to the globalization of the tobacco epidemic
- Adopted by the World Health Assembly on 21 May 2003
- Entered into force on 27 February 2005
WHO Framework Convention on Tobacco Control

General Provisions
and
Principal Obligations
WHO FCTC - Foreword

“The WHO FCTC is an evidence-based treaty that reaffirms the right of all people to the highest standard of health.”
WHO FCTC - Preamble

- “Determined to give priority to their right to protect public health”
WHO FCTC Article 2

“...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”
What is the objective of the WHO FCTC?

- "...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... in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke."

(Article 3 of the WHO FCTC)
WHO FCTC Article 4 – Guiding principles

- 4.2 “Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses...”

- 4.3 “International cooperation ... is an important part of the Convention.”
WHO FCTC Article 4 – Guiding principles

- 4.4 “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.”

- Comprehensive multisectoral measures are a recurring theme
Each Party is required to

5.1: “...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.”

5.2: “adopt and implement effective legislative, executive, administrative and/or other measures ... for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.”
The Convention: principal obligations

- Measures to reduce the demand for tobacco products (Part III; Arts 6 - 14)
  - Price and tax measures
  - Protection from exposure to tobacco smoke
  - Regulation of the contents of tobacco products and of disclosures of tobacco products
- Packaging and labeling
- Education, communication, training and public awareness
- Advertising, promotion and sponsorship
- Tobacco dependence and cessation.
The Convention: principal obligations (cont.)

- Measures to reduce the **supply** of tobacco products (Part IV; Arts 15 - 17)
  - Measures against **illicit trade** in tobacco products;
  - Measures against sales to and by **minors**;
  - Support for **economically viable alternative** activities.

- Additional obligations:
  - Liability
  - International cooperation
  - General obligations
  - Reporting
Current Status of the WHO FCTC

- March 2012:

174 Parties

= 173 States and the EU are legally bound by the provisions of the WHO FCTC
WHO FCTC Parties

- Afghanistan
- Albania
- Algeria
- Angola
- Antigua and Barbuda
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bhutan
- Bolivia
- Bosnia and Herzegovina
- Botswana
- Brazil
- Brunei Darussalam
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Central African Republic
- Chad
- Chile
- China
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Cote d'Ivoire
- Croatia
- Cyprus
- Democratic People's Republic of Korea
- Democratic Republic of the Congo
- Denmark
- Djibouti
- Dominica
- Ecuador
- Egypt
- Equatorial Guinea
- Estonia
- European Community
- Fiji
- Finland
- France
- Gabon
- Gambia
- Georgia
- Germany
- Ghana
- Greece
- Grenada
WTO Members

- Afghanistan
- Albania
- Algeria
- Angola
- Antigua and Barbuda
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bhutan
- Bolivia
- Bosnia and Herzegovina
- Botswana
- Brazil
- Brunei Darussalam
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Central African Republic
- Chad
- Chile
- China
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Cote d'Ivoire
- Croatia
- Cyprus
- Democratic People's Republic of Korea
- Democratic Republic of the Congo
- Denmark
- Djibouti
- Dominica
- Ecuador
- Egypt
- Equatorial Guinea
- Estonia
- European Community
- Fiji
- Finland
- France
- Gabon
- Gambia
- Georgia
- Germany
- Ghana
- Greece
- Grenada
WHO FCTC Parties

- Guatemala
- Guinea
- Guinea-Bissau
- Guyana
- Honduras
- Hungary
- Iceland
- India
- Iran (Islamic Republic of)
- Iraq
- Ireland
- Israel
- Italy
- Jamaica
- Japan
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kuwait
- Kyrgyzstan
- Lao People's Democratic Republic
- Latvia
- Lebanon
- Lesotho
- Liberia
- Libya
- Lithuania
- Luxembourg
- Madagascar
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Mauritania
- Mauritius
- Mexico
- Micronesia
- Mongolia
- Montenegro
- Myanmar
- Namibia
- Nauru
- Nepal
- Netherlands
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norway
- Oman
- Pakistan
- Palau
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Poland
WTO Members

- Guatemala
- Guinea
- Guinea-Bissau
- Guyana
- Honduras
- Hungary
- Iceland
- India
- Iran (Islamic Republic of)
- Iraq
- Ireland
- Israel
- Italy
- Jamaica
- Japan
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kuwait
- Kyrgyzstan
- Lao People’s Democratic Republic
- Latvia
- Lebanon
- Lesotho
- Liberia
- Libya
- Lithuania
- Luxembourg
- Madagascar
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Mauritania
- Mauritius
- Mexico
- Micronesia
- Mongolia
- Montenegro
- Myanmar
- Namibia
- Nauru
- Nepal
- Netherlands
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norway
- Oman
- Pakistan
- Palau
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Poland
WHO FCTC Parties

- Portugal
- Qatar
- Republic of Korea
- Republic of Moldova
- Romania
- Russian Federation
- Rwanda
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- Sao Tome and Principe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Slovakia
- Slovenia
- Solomon Islands
- South Africa
- Spain
- Sri Lanka
- Sudan
- Suriname
- Swaziland
- Sweden
- Syrian Arab Republic
- Thailand
- The former Yugoslav Republic of Macedonia
- Timor-Leste
- Togo
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United Republic of Tanzania
- Uruguay
- Vanuatu
- Venezuela
- Viet Nam
- Yemen
- Zambia
WTO Members

- Portugal
- Qatar
- Republic of Korea
- Republic of Moldova
- Romania
- Russian Federation
- Rwanda
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- Sao Tome and Principe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Slovakia
- Slovenia
- Solomon Islands
- South Africa
- Spain
- Sri Lanka
- Sudan
- Suriname
- Swaziland
- Sweden
- Syrian Arab Republic
- Thailand
- The former Yugoslav Republic of Macedonia
- Timor-Leste
- Togo
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United Republic of Tanzania
- Uruguay
- Vanuatu
- Venezuela
- Viet Nam
- Yemen
- Zambia
WHO FCTC Parties

• 174 WHO FCTC Parties

• 137 of them are also WTO Members
Importance of the WHO FCTC as a binding international treaty
Importance of the WHO FCTC as a binding international treaty

- Binding international instruments are subject to the law of treaties (Vienna Convention on the Law of Treaties)
  - Presumption against a conflict between two conventions
  - Specific legal rules that assist in the event that the provisions of two different treaties cannot be reconciled

- WHO FCTC and its tobacco control measures are on equal footing with other binding international instruments when questions of conflicts and interpretation arise
Importance of the WHO FCTC as a binding international treaty

- Also has influence in respect of non-Parties
  - WTO Panel Report on Clove Cigarettes referred to WHO FCTC (under appeal)
  - Reinforces the importance of the WHO FCTC regime in trade disputes on tobacco control measures
WHO Framework Convention on Tobacco Control

Obligations of Parties
WHO FCTC Article 9: Regulation of the contents of tobacco products

- “The Conference of the Parties shall propose guidelines for”:
  - “testing and measuring the contents and emissions of tobacco products”
  - “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.”
WHO FCTC 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.”

- “for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.”
WHO FCTC Article 11 – Packaging and labelling of tobacco products

- Each Party is required to implement effective measures to ensure that:
  - 11.1(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…”
WHO FCTC Article 13 – Tobacco advertising, promotion and sponsorship

- Each Party is required to “undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. …”

- Article 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;…”
WHO Framework Convention on Tobacco Control

Guidelines for Implementation
WHO FCTC Article 7 – Non-price measures to reduce the demand for tobacco

Parties are required – through the Conference of the Parties – to propose appropriate guidelines for the implementation of the provisions of Articles 8 to 13
WHO FCTC Guidelines

- The result of intergovernmental negotiation
- Several rounds of drafting and comment by Parties
- All have been adopted by consensus decision of the COP
- Studies, research and reference material used by Parties in the development of the GLs is on the WHO FCTC website
Partial guidelines for implementation of Articles 9 & 10 WHO FCTC

- Guidelines for Arts 9 & 10 are developed in a step-by-step process as new country experience, and scientific medical and other evidence, becomes available.

- “This section has been left blank intentionally to indicate that guidance will be proposed at a later stage.”

- PURPOSE:
  - To assist Parties in meeting their obligations under the Convention
  - Draw on best available scientific evidence and experience of the Parties
  - Propose measures to assist Parties in strengthening tobacco control policies through regulation of contents and emissions of tobacco products and of tobacco product disclosures
  - Parties encouraged to implement measures beyond those recommended
Partial guidelines of Articles 9 & 10

- **MEASURES** include recommendations:

  - **Contents:**

    - **Ingredients (disclosure)**
      - Parties should require manufacturers and importers to disclose to gov’t authorities info on ingredients in manufacture at specified intervals and brandy-by-brand and on standardised basis
      - Parties should ensure disclosure of ingredients used in manufacture and quantities per unit, including components for each brand (e.g. Filter, paper, glue)
      - Parties should require disclosure of info on tobacco leaves used (list of e.g.: type, %, etc)

    - **Ingredients (regulation )**
      - Tobacco products:
        - Parties should **prohibit or restrict** ingredients that:
          - Increase palatability (sweeteners, spices, flavours, etc)
          - Have colouring properties
        - Parties should **prohibit ingredients** that:
          - Create impression of health benefits (vitamin C, fruit, veg, omega 3 fatty acids, etc)
          - Are associated with energy or vitality (caffeine, guarana, taurine, etc)
WHO FCTC GLs – Article 11 (Packaging and Labelling)

- **Purpose:**
  - “to assist Parties in meeting their obligations under Article 11 of the Convention, and to propose measures that Parties can use to increase the effectiveness of their packaging and labelling measures.”
WHO FCTC GLs – Article 11 (Packaging and Labelling)

- “Plain packaging. Parties should consider adopting measures to restrict or prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and font style (plain packaging). …
WHO FCTC GLs – Article 11 (Packaging and Labelling)

- ...This may increase the noticeability and effectiveness of health warnings and messages, prevent the package from detracting attention from them, and address industry package design techniques that may suggest that some products are less harmful than others.”
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

- **Purpose:**
  - “to assist Parties in meeting their obligations under Article 13 of the WHO Framework Convention on Tobacco Control. They draw on the **best available evidence and the experience of Parties** that have successfully implemented effective measures against tobacco advertising, promotion and sponsorship. They give Parties guidance for introducing and enforcing a comprehensive ban on tobacco advertising, promotion and sponsorship…”.
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

- Packaging and product features
  - “Packaging is an important element of advertising and promotion. Tobacco pack or product features are used in various ways to attract consumers, to promote products and to cultivate and promote brand identity, for example by using logos, colours, fonts, pictures, shapes and materials on or in packs or on individual cigarettes or other tobacco products. …
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

- Packaging and product features
  - “The effect of advertising or promotion on packaging can be eliminated by requiring plain packaging: black and white or two other contrasting colours, as prescribed by national authorities; nothing other than a brand name, a product name and/or manufacturer’s name, contact details and the quantity of product in the packaging, without any logos or other features apart from health warnings, tax stamps and other government-mandated information or markings; …
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

- Packaging and product features
  - “…prescribed font style and size; and standardized shape, size and materials. There should be no advertising or promotion inside or attached to the package or on individual cigarettes or other tobacco products. …”
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

Recommendation

“Packaging and product design are important elements of advertising and promotion. Parties should consider adopting plain packaging requirements to eliminate the effects of advertising or promotion on packaging. Packaging, individual cigarettes or other tobacco products should carry no advertising or promotion, including design features that make products attractive.”
WHO FCTC GLs – Article 13 (Advertising, promotion and sponsorship)

- Appendix – Indicative (non-exhaustive) list of forms of tobacco advertising, promotion and sponsorship within the terms of the Convention:
  - “packaging and product design features”
Thank you!

More information:
www.who.int/fctc

Convention Secretariat
fctclegal@who.int