

## **ASH/ International resources/ Framework Convention on Tobacco Control**

### **Framework Convention on Tobacco Control: Basic Briefing**

This briefing sets out to answer, in as straightforward a way as possible, some of the questions most frequently asked about the Framework Convention on Tobacco Control by interested parties such as non-governmental organisations, decision makers and journalists.

#### **What is a Framework Convention?**

A **framework convention** is a type of legally-binding international treaty establishing general guidelines and principles for international governance on a particular issue. Separate, more detailed legal instruments called **protocols** can be attached to a framework convention to address specific aspects of an issue. A number of examples of this framework convention/protocol model exist in the environmental field, including the 1992 UN Framework Convention on Climate Change (UNFCCC), with its 1997 Kyoto Protocol, and the 1985 Vienna Convention for the Protection of the Ozone Layer with its 1987 Montreal Protocol.

Typically a framework convention might establish objectives, principles, basic obligations and institutions as well as procedures regarding decision-making, finance dispute settlements and amendments. Protocols then build on the parent agreement through the elaboration of additional or more specific commitments and institutional arrangements. It is worth noting however that framework conventions come in many shapes and sizes. Some contain only bare-bones provisions, such as the Vienna Convention, whilst others contain more detailed obligations and institutional mechanisms, such as the UNFCCC.

#### **What is the Framework Convention on Tobacco Control (FCTC)?**

The FCTC is currently being developed by the 191 member states of the World Health Assembly, and could be signed by governments in 2003, or perhaps even earlier. If successfully negotiated, the FCTC would be the world's first global agreement devoted entirely to tobacco control.

Ultimately, the content of the negotiations, and any resulting agreements, will be determined by the member governments of the World Health Assembly. However, it is likely that in the Convention itself governments will agree to pursue broad goals on international tobacco control. A number of related protocols on more specific topics will probably also be negotiated, either in parallel with the Convention or subsequently. Possible issues that could be addressed in early protocols include:

advertising and sponsorship and smuggling. Later protocols might address topics such as agricultural policies, product regulation, and pricing.

A protocol on tobacco advertising and sponsorship, for example, could include a global ban on all forms of tobacco promotion. A smuggling protocol could bring the international transport of cigarettes under strict control to prevent the smuggling of one third of all cigarettes entering international commerce. Such controls could include increased penalties for smugglers, and a requirement for tax-paid stamps and anti-fraud markings on all tobacco products to distinguish between legal and illegal goods, making contraband products easier to detect and the laws easier to enforce.

## **How could the FCTC further international tobacco control?**

In addition to specific obligations which could be contained within the FCTC and related protocols, the process of developing the FCTC is likely to be very important for strengthening tobacco control internationally. The process should enable and encourage governments to strengthen their national tobacco control policies. This may occur in a number of specific ways, such as by:

- giving governments greater access to scientific research and examples of best practice;
- motivating national leaders to rethink priorities as they respond to an ongoing international process;
- engaging powerful ministries, such as finance and foreign affairs, more deeply in tobacco control.

The process of developing the FCTC is also likely to:

- Raise public awareness internationally about the strategies and tactics employed by the multinational tobacco companies.
- Mobilize technical and financial support for tobacco control at both national and international levels.
- Make it politically easier for developing countries to resist the tobacco industry.
- Mobilize non-governmental organisations (NGOs) and other members of civil society in support of stronger tobacco control.

## **What is the timetable for negotiating the FCTC?**

- In May 1996 the World Health Assembly (WHA) called on the then Director-General of the WHO to initiate the development of the FCTC.
- A body with the capacity to act as a secretariat to the Convention - the Tobacco Free Initiative - was established at WHO in the summer of 1998.
- In May 1999, the World Health Assembly established an FCTC Working Group, open to all member states, to begin preliminary work on drafting possible components of the Framework Convention and possible protocols.
- The first meeting of the Working Group was held in Geneva in October 1999 and the second meeting in March 2000.
- The Working Group presented its work to the World Health Assembly in May 2000.

- Inter-governmental negotiations will commence in October 2000.
- WHO foresees that the FCTC and any initial related protocols will be adopted by the World Health Assembly no later than May 2003.

## **Will the FCTC be legally binding and enforceable?**

Framework conventions and protocols are legally binding on parties who ratify them (that is, on states who have expressed their consent to be bound by them). Framework conventions usually entail more general obligations whilst protocols entail more specific obligations.

The onus will be on national governments to implement the FCTC and protocols, but the WHO can monitor and supervise this. The detail of how the FCTC and protocols will be enforced is to be agreed by negotiating parties, but one option would be to introduce a system whereby national governments have to report back on a regular basis about what measures they've implemented to abide by the FCTC. These reports can then be critically evaluated by WHO, member states and NGOs. Such "institutionalised periodic review" is a basic feature of many environmental agreements, including the Montreal Protocol. In the case of the UNFCCC, reports submitted by developed countries are subjected to an "in-depth" review by outside experts involving a visit to the country concerned to gather information and to meet governmental officials and NGOs.

A further option is for compliance by the parties to be regularly audited by an independent technical committee. The International Labour Organisation (ILO) adopts this approach, followed by a public debate of the audited reports. The procedure involves the active participation of both trade unions and employers' associations.

Disputes between parties can be dealt with in a variety of ways. The Vienna Convention and the UNFCCC, for example, include provisions for compulsory conciliation, where the dispute is referred to a commission which examines the facts and makes recommendations. Several environmental regimes have developed procedures designed to help a state implement its obligations in the future rather than adjudicating on past violations. In the UNFCCC this is referred to as a "multilateral consultative process"

## **Are international treaties ever effective?**

Experience from other fields has shown that international conventions can lead to significant action being taken and tangible results. In the environmental field, for example, production and consumption of substances which deplete the stratospheric ozone layer have declined dramatically over the last decade as a result of the Montreal Protocol attached to the Vienna Convention. The 1979 Convention on Long-range Transboundary Air Pollution (LRTAP) and attached protocols have also been successful, resulting in reductions in the levels of various pollutants.

## **Why do we need an international treaty on tobacco control? Isn't national action sufficient?**

International action to tackle the tobacco epidemic is needed for a number of reasons:

- The tobacco epidemic is an international problem. Developing countries are set to bear the brunt of the problem in the future. At present there are about 4 million deaths a year worldwide due to tobacco-related disease, with the balance split approximately between developed and developing countries. By 2030, if present trends continue unchecked, the figure will have increased to 10 million deaths per year, with 70 % of these deaths taking place in developing countries.
- The tobacco industry is a global industry. Faced with increased regulation, greater awareness of the health risks of smoking, and declining sales in Europe and North America, the tobacco multinationals are stepping up their activities in developing countries in search of new markets.
- A number of aspects of the tobacco problem are particularly transboundary in nature and can only be dealt with effectively by international action, including:
  - Tobacco industry marketing campaigns executed across a number of different countries simultaneously, including through satellite television;
  - Smuggling of cigarettes, coordinated by the tobacco industry on an international level, involving operations in numerous countries.
  - A lively international process will encourage and enable governments to implement stronger tobacco control policies at national level.

## **Which government ministries are expected to be involved in the negotiations?**

Ministries of Health are likely to play a leading role in the negotiations, together with Ministries of Foreign Affairs in many countries. Ministries of Overseas Development, Finance, Trade, Agriculture, Environment, Labour, Justice and Education may also come into the ambit of the negotiations at different times.

## **How many governments would ultimately need to ratify the FCTC for it to come into force?**

'Ratification' is an act by which a state expresses its consent to be bound by a treaty. It follows the 'signing' of the treaty, which is usually a preliminary step. In the case of the FCTC the number of parties who must ratify the conventions for it to 'enter into force' (ie become legally binding) will be agreed in due course by the negotiating parties. Environmental treaties provide a guide about the numbers of ratifications which might typically be specified, ranging from 20 in the case of the Vienna Convention to 50 for the UNFCCC.

## **How will the FCTC affect the economies of countries which are heavily dependent on growing tobacco?**

In its recent important report, 'Curbing the Epidemic: Governments and the Economics of Tobacco Control', the World Bank states that: "...the negative effects of tobacco control on employment have been greatly overstated. Tobacco production is a small part of most economies. For all but a very few agrarian countries heavily dependent on tobacco farming there would be no net loss of jobs, and there might even be job gains if global tobacco consumption fell. This is because money once spent on tobacco would be spent on other goods and services, thereby generating more jobs". However, the report concludes that there are a small number of countries whose economies are heavily dependent on tobacco farming, mostly in Sub-Saharan Africa, for whom a global fall in tobacco demand (such as that which may result from an effective FCTC) would result in job losses. The Bank recommends policies to aid adjustment for such countries, including assistance with crop diversification, rural training and other safety net systems. The World Bank points out that even if demand for tobacco were to fall significantly it would occur slowly, over a generation or more, so there would be plenty of time for such adjustment to occur. For more information on the World Bank report see [www.worldbank.org/html/extpb/abshtml/14519.htm](http://www.worldbank.org/html/extpb/abshtml/14519.htm)

**For more information on the Framework Convention see WHO's website at**

<http://tobacco.who.int/en/fctc/>

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