



Council of the
European Union

Brussels, 2 December 2016
(OR. en)

14740/1/16
REV 1

SAN 400
FISC 201
UD 248

NOTE

From: General Secretariat of the Council

To: Council

Subject: **Employment, Social Policy, Health and Consumer Affairs Council**
meeting on 8 December 2016
WHO Framework Convention on Tobacco control (FCTC)
– *Information from the Presidency and the Commission*
(Any Other Business item)

Delegations will find attached an information note from the Presidency and the Commission on the above mentioned subject.

WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC)

Seventh session of the Conference of the Parties (Cop7), Delhi,

7 -12 November 2016

The 7th Conference of Parties of the Framework Convention on Tobacco Control (Cop7 FCTC) was held in Indian New Delhi from 7th till 12th November 2016. The EU achieved its main objectives in both Committees A and B and managed to avoid major concessions.

The main achievements were: continuation of work on illicit trade with limited budget implications, a balanced decision on e-cigarettes, guidelines on Article 9 and 10 of the Framework Convention and an acceptable decision on trade and investment issues - despite the very strong views of certain Parties. For the first time in the history of the Conference of the Parties, the budget was approved with zero nominal growth in voluntary assessed contributions. Cop7 also agreed to drop the word “voluntary” from the term “voluntary assessed contributions” and to adopt a decision aiming at incentivising Parties (especially those failing to meet their financial obligations) to comply with their treaty obligations.

In Committee A, the following decisions were taken:

1. On the illicit trade protocol, it was decided to intensify the work of the Panel of Experts which should focus on *inter alia* mapping of the emerging traceability systems and the future structure of a global information-sharing focal point. The adopted decision will ensure that work on tracking and tracing is taken forward between Cop7 and the Protocol’s entry into force. This is very important in the context of implementing the Tobacco Products Directive.

2. Partial guidelines on tobacco products content regulation and disclosure (Article 9 & 10) were adopted in line with the EU position. The guidelines recommend Parties to ban attractive design features and to request reporting on tobacco ingredients while considering measurement methods proposed by the WHO. Work on addictiveness reduction will now be taken forward by a group of expert/stakeholders, and WHO will work on assessment of novel products (e.g. heat not burn) in collaboration with the respective knowledge hubs on smokeless tobacco and water-pipes.
3. A balanced decision on electronic cigarettes was adopted inviting Parties to adopt a variety of measures and to report on scientific, market and regulatory development. In line with the EU position, no working groups or guidelines are foreseen. Cop also adopted a decision on waterpipes inviting parties to apply the FCTC provisions on waterpipes and the Convention Secretariat to report to Cop8. However, this decision was adopted with an important reservation from one Party regarding the reference to fiscal measures, which is considered a national competence¹.
4. The decisions on advertising and on protection against industry interference (Article 5.3 of the Framework Convention) were adopted in line with the EU position, and the EU played a key role in the negotiations.
5. Decisions on liability, gender specific risks, and impact assessment were adopted in accordance with the EU positions. The decision on viable alternatives to tobacco growing requests the Convention Secretariat to continue monitoring the implementation of Articles 17-18 of the Framework Convention and to report back to Cop8.

¹ The EU requested that paragraph 1(g) of the decision be reopened because it did not accurately reflect the Article 6 guidelines adopted by COP. The EU proposed to amend the text as follows: "to fully implement the provisions of Article 6 of the Convention and its guidelines in relation to waterpipe tobacco". Yet, for the sake of consensus and following reassurance from the WHO legal counsel that the decision was not binding on Parties, the EU agreed to withdraw its request.

6. The EU managed to merge the discussions on reporting, implementation and financial resources (items 6.1, 6.3, 6.4 and 6.5). A working group will be set up to develop a mid-term strategy for planning and implementation support. No decision was taken on the suggested creation of an implementation review committee. Finally, the Parties agreed on strengthening international cooperation and underlined the importance of tobacco control as pursued by the Framework Convention for the achievement of the Sustainable Development Goals (SDGs).

In Committee B, the following decisions were taken:

1. A decision on payment of voluntary assessed contributions was adopted, including procedures aiming at incentivising Parties to fulfil their financial obligations. Parties also agreed to drop the word “voluntary” from the expression “voluntary assessed contributions”, that will as from now on be referred to as “assessed contributions”.
2. In line with the EU position, the work plan and budget for the financial period 2018-2019 was adopted with zero nominal growth in contributions. Zero nominal growth in contributions, combined with the dropping of the 'one-off' contribution of the previous biennium, means that the Parties will pay less in assessed contributions than during the previous biennium (2016-2017).
3. A decision on the Convention Secretariat’s fundraising efforts was adopted, including a draft fundraising policy limited to elements that are specific to the Convention and thus distinct from those covered by the WHO Framework of Engagement with Non-State Actors (FENSA).
4. The Committee also agreed on a decision on the process and methodology to conduct the performance evaluation for the current and subsequent Head of the Convention Secretariat. The EU supported the position of the EURO region.

5. The decisions on accreditation of non-governmental and intergovernmental organizations with the status of observers to the Conference of the Parties were adopted without major problems, as well as the decision on the relationship of the Convention Secretariat with other international entities.
6. The decision on strengthening synergies between the Conference of the Parties and the World Health Assembly was adopted. It provides opportunities to promote high-level political discussions on tobacco control issues. Key elements of the future hosting arrangement between the Convention Secretariat and WHO were also approved. They advocate a pragmatic approach, based on the terms of hosted partnerships, to ensure that the arrangement is of benefit to both the Convention Secretariat and the WHO.
7. Committee B agreed that Parties should work in Geneva to prepare a proposal for Cop8 on maximizing transparency of Parties delegations, intergovernmental organizations, nongovernmental organizations and civil society groups during sessions of the Cop and meetings of its subsidiary bodies. A draft decision, that contained a significant amendment, was withdrawn, since it had been circulated too late to the Parties in breach of Rule 33 of the Rules of Procedure , which foresees that all documents shall be tabled 24 hours in advance of the discussions.
8. During the negotiations on the amendments to the Rules of Procedure, Committee B refused to discuss a new proposal made by one of the Parties, that had been circulated too late (less than 24 hours in advance). The previously circulated proposal for amendments to the Rules of Procedure was adopted without major problems.
9. A controversial decision on trade and investment matters tabled by one Party was subject to lengthy negotiations. Despite important pressure from many Parties, the final text could be influenced positively and the EU managed to moderate the language and arrive at a neutral, factual text, which was adopted by consensus.