



Council of the
European Union

045665/EU XXVI. GP
Eingelangt am 03/12/18

Brussels, 30 November 2018
(OR. en)

14861/18

SAN 436
FISC 509
UD 299

NOTE

From: General Secretariat of the Council
To: Council

Subject: **Employment, Social Policy, Health and Consumer Affairs Council session on 7 December 2018**
WHO Framework Convention on Tobacco control (FCTC)
Eighth session of the Conference of the Parties (COP8)
(Geneva, 1-6 October 2018)
- Information from the Presidency and the Commission

Delegations will find in the Annex a note from the Presidency and the Commission services on the above-mentioned subject to be raised under "Any Other Business" at the session of the Council (EPSCO) on 7 December 2018.

**WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC)
8TH SESSION OF THE CONFERENCE OF THE PARTIES (COP8)
GENEVA, 1-6 OCTOBER 2018**

The 8th Conference of the Parties (COP8) to the Framework Convention on Tobacco Control (FCTC) was a milestone for tobacco control work. It took place in Geneva from 1st till 6th October 2018 and was attended by delegations from 148 of the 181 Parties to the Convention. At the initiative of the EU, COP8 adopted a decision to highlight that novel and emerging tobacco products fall under the remit of the Convention and should be comprehensively regulated. The other very important achievements were to reactivate work on cross-border tobacco advertising, promotion and sponsorship and to focus the ongoing work related to regulation of the contents and disclosures of tobacco products on implementation challenges.

The 8th Conference of the Parties to the Convention was this year followed by the first Meeting of the Parties (MOP1) to the Convention's Protocol to Eliminate Illicit Trade in Tobacco Products. The Protocol, adopted four years ago, has now become international law following its entry into force on 25 September 2018 upon ratification by 40 Parties.

The EU performed strongly, in a fully coordinated manner and showed strong global leadership at COP8 and MOP 1. The participation of Director-General of DG SANTE as invited speaker achieved very good visibility for the EU. At COP8, the EU achieved all its objectives and the event was a major success.

In **Committee A** -which is responsible for treaty instruments and technical matters- the following decisions were taken:

1. At the initiative of the EU, COP adopted a decision to acknowledge that **novel and emerging tobacco products**, including heated tobacco products, fall under the remit of the Convention and should be comprehensively regulated. The decision, fully in line with the EU *acquis*, had found overwhelming support from most Parties and it was co-sponsored by Turkey, South Korea and Brazil. It also foresees comprehensive monitoring of market developments and of the use of these products, as well as further scientific work to evaluate their properties, health impact, addictiveness and attractiveness, impact on tobacco control policies, potential role in smoking initiation and cessation, etc.
2. Another very important achievement for the EU at COP8 was a decision to set up a working group on **tobacco advertising, promotion and sponsorship** tasked to develop additional guidelines on cross border advertising and depiction of tobacco in the entertainment media. The decision also foresees the creation of an information hub for the exchange of information between Parties to strengthen enforcement of cross border tobacco advertising, promotion and sponsorship bans.
3. In line with the EU position, a **decision on Articles 9&10 (contents and disclosure)** was adopted which temporarily suspends the Working Group on Articles 9&10 and replaces it by an Expert Group tasked to assess the obstacles to the implementation of these Articles. Within the same decision, the EU also managed to achieve a dedicated workshop on cigarette ventilation to be financed and hosted by the Netherlands.

4. COP8 agreed on a **Medium-term Strategic Framework 2019-2025** -also known as the Global Strategy to accelerate Tobacco Control- identifying key priorities for FCTC implementation (costed national action plans, taxation, advertising bans, smoke-free policies, protection from tobacco industry interference, etc.) and on the set-up of a pilot exercise to define the terms of reference for an Implementation Review Mechanism. The biennial work plans and budget should be fully aligned with the mid-term strategy. In line with the EU position, the Medium-Term Strategy does not create new financial or reporting obligations for the Parties.
5. On the **Illicit Trade Protocol**, Parties to the FCTC were urged to ratify it and to further promote its take up and implementation. In line with the EU position, the adopted decision also clarified that the rules on product traceability and plain packaging that Parties are establishing should be compatible with each other. It was also decided that the Convention Secretariat will report to each COP on progress in the implementation of the Protocol.
6. A balanced decision on **Article 5.3** reconfirmed the commitment of Parties to protect national public health policies from the vested interests of the tobacco industry and outlined strategies to prevent tobacco industry interference, in line with Article 5.3 and the Guidelines for its implementation.
7. COP8 also adopted a decision on **tobacco control in complex emergency situations** where the EU succeeded to introduce major amendments to avoid expanding the tasks of the Convention Secretariat as a new humanitarian actor but allowing countries in emergency situations to have simplified reporting on FCTC implementation.

8. Agreement was also reached on a decision pertaining to the implementation of **Articles 17 (alternative livelihoods) and 18 (protection of the environment and health)** with the final text containing the EU amendments. The link between tobacco control and environment protection and the fight against climate change, as well as the contribution of FCTC to the achievement of the Sustainable Development Agenda was highlighted in the decision and was also the main theme of the High-Level Segment discussion.

Some issues that proved controversial at previous COPs were not debated extensively this year. COP8 discussed **electronic nicotine/non-nicotine delivery systems** but no decision was proposed on the topic. **Trade and investment protection** issues did not feature in any decision. Likewise, **liability** matters were not problematic.

In **Committee B** -which is responsible for budgetary and institutional matters- the following decisions were taken:

1. A decision on the preparation of **hosting arrangements** between the Convention Secretariat and WHO was adopted, requesting the two entities to ensure that the hosting terms reflect the overarching primacy of the COP in relation to the work programme of the Convention Secretariat and to facilitate administrative and financial procedures necessary to give effect to the decisions of the COP.
2. The COP adopted a decision for **maximizing transparency of delegations** from Parties and observers. In line with the EU position, conflict of interest forms have to be mandatorily signed by delegates of IGOs, NGOs, the media as well as of the public. For States Parties and States non-Parties it was only possible to agree on the requirement to indicate that they observe Article 5.3 FCTC when designating their representatives.
3. Coherent with the EU position, the **work plan and budget** for the financial period 2020-21 was adopted with zero nominal growth in assessed contributions. Activities on illicit trade will from now on be covered by an independent MOP budget.

4. Agreement was reached on a decision implementing measures to reduce **Parties in arrears** in the payment of their assessed contributions, including the loss of their franchise to be elected for COP functions as well as the loss of their right to vote.
5. A decision on the Convention Secretariat's fundraising strategies was adopted by the COP. The Convention Secretariat is tasked to further elaborate on and make recommendations for the concept of a WHO FCTC **investment fund** for further consideration and decision at COP 9.
6. The decisions on **accreditation** of non-governmental and intergovernmental organisations 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**.
7. Amendments to the **Rules of Procedure** were adopted by the COP primarily taking into account the role of the newly established Meeting of the Parties, the governing body of the Illicit Trade Protocol. As a positive signal for transparency and fully in line with the EU position, amended Rule 32 provides for accredited media to be entitled to attend at the open sessions of the COP.
8. The COP adopted a decision introducing a **Code of Conduct and a Declaration of Interest** for Bureau Members and Regional Coordinators as a measure of protection from the influence of the tobacco industry.
9. In a restricted session, Committee B agreed on the procedure for the **selection and evaluation of the new Head of the Convention Secretariat** which will serve both COP and MOP. The respective COP decision lays out in detail this procedure which reflects the entry into force of the Protocol and gives a role to MOP in the selection process for the Head of the Secretariat. The new Head shall be appointed for a period of four years with the possibility of a single renewal for a further full term. Attempts to upgrade the post of the Head to an unclassified position with more political visibility were rejected by the COP.

10. To secure the necessary **coordination among the governing bodies** of the FCTC and the Illicit Trade Protocol the COP adopted a decision providing for synergies to be used by the two bodies.
