REGIONAL PREPARATORY WORKSHOP FOR THE EIGHTH CONFERENCE OF THE PARTIES TO THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL

28–30 August 2018
Manila, Philippines
MEETING REPORT

REGIONAL PREPARATORY WORKSHOP FOR THE EIGHTH CONFERENCE OF THE PARTIES TO THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL

Convened by:

WORLD HEALTH ORGANIZATION
REGIONAL OFFICE FOR THE WESTERN PACIFIC

Manila, Philippines
28–30 August 2018
NOTE

The views expressed in this report are those of the participants of the Regional Preparatory Workshop for the Eighth Conference of the Parties to the WHO Framework Convention on Tobacco Control and do not necessarily reflect the policies of the conveners.

This report has been prepared by the World Health Organization Regional Office for the Western Pacific for Member States in the Region and for those who participated in the Regional Preparatory Workshop for the Eighth Conference of the Parties to the WHO Framework Convention on Tobacco Control in Manila, Philippines, from 28 to 30 August 2018.
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Keywords:

International Cooperation / Tobacco Industry / Tobacco Products / Tobacco Use
SUMMARY

Tobacco is the world’s leading cause of preventable death, killing 7 million people every year, of which one third are from the Western Pacific Region. To address this global epidemic, the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) was adopted and entered into force in 2005; all Western Pacific Member States are currently Parties to the Convention. The WHO FCTC provides a complete package of measures to reduce tobacco consumption and save lives. The importance of tobacco control in promoting development is recognized in the United Nations 2030 Agenda for Sustainable Development, including specific reference to WHO FCTC implementation in target 3.a.

The Regional Preparatory Workshop for the Eighth Conference of the Parties to the WHO FCTC was convened to allow Parties an opportunity to prepare for their participation at the Eighth Conference of the Parties (COP8) to be held in Geneva, Switzerland on 1–6 October 2018. The COP8 agenda included updates on the status of the Protocol to Eliminate Illicit Trade in Tobacco Products (the Protocol), which entered into force on 25 September 2018. The entry into force of the Protocol is a historic event and the first session of the Meeting of the Parties (MOP1) took place on 8–10 October. Another highlight of COP8 was consideration of the proposed medium-term strategic framework (MTSF) that will guide the actions to be taken by Parties over the next five years. Other agenda items included technical matters related to Articles 9 and 10 (regulation of contents and disclosure of tobacco products, 4.2.d (gender issues), 5.3 (tobacco industry interference) and 17–19 (alternative livelihoods, environmental protection and liability). Progress reports will also be made on scientific, regulatory and market developments on electronic nicotine delivery systems (ENDS) and electronic non-nicotine delivery systems (ENNDS). For the first time, the COP also featured a high-level segment addressing the environmental aspects of tobacco use, such as its impact on climate change.

In addition to considering items on the agenda for COP8, WHO experts presented expanded information and experience-sharing sessions on ENDS, heated tobacco products and tobacco industry interference.

A total of 33 participants attended the Workshop, representing 24 countries in the Western Pacific Region.

Meeting Objectives:

The objectives of the Workshop were:

1. to discuss the agenda items of COP8 and their implications for tobacco control in the Western Pacific Region;
2. to discuss potential coordination between Member States in the Region regarding planned action and contributions at COP8; and
3. to plan action on the implementation of article 5.3 of the WHO FCTC (to prevent tobacco industry interference) and the medium-term strategic framework to strengthen implementation of the Convention.

Conclusions:

1. Progress has been made in the Region on several articles of the WHO FCTC; the proposed MTSF presents a new opportunity for Member States to make further advancements towards the goals of the Convention.
Illicit trade in tobacco products is a global problem and the entry into force of the Protocol is a historic step towards a global solution. In the Western Pacific Region, Mongolia and Samoa would take part in MOP1.

ENDS and HTPs are rapidly increasing their market share in some countries in the Region; Member States must be vigilant to prevent the tobacco industry from using these alternative tobacco products to undermine tobacco control efforts.

The tobacco industry often uses trade and investment law as threats to the implementation of tobacco control measures by countries, but carefully crafted tobacco control legislation, reliance on evidence-based measures, and overall preparation can counter such threats and effectively defend against actual litigation.

While there have been successful examples of combating tobacco industry interference, it remains a major concern throughout the Region as the tobacco industry has introduced novel methods to circumvent strict tobacco control laws, including through “front” organizations like the Foundation for a Smoke-free World, which is funded by Philip Morris International.

Member States agreed to request that agenda item 7.1 on the MTSF be considered earlier in the agenda at COP8.

Member States supported the inclusion of natural disasters and calamities in the discussion related to the agenda item 7.3 on tobacco control in emergency situations.

**Recommendations for Member States:**

Member States were encouraged to:

1. prepare a joint statement to highlight regional progress in the implementation of the WHO FCTC;
2. specify types of support they would require to accelerate the implementation of the WHO FCTC;
3. further pursue full implementation of the Article 5.3 guidelines;
4. seek ways to enable more effective communication with the Convention Secretariat; and
5. share existing resources (e.g. case studies and tools) through the Convention Secretariat to assist other Parties in need.

**Recommendation for WHO:**

1. Continue to provide support to Parties, as appropriate, in preparing their participation at COP8.

**Recommendations for the Convention Secretariat:**

The Convention Secretariat is requested to:

1. continue supporting Parties upon request in preparation for their participation in COP8; and
2. share with Member States information on the planning for MOP1.
1. INTRODUCTION

1.1 Meeting organization

The Regional Preparatory Workshop for the Eighth Conference of the Parties to the WHO Framework Convention on Tobacco Control (Pre-COP8) was convened to allow Parties an opportunity to prepare for the Conference.

The Eighth session of the Conference of the Parties (COP8) was held in Geneva, Switzerland on 1–6 October 2018. The COP8 agenda included updates on the status of the Protocol to Eliminate Illicit Trade in Tobacco Products (the Protocol), which entered into force on 25 September 2018. The entry into force of the Protocol was a historic event and the first session of the Meeting of the Parties (MOP1) took place on 8–10 October. Another highlight of COP8 was consideration of the proposed medium-term strategic framework (MTSF) that will guide the actions to be taken by Parties over the next five years. Other agenda items included technical matters related to Articles 9 and 10 (regulation of contents and disclosure of tobacco products, 4.2.d (gender issues), 5.3 (tobacco industry interference) and 17–19 (alternative livelihoods, environmental protection and liability). Progress reports were also made on scientific, regulatory and market developments on electronic nicotine delivery systems (ENDS) and electronic non-nicotine delivery systems (ENNDS). For the first time, the COP featured a high-level segment addressing the environmental aspects of tobacco use, such as its impact on climate change.

1.2 Meeting objectives

The objectives of the Workshop were:

1. to discuss the agenda items of COP8 and their implications for tobacco control in the Western Pacific Region;

2. to discuss potential coordination between Member States in the Region regarding planned action and contributions at COP8; and

3. to plan action on the implementation of article 5.3 of the WHO FCTC (to prevent tobacco industry interference) and the medium-term strategic framework to strengthen implementation of the Convention.

2. PROCEEDINGS

2.1 Opening session

Dr Hai-Rim Shin opened the Workshop and delivered welcome remarks on behalf of Dr Shin Youngsoo, Regional Director for the Western Pacific Region. Dr Shin noted the importance of this meeting for all Western Pacific Member States in their preparation for COP8, and reiterated the theme for the upcoming COP, which is to protect present and future generations. Dr Vera da Costa e Silva, Head of the WHO FCTC Secretariat, also welcomed all the participants via a video message. She pointed out the significance that the Western Pacific Region is the only WHO Region in which participation in the Convention is universal, since all 27 Member States are Parties to the Convention.

Ms Kate Lannan invited the participants to introduce themselves and Ms Mina Kashiwabara went over the structure of the Workshop, which was focused on a series of video presentations as prepared
by the Convention Secretariat. Dr Geoffrey Kenilorea from the Solomon Islands was nominated as Chair and Mr David Laffan from Australia as Vice-Chair.

The list of participants is available at Annex 1. The programme of activities is available at Annex 2.

2.2 Overview of COP8 arrangement and programme of work

Ms Guangyuan Liu gave an overview of COP8 and its agenda. For the first time, the COP would include a high-level segment on tobacco and climate change actions. Ms Liu also went over the process involved in election of officers for Committees A and B, as well as for Bureau Member and Regional Coordinator. New delegates to the Convention were directed to briefing documents available on the Convention Secretariat’s website and through the COP app. Funding support for eligible Member States would be provided by the Secretariat and the Regional Office.

2.3 COP8 Agenda 2. Applications for the status of observer to the Conference of the Parties

A video presentation was shown summarizing the documents outlining the application status of nongovernmental organizations (NGOs) and intergovernmental organizations (IGOs) applying for status of observer to the COP. It was noted that the Bureau had proposed an indicative list of criteria for denying applications to organizations that meet at least one of the criteria, including those that accept funding from or have a vested interest in the tobacco industry (TI).

2.4 COP8 Agenda 5. Global progress report in implementation of the WHO FCTC, followed by a general debate

Participants viewed a video presentation covering progress in implementing the Convention thus far, which would be reported in the Global Progress Report to be published in time for COP8. A summary of this report was available on the WHO FCTC website. Overall, progress remained uneven among the different Articles of the Convention. In response to a question raised regarding the time limit for the general debate during COP8, Ms Liu explained that countries would be given 3 minutes and regional groups 5 minutes to speak. Participants were encouraged to speak more slowly to allow for more adequate interpretation. In regard to country-specific information, all country reports are available on the Convention website and are downloadable and accessible, such that country profiles can be generated.

2.5 COP8 Agenda 6. Treaty instruments and technical matters

2.5.1 6.1. Protocol to Eliminate Illicit Trade in Tobacco Products

Participants were shown a video presentation prepared by the Panel of Experts on the Protocol summarizing their work and progress to date. Dr Ada Moadsiri then opened the floor to comments. Participants requested information outlining the minimum requirements for implementing tracking and tracing (T&T) systems, as well as a summary of benefits of the Protocol that can be used to promote it to other ministries and stakeholders. The Convention Secretariat indicated that they would make these documents available on the Protocol website. Efforts are currently being made to work with IGOs, such as the World Customs Organization (WCO). The Convention Secretariat encouraged

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1 This report has since been published and is available at: http://www.who.int/fctc/reporting/WHO-FCTC-2018_global_progress_report.pdf.
2 http://untobaccocontrol.org/impdb/.
3 Published and available at: http://www.who.int/fctc/protocol/faq/en/.
the Oceania Customs Organisation (OCO) to apply as official observers to the Protocol, given that it already has a Memorandum of Understanding (MOU) with the WHO Western Pacific Regional Office. Other countries could use existing platforms to facilitate Protocol-related activities. Another topic of interest to participants was the rationale for and applicability of T&T in free trade zones; it was pointed out that free trade zones are often exploited by tobacco companies. Under the Protocol, the deadline for implementation of T&T is within five years and within three years for implementation of effective control within free zones. This agenda item would be covered during the Meeting of the Parties (MOP1) to be held on 8–10 October after COP8.

A separate discussion on the MOP1 was held with interested Parties at the end of Day 2.

Ms Yoni Dekker presented an overview of the agenda and other expectations leading up to MOP1. The MOP1 would first be conducted as closed group discussion for participants to decide whether the meeting would be open to observers. Separate registration was needed for MOP participants, including interested observers. A clarification was sought on the rules and procedures of the COP to be applied until the MOP decision to have its own rules and procedures was made. Further information is available on the MOP1 website (http://www.who.int/fctc/protocol/mop/en/) and on the conference apps.

2.5.2 6.2. Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media: report by the expert group

Participants viewed a video presentation covering progress to date and work of the Expert Group on tobacco advertising, promotion and sponsorship (TAPS), specifically, the depiction of tobacco in entertainment media. The existing Article 13 guidelines for implementation remain relevant, and further efforts must be made to address cross-border TAPS, especially given the changing media landscape, such as the growing ubiquity of social media and the use of social media influencers to circumvent bans on TAPS. A suggestion was made for WHO and Member States to share best practices and innovative approaches to banning TAPS, as well as to involve the media industry in these efforts. At COP8, Parties would discuss the recommendations of the Expert Group to establish a Working Group to develop an addendum to the existing Guidelines on Article 13, addressing cross-border TAPS and tobacco advertising in entertainment media. Dr Mary Assunta pointed out that when TAPS bans are in place, the TI will often shift their budget to other forms of marketing. Therefore, it is important to require TI to report on their spending, which is a requirement under the guidelines for implementation of Article 5.3.

2.5.3 6.3. Progress report on technical matters related to Articles 9 and 10 (Regulation of contents and disclosure of tobacco products, including waterpipe, smokeless tobacco and heated tobacco products): report by WHO

WHO has worked both internally and with its technical advisory groups, the WHO Tobacco Laboratory Network (TobLabNet) and its study group on tobacco regulation (TobReg) to address technical matters related to Articles 9 and 10 of the Convention. A video presentation was shown summarizing their findings and recommendations. An information sheet on the market monitoring of heated tobacco products (HTPs) was recently published and is available on the WHO website. A report is also available from a meeting held in Berlin on tobacco addictiveness reduction measures.

6 Available at: http://www.who.int/tobacco/publications/prod_regulation/tobreg/en/.
Parties are encouraged to use the available and existing standard operating procedures validated by WHO to monitor the contents and emissions of tobacco products.

2.5.4 Progress report on scientific, regulatory and market developments on electronic nicotine delivery systems (ENDS) and electronic non-nicotine delivery systems (ENNDS)

Participants viewed a video presentation summarizing the progress report on scientific evidence and regulatory options related to ENDS and ENNDS. While ENDS have been banned in many countries, these products are increasing in prevalence worldwide and a large number of Parties do not yet have regulations in place to address their impact. Several participants remarked on the urgent need to regulate ENDS in their countries due to their growing popularity or predicted future popularity. Regulations can be implemented through amendments to existing legislation on tobacco control or other relevant areas, or through the development of specific new legislation.

2.6 Nominations for elected officials for COP

Participants further discussed the nominations for the roles at COP8 brought up earlier in the day. The Convention Secretariat prepared a document with a list of the countries holding current and past positions. Final decisions on elected officials would be made during the Conference. Bureau Member and Regional Coordinator positions from the Region are also required for MOP1.

Through Australia, New Zealand expressed its willingness to be Bureau member for the COP if no other Party was interested. China was nominated as incoming Bureau member for the COP by the Lao People’s Democratic Republic.

2.7 Alternative products: ENDS and heated tobacco products (HTPs)

Dr Cheah Nuan Ping gave an overview of the available evidence, knowledge gaps and regulatory challenges related to ENDS and HTPs. While ENDS and HTPs have lower levels of chemicals than cigarettes, they still contain toxic chemicals and have known negative health effects, yet they are under-regulated. HTPs are tobacco products and as such are covered under the provisions of the WHO FCTC. There is also some evidence that ENDS might be a gateway to smoking, which is of particular concern given their popularity with youth. There is a paucity of evidence on HTPs and, as with ENDS, the long-term effects of HTP use are as yet unknown. Therefore, further research, surveillance and monitoring of these products are necessary. Resources should be directed to raising awareness and building capacity of countries to regulate or ban ENDS and HTPs.

In the discussion that followed, participants shared their country experiences in banning or regulating ENDS and HTPs. Clarification was sought on a “NosmoQ” product from the Republic of Korea that is said to be herbal and therapeutic. Ms Lannan responded that some herbal cigarettes contain tobacco and nicotine and some do not; therefore, advice on regulation is given on a case-by-case basis. The Regional Office has prepared a brief on this and information can be requested by interested Parties.

In the remaining time left on Day 1, participants deviated from the programme of activities to discuss agenda items 7.2. Progress report on implementation assistance and international cooperation and 7.3. Tobacco control in emergency situations (item proposed by a Party). The main points covered in these two topics are presented in section 2.11 below.
2.8 COP8 Agenda 6. Treaty instruments and technical matters (continued)

2.8.1 Progress report on technical matters related to Articles 4.2.d (gender issues), 5.3 (tobacco industry interference), 17 and 18 (alternative livelihoods and protection of the environment) and 19 (liability)

Day 2 of the Workshop began with a recap by Mr Ramon de Guzman of the main points from the previous day’s presentations, followed by a video presentation summarizing the progress report on technical matters related to Articles 4.2.d, 5.3, 17 and 18, and 19.

There were some requests and comments from the participants on accessing the relevant documents. The Convention Secretariat explained that the full report on gender was still in development with WHO’s gender department but would be shared with Member States once it is ready. A document on Article 5.3 was being drafted by some countries in the Eastern Mediterranean Region to address policy coherence when multiple government sectors (such as health and labour) are involved in implementation, as well as to stress the importance of preventing TI interference (TII) when developing national policies. The Convention Secretariat planned to have a draft circulated on the first day of COP8. A request was also made by Samoa for assistance in implementing Article 19, which is challenging due to the power of the TI in the country. They welcomed the related Civil Liability Toolkit and acknowledged the support provided by, and legal training received from, Australia’s McCabe Centre for Law & Cancer.

2.9 Tobacco industry interference (TII)

2.9.1 Overview of TII in the Western Pacific Region

Dr Mary Assunta Kolandai gave a presentation on TII in the Region, beginning with the five tactics it uses to interfere with tobacco control interventions: interfering through non-health departments, such as ministries of finance to discourage taxation or ministries of commerce and trade to encourage duty exemption for tobacco products; funding research that supports the industry and manipulates public opinion; mobilizing front groups, lobby groups and certain consultants to influence policy; utilizing corporate social responsibility (CSR) activities to gain access to politicians and government officials; and intimidating or threatening governments with litigation.

2.9.2 Industry promotion of alternative products

Dr Assunta described how the TI aggressively markets alternative “reduced harm” tobacco products, including creating the perception that they are “clean”. Stores selling these products project themselves as sleek and attractive places, thus manipulating people’s attitudes. The TI argues that these products should be exempted from smoke-free laws, TAPS bans and taxation as they maintain that the products are of a different category from cigarettes. Instead of following Article 14 and promoting smoking cessation, the TI encourages the shift from one addictive product to another. WHO’s position is that HTPs are tobacco products and should be subject to the provisions of the WHO FCTC.

2.9.3 Relevant examples from the Western Pacific Region

Some regional examples include:

- Tobacco companies Philip Morris International (PMI) and British American Tobacco (BAT) have funded research on illicit trade in the Region, which overestimates the extent of illicit trade in order to discourage governments from increasing taxation of tobacco products.
The ASEAN Intellectual Property Association attacked tobacco plain packaging legislation in the Region.

The Philippine Tobacco Institute filed court cases against a small city in the Philippines with anti-smoking ordinances.

The PMI-funded Foundation for a Smoke-free World (FSFW) has approached the customs department in countries to inquire about taxation of PMI’s HTP product, IQOS, thus bypassing health officials.

FSFW recently funded a new centre in New Zealand headed by an individual who previously worked in tobacco control; this centre may become active in the Pacific.

The TI is providing apprenticeship programmes and partnering with the agricultural sector in the Pacific.

The TI successfully delayed passage of a tobacco control bill in the Solomon Islands, resulting in a “thin” (watered-down) bill.

Japan Tobacco International has been acquiring tobacco companies in low- and middle-income countries (LMICs) as a way to expand their cigarette sales, while at the same time purporting to sell “reduced risk” products.

2.9.4 Group discussion

Countries discussed their experience in preventing and countering TII. Many countries do not have the capacity to conduct their own research or to monitor illicit trade; assistance from NGOs and IGOs is needed for these activities.

2.9.5 Industry interference through international trade and investment law – plus strategies and options

Professor Andrew Mitchell went on to present an overview of how international trade and investment law are used against policy-makers to manipulate tobacco control interventions. He described threats of – and actual – trade and investment challenges to public health measures as key strategies used by the TI. When such complaints are raised against a government, whether founded or not, they can cause regulatory chill. In order to minimize the legal risks, he recommended taking a comprehensive approach that includes planning to minimize the potential costs of litigation, and to increase the likelihood of a state successfully defending against such litigation. It is also important to avoid any laws that could be considered discriminatory to foreign investors and businesses, as they could be challenged on that basis. Lawyers should be involved early in the process of considering which regulatory measures to adopt, and a whole-of-government approach should be taken to ensure a coherent regulatory approach supportable by both trade and health departments. In response to a question about how to lobby for imposing tariffs in ASEAN free trade zones, Professor Mitchell encouraged the application of sales taxes to both domestic and foreign products. Mr Lit Fai Chan was asked to briefly describe Singapore’s recent public consultation process on plain packaging of tobacco products. The representative from the McCabe Centre for Law and Cancer noted the significance of the WHO FCTC as set out in the findings of the World Trade Organization panel on the Australia plain packaging case and the investment tribunal award in favour of Uruguay’s packaging and labelling measures. It was further noted that the McCabe Centre is a WHO FCTC knowledge hub that has information on legal challenges to the WHO FCTC implementation, including cases related to trade and investment law, which can serve as a resource for Parties.

2.9.6 PMI Foundation for a Smoke-free World

One industry tactic used by the TI is to present themselves as part of the solution. PMI is the sole funder of FSFW, which tries to influence the research agenda away from tobacco cessation to product substitution, such as HTPs. In November 2017, the Ministry of Health of Viet Nam became the first
government in the Region to officially reject research funded by FSFW. Some other countries, such as China, have also rejected funding from FSFW. WHO will not partner with the Foundation and governments are urged not to partner with them.

2.10 Strategies to regulate alternative products and address industry interference

2.10.1 White paper on HTP regulation

Ms Ga Eun Jeon gave a presentation on HTPs in the Republic of Korea, highlighting the regulatory challenges faced by the government, especially in terms of taxation and health warning implementation. While the heat stick part of HTPs is classified as a tobacco product, the HTP device itself is classified as a general industrial product – a regulatory loophole allowing the TI to promote the product via press conferences and social media. Government concerns over taxation of HTPs led to action by the Ministry of Health and Welfare, which gathered information from other countries with HTPs and advocated a tax increase based on Article 6 of the WHO FCTC and WHO’s statement on HTPs. In 2017, amendments were passed raising taxes on HTPs to about 90% of the tax levied on conventional cigarettes. Despite efforts from the TI to interfere, the Republic of Korea successfully mandated pictorial health warnings on HTP products. Ms Jeon noted that the TI promotes HTPs differently in different countries, depending on the context of each country’s tobacco control measures. The capacity of a government to examine and verify the TI’s claims of the harm reduction potential of HTPs is key to establishing regulatory control. She also emphasized the importance of exchange of scientific, technical and regulatory information among countries to improve regulatory capacity against multinational tobacco companies. In the discussion that followed, many participants commented that Article 5.3 of the WHO FCTC against TII should apply to HTPs.

2.11 COP8 Agenda 7. Reporting, implementation assistance and international cooperation

2.11.1 7.1. Measures to strengthen implementation of the Convention through coordination and cooperation: report by the working group

The Working Group on this issue – composed of 12 Parties and six NGOs and IGOs – presented a video introducing the work they have done, resulting in a report submitted to the COP containing a draft of the medium-term strategic framework (MTSF). Some key components of the framework include strategic goals and operational objectives supported by measurable indicators, which can support and assist Parties in developing their workplans and budgets, as well as national policies, in alignment with global strategic priorities. An Implementation Review Mechanism (IRM) was also being proposed that provides a focus for identifying gaps and needs in countries. Parties are encouraged to voluntarily take part in the pilot project of the IRM. The MTSF will be presented for discussion and approval at COP8.

In the discussion that followed, several delegates strongly supported prioritizing this matter in the agenda for Committee A at the COP, especially given its financial implications. There was agreement that this should be a regional position, and Ms Liu stated that she would bring this request to the attention of the Bureau. A representative from the Southeast Asia Tobacco Control Alliance (SEATCA) who had taken part in the Working Group also noted that the Parties in the Working Group recognized the importance of the MTSF to advance the Treaty.
2.11.2  7.2. Progress report on implementation assistance and international cooperation

Participants viewed a video presentation summarizing the progress made in terms of international cooperation with such organizations as the United Nations (UN) Economic and Social Council (ECOSOC), International Labour Organization (ILO) and the UN Interagency Task Force on the Prevention and Control of Noncommunicable Diseases (UNIATF). With the efforts of the Convention Secretariat, the board of the UN Global Compact has removed four tobacco companies from its membership, which sets a good example of implementation of the model policy for preventing TII. At the third South-South and triangular cooperation meeting, eight projects were identified focusing on several Articles of the WHO FCTC.

Australia welcomed the launch of the Civil Liability Toolkit (Article 19) and recommended it to all other Parties. The Australian Department of Foreign Affairs and Trade also contributes to the International Legal Training Program of the McCabe Centre for Law and Cancer. A representative from the McCabe Centre gave an overview of the Program, which includes annual training courses for LMICs in the use of law as a tool to assist in the prevention of cancer and other NCDs.

Dr Moadsiri raised the issue of taxation and other concessions being given to domestic producers of tobacco products. As this is within the purview of the customs and finance sectors, it is necessary to engage them in addressing the problem; one strategy could be to focus on the environmental impacts of nonbiodegradable tobacco-related waste. Dr Assunta also pointed out that many tobacco companies are misusing the Sustainable Development Goals (SDGs) as part of their CSR activities. She suggested that countries could perhaps report such activities to the United Nations Development Programme (UNDP), since it has a clear policy of non-engagement with the TI.

2.11.3  7.3. Tobacco control in emergency situations (item proposed by a Party)

The issue of tobacco control during emergency situations was proposed by Syria and a few Parties from the Eastern Mediterranean Region. A video presentation outlined some of the main concerns, including the linkage between nicotine dependence/tobacco use and post-traumatic stress disorder, which increases in prevalence in populations that undergo a stressful event. Increased tobacco use leads to other problems due to long-term addiction and increased risk of NCDs in already vulnerable populations. Furthermore, the TI may take advantage of the weakened political situation in conflict zones and attempt to influence policy-making. The Convention Secretariat has developed a non-exhaustive list of practical actions in line with the WHO FCTC to be considered by Parties.

Following the video presentation, workshop participants commented that in this Region, natural disasters are a serious concern and could be considered in the same vein as emergencies like war and conflict. Ms Liu encouraged Parties to bring this aspect to the debate at COP8 as it can enrich the conversation and scope of the resulting document. Several countries shared examples of how the TI has exploited these situations in the past by donating money to aid groups, thus using these opportunities to give themselves good publicity.

2.12  COP8 Agenda 8. Budgetary and institutional matters

2.12.1  8.1. Performance and progress reports

This agenda item was not discussed during the workshop.
2.12.2  8.2. Maximizing transparency of delegations from Parties and observers to the Conference of the Parties, its subsidiary bodies and other WHO FCTC meetings

Participants viewed a video presentation introducing the document related to maximizing transparency. TII remains a major barrier for countries in implementing the WHO FCTC; therefore, the Bureau had drafted a decision providing guidance on the monitoring of actual, potential or apparent conflicts of interest that may arise from declarations of interest (DOIs). Concern was raised by participants on the inclusion of official delegates, which may be a sensitive issue for some Parties. Consideration of the draft decision would be undertaken at COP8 and Parties would be given sufficient time to consider it.

2.12.3  8.3. Proposed workplan and budget for the financial period 2020–2021

Participants viewed a video presentation on the workplan and budget for 2020–2021 proposed by the Convention Secretariat, which were developed in alignment with the MTSF but were expected to be amended to reflect the discussions and decisions on relevant agenda items at COP8. The Secretariat noted that demand for support by Parties has increased but assessed contributions have not increased from COP3 to COP8; therefore, significant fundraising would be needed for some activities. Several delegates sought clarification on the status of their country’s assessed contributions.

2.12.4  8.4. Payment of the assessed contributions and measures to reduce Parties in arrears

A video presentation provided information on the progress made in payment of assessed contributions. As of 30 June 2018, 60 Parties were in arrears, with a total amount of US$ 506 110 overdue. The draft decision of the Secretariat proposed that Parties in arrears shall not be eligible to become or nominate a Bureau Member, be eligible to chair any subsidiary body or working group, or have the right to vote. While the suspension of the right to vote had been included in COP7, Parties had the right to change previous decisions during COP8. The amount of arrears in the Western Pacific Region was not large; however, Parties were encouraged to follow the principle of complying with their treaty obligations and bringing the issue to the attention of relevant ministries in their countries. A strong appeal was made on behalf of small countries, which might not be able to easily pay their arrears or might not be aware of them, that they not suffer the strong sanctions suggested due to those arrears. A request was made that the Convention Secretariat reconsider its suggested approach in favour of a more nuanced one that takes into account the context of each country.

2.12.5  8.5. Convention Secretariat’s fundraising strategies: investment fund concept

An investment trust fund concept intended to augment the existing funding structure and provide extrabudgetary funds was proposed by the Secretariat and described in a video presentation. The basic premise of the concept is that Parties and other approved stakeholders may voluntarily choose to provide funds for a fixed period of time (e.g. 5–10 years) to be placed in low-risk investments, with the earnings generated used to support implementation of the WHO FCTC. Management of the fund would be by professional fund managers with expertise in the financial market. The target goal is US$ 50 million, with an anticipated annual return of US$ 2–2.5 million. The Secretariat requested that a working group or advisory team be established to further develop the operational elements of the fund and report back to COP9 on its progress, including potential funding partners. Because the investment fund is still at the concept stage, interested potential Parties could not yet be disclosed. Regional Coordinators would be asked to conduct regional consultations on this issue.
2.12.6 8.6. Review of accreditation of observers to the Conference of the Parties

A video presentation highlighted results from a survey conducted among IGOs and a standard questionnaire for NGOs to report on activities related to the WHO FCTC. While the IGOs that responded to the survey reported compliance with Article 5.3, there was overall low response and the Convention Secretariat noted the lack of endorsements of governing bodies of these IGOs. Among the 20 accredited NGOs, all but one responded to the questionnaire and one conflict of interest was reported by the World Self-Medication Industry Association, which was then asked to comply with Article 5.3. As this did not occur, the Secretariat had suggested that the observer status for this NGO be discontinued. In the discussion that followed, Dr Assunta brought up links between the TI and the United Nations Children’s Fund (UNICEF). An official response from UNICEF regarding this had not yet been received.

2.12.7 8.7. Relationship of the Convention Secretariat with other international entities: observer status

Ms Liu presented a brief summary of the Convention Secretariat’s ongoing discussion regarding its applications for observer status to governing bodies of other international organizations. Following the presentation, the floor was opened for discussion; no comments or questions were raised by Parties.

2.12.8 8.8. Possible amendments to the Rules of Procedure of the Conference of the Parties

Ms Liu presented the proposed amendments to the Rules of Procedures. In the discussion, it was noted that the word “open” refers to the meeting being open to Parties, IGOs and NGOs, but not to the media or to the public. Representatives from SEATCA raised a query about possible changes in the accreditation of media and the Convention Secretariat has maintained that there is an established application process, consistent with the practices of the United Nations. Concerns were raised about Rule 18 in regard to Parties submitting incomplete credentials, such as those not signed by the government or by their ministry of health. A request was made that Parties be given more time to obtain the necessary items to complete the credentials.

2.12.9 8.9. Strengthening synergy between the Conference of the Parties and the World Health Assembly: report by the WHO Director-General on the outcome of the Seventieth and Seventy-first World Health Assembly

Participants watched a video presentation summarizing the points included in the report by the WHO Director-General on outcomes and resolutions from the Seventieth and Seventy-first sessions of the World Health Assembly.

2.12.10 8.10. Code of Conduct of the Bureau to the Conference of the Parties

A Code of Conduct for the Bureau was being considered as a way to protect the work of the WHO FCTC from breaches of confidence. It was being proposed as a reaction to a past incident when a former Bureau Member became a consultant for the TI, which was a source of concern because of his access to internal information. The current Bureau therefore felt that preventive measures should be taken. Current Bureau Members and Regional Coordinators have voluntarily signed DOIs. This item would be discussed further by the Secretariat and Bureau Members.
2.13 COP8 Agenda 9. Date and place of the Ninth session of the COP

Participants were informed that COP9 will take place on 26–31 October 2020, with the hosting Party to be determined.

2.14 Wrap-up of Preparatory Workshop for COP8

Ms Lannan thanked all the participants for attending the workshop and for their valuable inputs during the discussions. She looked forward to seeing everyone again at COP8.

2.15 Closing

In her closing remarks, Dr Hai-Rim Shin highlighted the progress being made in regard to several Articles of the Convention, including major developments, new concepts and lessons learnt, as well as the preparations being made for COP8 and for development of the Regional Action Plan for the Tobacco Free Initiative in the Western Pacific (2020–2024).

3. CONCLUSIONS

The following are conclusions from the Regional Preparatory Workshop for the Eighth Conference of the Parties to the WHO Framework Convention on Tobacco Control:

1. Progress has been made in the Region on several articles of the WHO FCTC; the proposed MTSF presents a new opportunity for Member States to make further advancements towards the goals of the Convention.

2. Illicit trade in tobacco products is a global problem and the entry into force of the Protocol is a historic step towards a global solution. In the Western Pacific Region, Mongolia and Samoa will take part in MOP1.

3. ENDS and HTPs are rapidly increasing their market share in some countries in the Region; Member States must be vigilant to prevent the tobacco industry from using these alternative tobacco products to undermine tobacco control efforts.

4. The tobacco industry often uses trade and investment law as threats to the implementation of tobacco control measures by countries, but carefully crafted tobacco control legislation, reliance on evidence-based measures, and overall preparation can counter such threats and effectively defend against actual litigation.

5. While there have been successful examples of combating tobacco industry interference, it remains a major concern throughout the Region as the tobacco industry has introduced novel methods to circumvent strict tobacco control laws, including through “front” organizations like the FSFW, which is funded by PMI.

6. Member States agreed to request that agenda item 7.1 on the MTSF be considered earlier in the agenda at COP8.

7. Member States supported the inclusion of natural disasters and calamities in the discussion related to the agenda item 7.3 on tobacco control in emergency situations.
Recommendations for Member States:

Member States were encouraged to:

(1) prepare a joint statement to highlight regional progress in the implementation of the WHO FCTC;
(2) specify types of support they would require to accelerate the implementation of the WHO FCTC;
(3) further pursue full implementation of the Article 5.3 guidelines;
(4) seek ways to enable more effective communication with the Convention Secretariat; and
(5) share existing resources (e.g. case studies and tools) through the Convention Secretariat to assist other Parties in need.

Recommendation for WHO:

(1) Continue to provide support to Parties, as appropriate, in preparing their participation at COP8.

Recommendations for the Convention Secretariat:

The Convention Secretariat is requested to:

(1) continue supporting Parties upon request in preparation for their participation in COP8; and
(2) share with Member States information on the planning for MOP1.
Annex 1. List of participants

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Annex 2. Programme of Activities

Day 1, Tuesday 28 August

08:30–09:00  Registration

09:00–09:15  Welcome and opening remarks  
Dr Hai-Rim Shin  
Director, Division of Noncommunicable Disease and Health through the Life-Course (for) Regional Director, WPRO

09:15–09:25  Welcome message (video)  
Dr Vera da Costa e Silva  
Head, WHO FCTC Secretariat

09:25–09:35  Introduction of participants  
Ms Kate Lannan  
Coordinator, Tobacco Free Initiative (TFI), WPRO

Proposed office bearers
Administrative announcements

09:35–10:00  Group photo and healthy break

10:00–10:10  Confirmation of workshop structure  
Ms Mina Kashiwabara  
Technical Officer, TFI, WPRO

10:10–10:20  Overview of COP8 arrangement and programme of work  
Ms Guangyuan Liu  
Coordinator, Secretariat, WHO FCTC

10:20–10:35  COP8 Agenda 2. Applications for the status of observer to the Conference of the Parties  
Document FCTC/COP/8/3  
Ms Mina Kashiwabara  
Technical Officer, TFI, WPRO

10:35–10:50  COP8 Agenda 5. Global progress report in implementation of the WHO FCTC, followed by a general debate  
Document FCTC/COP/8/4  
Ms Mina Kashiwabara  
Technical Officer, TFI, WPRO

10:50–12:00  COP8 Agenda 6. Treaty instruments and technical matters  
Dr Ada Moadsiri  
Technical Officer, TFI, WHO South Pacific

10:50–11:15  6.1. Protocol to Eliminate Illicit Trade in Tobacco Products  
Documents FCTC/COP/8/5, FCTC/COP/8/6: report by the Expert Panel

11:15–12:00  6.2. Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media: report by the expert group  
Document FCTC/COP/8/7

12:00–13:00  Lunch
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<tr>
<th>Time</th>
<th>Event</th>
<th>Presenter/Coordinators</th>
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<tbody>
<tr>
<td>13:00–14:30</td>
<td><strong>COP8 Agenda 6. Treaty instruments and technical matters (continued)</strong></td>
<td><strong>Ms Kate Lannan</strong> Coordinator, <strong>TFI, WPRO</strong></td>
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<td>13:00–14:00</td>
<td>6.3. Progress report on technical matters related to Articles 9 and 10 (Regulation of contents and disclosure of tobacco products, including waterpipe, smokeless tobacco and heated tobacco products): report by WHO</td>
<td><em>Document FCTC/COP/8/8</em></td>
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<td>14:00–14:30</td>
<td>6.5. Progress report on scientific, regulatory and market developments on electronic nicotine delivery systems (ENDS) and electronic non-nicotine delivery systems (ENNDs)</td>
<td><em>Document FCTC/COP/8/106.4.</em></td>
</tr>
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<td>14:30–14:45</td>
<td><strong>Healthy break</strong></td>
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<td>14:45–15:00</td>
<td><strong>Nominations for elected officials for COP8</strong></td>
<td><strong>Ms Guangyuan Liu</strong> Coordinator, <strong>WHO FCTC</strong></td>
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<td>15:00–16:45</td>
<td><strong>Alternative products: ENDS and heated tobacco products (HTPs)</strong></td>
<td><strong>Dr Cheah Nuan Ping</strong> WHO Scientific Expert</td>
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<td>ENDs – Product overview; Available evidence</td>
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<td>HTPs – Product overview; Available evidence</td>
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<tr>
<td>16:45–17:00</td>
<td><strong>Wrap-up of day 1</strong></td>
<td><strong>Rapporteur</strong> <strong>Ms Delphina Kerslake</strong> Legal Consultant, <strong>MOH Samoa</strong></td>
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<td>17:30–18:30</td>
<td><strong>Welcome reception</strong></td>
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**Day 2, Wednesday 29 August**

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<tr>
<th>Time</th>
<th>Event</th>
<th>Presenter/Coordinators</th>
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<tbody>
<tr>
<td>08:30–08:45</td>
<td><strong>Recap of Day 1 and objectives of Day 2</strong></td>
<td><strong>Mr Ramon De Guzman</strong> Consultant, <strong>TFI, WPRO</strong></td>
</tr>
<tr>
<td>08:45–09:30</td>
<td><strong>COP8 Agenda 6. Treaty instruments and technical matters (continued)</strong></td>
<td><strong>Mr Kelvin Khow</strong> Technical Officer, <strong>WHO China</strong></td>
</tr>
<tr>
<td></td>
<td>6.4. Progress report on technical matters related to Articles 4.2.d (gender issues), 5.3 (tobacco industry interference), 17 and 18 (alternative livelihoods and protection of the environment) and 19 (liability)</td>
<td><em>Document FCTC/COP/8/9</em></td>
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</tbody>
</table>
09:30–10:45  **Tobacco industry interference (TII)**  
Overview of TII in the Western Pacific Region
PMI Foundation for a Smoke-free World
Industry promotion of alternative products
Relevant examples from the Western Pacific Region
Group discussion

10:45–11:00  Healthy break

11:00–12:00  **Tobacco industry interference (continued)**  
Industry interference through international trade and investment law – plus strategies and options

12:00–13:00  Lunch

13:00–14:30  **Strategies to regulate alternative products and address industry interference**  
White paper on HTP regulation
Breakout session: Challenges in the Western Pacific Region
Discussion in plenary

14:30–15:00  **COP8 Agenda 7. Reporting, implementation assistance and international cooperation**  
7.1. Measures to strengthen implementation of the Convention through coordination and cooperation: report by the working group  
*Documents FCTC/COP/8/11*

15:00–15:15  Healthy break

15:15–16:30  **COP8 Agenda 7. Reporting, implementation assistance and international cooperation (continued)**  
7.1. Measures to strengthen implementation of the Convention through coordination and cooperation: report by the working group (continued)  
*Documents FCTC/COP/8/11*

16:00–16:30  7.2. Progress report implementation assistance and international cooperation  
*Document FCTC/COP/8/12*  
a. Trade and investment issues, including agreements, and legal challenges in relation to the implementation of the WHO FCTC; and
b. International cooperation including the Sustainable Development Goals, global NCD targets, human rights and South–South and Triangular cooperation for the implementation of the WHO FCTC.

16:30–16:45  Wrap-up of Day 2

16:45–17:45  Time allotted for Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products to discuss the first Meeting of the Parties (MOP1) to be held following COP8

Day 3, Thursday 30 August

08:30–08:45  Recap of Day 2 and objectives of Day 3

08:45–09:00  COP8 Agenda 7. Reporting, implementation assistance and international cooperation (continued)

7.3. Tobacco control in emergency situations (item proposed by a Party)
Document FCTC/COP/8/13

09:00–10:00  COP8 Agenda 8. Budgetary and institutional matters

8.1. Performance and Progress reports
Document FCTC/COP/8/14
a. Performance report for the 2016–2017 workplan and budget
b. Interim performance report for the 2018–2019 workplan and budget
c. Progress report on hosting terms between the Convention Secretariat and WHO.

8.2. Maximizing transparency of delegations from Parties and observers to the Conference of the Parties, its subsidiary bodies and other WHO FCTC meetings
Document FCTC/COP/8/15

8.3. Proposed workplan and budget for the financial period 2020–2021
Documents FCTC/COP/8/16; FCTC/COP/8/INF.DOC./2
8.4. Payment of the assessed contributions and measures to reduce Parties in arrears
Document FCTC/COP/8/17

8.5. Convention Secretariat’s fundraising strategies: Investment fund concept
Document FCTC/COP/8/18

10:00–10:15

Healthy break

10:15–11:25

COP8 Agenda 8. Budgetary and institutional matters (continued)

8.6. Review of accreditation of observers to the Conference of the Parties
Document FCTC/COP/8/19
a. Review of accreditation of international intergovernmental organizations with the status of observers to the Conference of the Parties; and
b. Review of accreditation of nongovernmental organizations with the status of observers to the Conference of the Parties.

8.7. Relationship of the Convention Secretariat with other international entities: observer status
Document FCTC/COP/8/20

8.8. Possible amendments to the Rules of Procedure of the Conference of the Parties
Document FCTC/COP/8/21

8.9. Strengthening synergy between the Conference of the Parties and the World Health Assembly: report by the WHO Director-General on the outcome of the Seventieth and Seventy-first World Health Assembly
Document FCTC/COP/8/22

8.10. Code of Conduct of the Bureau to the Conference of the Parties
Document FCTC/COP/8/23

11:25–11:30

COP8 Agenda 9. Date and place of the ninth session of the COP
Document FCTC/COP/8/24

11:30–11:45

Wrap-up of Preparatory Workshop for COP8

11:45–12:30

Lunch

12:30–13:30

Optional Session on WTO Panel Report on Tobacco Plain Packaging
13:30–15:00 Discussion to develop the draft Regional Action Plan for the Tobacco Free Initiative in the Western Pacific (2020-2024)

Ms Kate Lannan
Coordinator, TFI, WPRO
and
Ms Mina Kashiwabara
Technical Officer, TFI, WPRO

15:00–15:15 Healthy break

15:15–16:45 Discussion to develop the draft Regional Action Plan for the Tobacco Free Initiative in the Western Pacific (2020-2024) (continued)

16:45–17:00 Closing

Dr Hai-Rim Shin
Director, DNH, WHO/WPRO