

Ministries of foreign affairs, like all branches of government, must limit interactions with the tobacco industry only when and to the extent strictly necessary to effectively regulate the industry and its products. While some countries have adopted regulatory measures to govern diplomats' interactions with the tobacco industry, incidents of unnecessary interactions and high-level lobbying have been documented, such as initiatives of the tobacco industry advising governments to challenge other countries' tobacco-control measures at national and international levels. Parties are urged to (i) intensify collaborative action to address tobacco industry efforts internationally and (ii) raise awareness and adopt measures to implement Article 5.3 and its implementing Guidelines among all parts of government, including diplomatic missions.

4. Ministries of foreign affairs can take important first steps to advance tobacco control and accelerate progress towards the SDGs.

The ministry of foreign affairs plays a key role in implementing obligations under international treaties such as the WHO FCTC and the Protocol to Eliminate Illicit Trade in Tobacco Products. In the first instance, ministries of foreign affairs should:

- Engage with ministries of health and other relevant ministries to achieve well-informed representation from focal points of ministries of foreign affairs at sessions of the COP and the MOP and other international meetings.
- Promote cooperation among national stakeholders to strengthen efforts to eliminate illicit trade in tobacco products and counteract tobacco industry interference, including becoming a Party to and implementing the Protocol to Eliminate Illicit Trade in Tobacco Products.
- Work with trade partner countries and neighbouring countries to ensure policy coherence to combat illicit trade of tobacco products, for example, through the implementation of international tracking and tracing systems and mutual legal cooperation to investigate and prosecute unlawful conduct.
- Establish and maintain regional and international routes of communication to exchange expertise and good country practices in tobacco control.

In line with the Convention Secretariat's [Global Strategy to Accelerate Tobacco Control 2025](#) and [UNDP's Strategic Plan 2022-2025](#) and [HIV, Health and Development Strategy \(2022-2025\)](#), these briefs emphasise the importance of a coordinated, multisectoral whole-of-government approach to tobacco control, empowering Parties to work across sectors to achieve policy coherence.

References

- 1 United Nations Department of Economic and Social Affairs. Goal 3: Ensure healthy lives and promote well-being for all at all ages. Available at: <https://sdgs.un.org/goals/goal3>.
- 2 Secretariat of the WHO FCTC (2021). The WHO Framework Convention on Tobacco Control: an overview. Available at: <https://fctc.who.int/publications/m/item/the-who-framework-convention-on-tobacco-control-an-overview>.
- 3 WHO FCTC. WHO Framework Convention on Tobacco Control Parties. Available at: <https://fctc.who.int/who-fctc/overview/parties>.
- 4 WHO Framework Convention on Tobacco Control. Overview. Available at: <https://fctc.who.int/who-fctc/overview>.
- 5 WHO Framework Convention on Tobacco Control. Global Strategy 2025. Available at: <https://fctc.who.int/who-fctc/overview/global-strategy-2025>.
- 6 Secretariat of the WHO FCTC. Protocol to Eliminate Illicit Trade in Tobacco Products.
- 7 WHO (2022). Tobacco. Available at: <https://www.who.int/news-room/fact-sheets/detail/tobacco>.
- 8 Goodchild M., Nargis N., Tursan d'Espaignet E. Global economic cost of smoking-attributable diseases. *Tobacco Control* 2018; 27:58–64.
- 9 WHO FCTC (2003). WHO Framework Convention on Tobacco Control. (Geneva, WHO, 2003).
- 10 WHO (2009). Tobacco industry interference with tobacco control. Available at: <https://www.who.int/publications/i/item/9789241597340>.
- 11 Zhou, S.Y., Liberman, J.D., & Ricafort, E. (2019). The impact of the WHO Framework Convention on Tobacco Control in defending legal challenges to tobacco control measures. *Tobacco Control*, 28 (Suppl 2), s113-s118.
- 12 International Centre for Settlement of Investment Disputes (2016). Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7), Decision on the Merits (July 8, 2016). Available at: <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/10/7>.
- 13 World Trade Organization (2020). Australia – certain measures concerning trademarks, geographical indications and other plain packaging requirements applicable to tobacco products and packaging. Reports of the Appellate Body.
- 14 Campaign for Tobacco Free Kids. "Court Cases and Legal Risks. Summaries of the Legal Challenges against Plain Packaging Laws." Available at: <https://www.tobaccofreekids.org/plainpackaging/tools-resources/legal/case-summaries>.
- 15 World Health Organization. WHO Framework Convention on Tobacco Control. Available at: <https://fctc.who.int/publications/i/item/9241591013>.

This brief was produced in collaboration with the Secretariat of the WHO Framework Convention on Tobacco Control.



Tobacco Control

What Ministries of Foreign Affairs Need to Know

Key Points

- 1 Tobacco control is the subject of international treaties.
- 2 Ministries of foreign affairs have a key role in advancing WHO FCTC implementation.
- 3 Countries must be aware of tobacco industry tactics and protect against tobacco industry interference.
- 4 Ministries of foreign affairs can take important first steps to advance tobacco control and accelerate progress towards the Sustainable Development Goals (SDGs).

Sustainable Development Goal 3 (SDG 3) aims 'to ensure healthy lives and promote well-being for all at all ages'.¹ One of the means of achieving this goal is to strengthen implementation of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) in all countries, as appropriate (Target 3.a). Ministries of foreign affairs have the power to advance tobacco prevention and control in line with the WHO FCTC provisions by enacting relevant policies and by combating the threat illicit trade of tobacco products poses on their country's economy and health.

The WHO FCTC is a legally binding treaty that reaffirms the right to health.² It was developed in response to the tobacco epidemic and currently has 183 Parties, covering more than 90 percent of the global population.³

Copyright © UNDP 2024. All rights reserved. One United Nations Plaza, New York, NY 10017, USA
The views expressed in this publication are those of the author(s) and do not necessarily represent those of the United Nations, including UNDP, or the UN Member States.

1. Tobacco control is the subject of international treaties.

Tobacco negatively impacts health, the environment and the economy both nationally and globally. In recognition of the significant burden tobacco imposes across the globe, international treaties such as the WHO FCTC and the Protocol to Eliminate Illicit Trade on Tobacco Products have been developed.

The WHO FCTC is an evidence-based treaty with the goal of reducing tobacco use and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by Parties at the national, regional and international level. This treaty, which was adopted by the World Health Assembly in May 2003 and entered into force in February 2005,⁴ provides an important framework for protecting the rights of all people to attain the highest standard of health. Due to the complex factors that facilitate the spread of the tobacco epidemic, Parties to the treaty should implement it effectively and without delay, while states that are not party should consider accession.

Parties to the Convention have a legal obligation to implement effective evidence-based legislative and/or regulatory measures to reduce the tobacco burden. The majority of these have been identified as priority measures in the Global Strategy⁵ adopted by the Conference of the Parties to accelerate implementation of the Convention and advance sustainable development.

The Protocol to Eliminate Illicit Trade in Tobacco Products, the first protocol adopted under the WHO FCTC to build on and complement Article 15 of the Convention, aims to eliminate all forms of illicit trade of tobacco products through the implementation of a package of measures with an emphasis on international cooperation.⁶ Countries should ratify the Protocol and implement it in full to address the serious threat to public health, finance and security brought by illicit trade in tobacco products.

THE DEADLY CONSEQUENCES OF TOBACCO AND WHY GOVERNMENT SECTORS MUST WORK TOGETHER TO IMPLEMENT THE WHO FCTC.

The social, economic and environmental impacts of tobacco consumption and production are staggering. Tobacco kills more than 8 million people each year, with LMICs disproportionately burdened.⁷ Smoking-attributable diseases cost the global economy over a trillion US dollars annually, due to medical expenses and lost productivity.⁸ The environmental impacts, due to plastic pollution, deforestation, and soil degradation from tobacco growing, as well as water and soil pollution from pesticide use and cigarette littering, are of growing concern.

Levels of tobacco consumption and production in society are determined largely by policies beyond the health sector. This means that the development consequences of tobacco are largely avoidable through better policy coherence and common strategies that deliver shared gains for all sectors involved, accelerating progress against multiple SDGs.

2. Ministries of foreign affairs have a key role in advancing WHO FCTC implementation.

Ministries of foreign affairs have a key role to play in advancing tobacco control and implementation of the WHO FCTC and its Protocols. As representatives of ministries of foreign affairs often take part in or lead discussions on tobacco control in sessions of the Conference of the Parties to the WHO FCTC (COP) and the Meeting of the Parties to the Protocol (MOP) or other international meetings, they should not only be well informed about the negative effects of tobacco and the government's tobacco control efforts, but also take part in the national discourse on tobacco control, for example, through national coordinating mechanisms.

WHO FCTC Article 21 requires Parties to commit to submitting periodic reports on their implementation of the Convention and exchange information with other Parties. Ministries of foreign affairs can support the fulfilment of this obligation by ensuring regular reporting to the Convention Secretariat and facilitating cooperation with relevant national,

regional, and international organizations and bodies and other Parties.

WHO FCTC Article 22 states that parties should cooperate to strengthen their capacity to fulfil treaty obligations.⁹ This cooperation should be facilitated with the help of ministries of foreign affairs, and can promote the exchange of technical, scientific and legal expertise and technology, with the objective of establishing and strengthening national tobacco control plans. Ministries of foreign affairs can also establish regional programmes for tobacco control to help coordinate policies within and across regions. For example, greater policy coherence in and effective administration of taxation and trade of tobacco products within the region can reduce the threat of illicit trade by ensuring cooperation between countries in the cross-border investigation and prosecution of criminal offences.

3. Countries must be aware of tobacco industry tactics and protect against tobacco industry interference.

Despite sound and evidence-based measures being adopted by countries, the tobacco industry uses a range of tactics to impede tobacco control efforts. These include lobbying, corporate social responsibility (CSR) initiatives, funding research, creating and utilizing front groups, intimidation and litigation, to name a few.¹⁰ Litigation is one of the tactics most aggressively and systematically used by the industry to impede tobacco control laws and measures either to delay or weaken the implementation of laws or to intimidate the government into inaction.

International trade and investment tribunals have recognized countries' rights to implement comprehensive tobacco control measures in keeping with the WHO FCTC. Threats of lawsuits under trade and investment agreements are a tactic used by those wishing to avoid tobacco control to dissuade countries from taking action. Courts and tribunals at national, regional and international levels have consistently rejected legal challenges to tobacco control measures

and reaffirmed countries' sovereign right to adopt tobacco control measures and other regulatory measures for public health. Numerous countries have successfully defended tobacco control laws from legal challenges in their domestic courts.¹¹ The tobacco industry has even resorted to bringing legal challenges to tobacco control measures before international investment and trade tribunals; an investment tribunal comprehensively rejected the legal challenge brought by Philip Morris International against Uruguay's tobacco control measures in 2016,¹² while the WTO Appellate Body upheld Australia's plain packaging laws in June 2020.¹³ Tobacco industry legal challenges have also been rejected under regional economic integration agreements in the European Union and Norway.¹⁴

Implementing measures to protect health policymaking from tobacco industry interference is critical for effective WHO FCTC implementation. Under WHO FCTC Article 5.3, Parties are obligated to "protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law."¹⁵

WHO FCTC ARTICLE 5.3 GUIDELINES FOR IMPLEMENTATION: RECOMMENDED ACTIONS

1. Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
2. Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
3. Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
4. Avoid conflicts of interest for government officials and employees.
5. Require that information provided by the tobacco industry be transparent and accurate.
6. Denormalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility."
7. Do not give preferential treatment to the tobacco industry.
8. Treat State-owned tobacco industry in the same way as any other tobacco industry.