

**STATEMENT OF THE WORLD HEALTH ORGANIZATION IN RELATION TO THE ISSUE
OF STANDARDIZED TOBACCO PRODUCT PACKAGING**

WTO TRIPS Council Meeting; Geneva 28-29 October 2014

Thank you Mr Chair for the opportunity to address the Council on this critical public health issue.

Tobacco Epidemic

As WHO has previously stated in this forum, tobacco use is one of the greatest threats to public health the world has ever faced, and the single most preventable cause of death in the world today. Globally, tobacco consumption kills nearly six million people a year through both direct use and the deadly effects of second-hand smoke - more than 70% of whom reside in low- and middle-income countries.

Tobacco also represents the leading modifiable risk factor in the fight against the growing epidemic of noncommunicable diseases (NCDs). NCDs, primarily cancers, diabetes, cardiovascular and chronic lung diseases, currently account for 63% of all deaths worldwide. These diseases kill an astounding 36 million people each year, with nearly 80% of deaths occurring in low- and middle-income countries.

As necessary tobacco control measures continue to be implemented in developed countries, the tobacco industry, through aggressive marketing and interference practices, shifted some time ago its focus to new markets in the developing world. As a result, tobacco-attributable mortality is rapidly increasing in developing countries, and, by 2030, more than 80% of the world's tobacco deaths will occur in low- and middle-income countries. Given that smoking causes 30% of all cancers, including greater than 70% of all lung cancers, 40% of chronic respiratory diseases, and nearly 10% of all cardiovascular diseases, it is a critical moment in the global effort to curb the tobacco epidemic for the introduction of necessary public health interventions under the WHO Framework Convention for Tobacco Control (WHO FCTC), like the measure under consideration here.

Economic Costs of Tobacco

The economic costs of tobacco use are as equally devastating as the public health costs. Though the tobacco industry routinely cites the economic contribution of tobacco, the reality is that tobacco use puts an enormous financial burden on countries, in addition to the fact that tobacco and poverty are inextricably linked at the individual level. Nationally, the costs of tobacco use encompass increased health-care costs, lost productivity due to illness, premature death, and widespread environmental damage. Thus, as tobacco consumption rates and tobacco-related illnesses increase in developing countries, so do tobacco-related health care costs. Additionally, conservative estimates suggest that tobacco's more than US\$500 billion drain on the world economy exceeds total annual health expenditures in low- and middle-income countries.

The economic burden of NCDs, with tobacco representing the largest risk factor, is also staggering. Recent macroeconomic simulations suggest that, over the next two decades, cardiovascular disease, chronic respiratory disease, cancer, and diabetes, will cause a cumulative output loss of more than US\$30 trillion, representing 48% of global GDP in 2010. This in turn will push millions of people across the planet below the poverty line. Because NCDs will result in long-term macroeconomic impacts on labour supply, capital accumulation and GDP worldwide, with the consequences most severe in developing countries, strong public health interventions, like the standardized packaging measure under deliberation here, are relevant in addressing both health and economic concerns.

United Nations High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases

At this point I would like to draw the attention of the distinguished delegates here to the fact that the impact of tobacco and NCDs on both public health and country economies was highlighted at the *United Nations High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases*, held in September 2011 in New York. There, the UN General Assembly, comprised of Heads of State, adopted a Political Declaration which recognized the fundamental conflict of interest between the tobacco industry and public health, and wherein Member States unanimously committed to advancing the implementation of multisectoral, cost-effective, population-wide interventions in order to reduce the impact of NCD risk factors.

WHO is of the view that the implementation of standardized tobacco product packaging represents a legitimate and effective tobacco control measure, and is fully in line with the spirit and intent of the outcome of the UN High-level Meeting, and is in accordance with international legal obligations under the WHO FCTC.

Relevant WHO FCTC provisions

As observed at previous meetings of this body, the WHO FCTC was negotiated under the auspices of the WHO in response to the globalization of the tobacco epidemic, and the treaty has been in force since 2005. Like other international legal instruments, States that are party to the FCTC undertake certain obligations pursuant to it. The number of States that are Party to the Convention has risen to 179 - in fact, only 12 of the current 160 WTO Members are not Party to the FCTC.

The FCTC contains a number of provisions that are relevant to the issue of standardized packaging of tobacco products.

- Article 3 of the FCTC sets out the collective objectives of the Parties in negotiating the Convention including "to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke ..."
- As noted during previous sessions of this body, the FCTC sets out in Article 5 the general obligations of Parties, including, inter alia, the obligation to "develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with" the FCTC. It is through the implementation of such a comprehensive multisectoral approach that the tobacco control measures contained in the FCTC are most effective.
- Article 11 of the Convention requires Parties to adopt and implement effective measures in respect of the packaging and labelling of tobacco products, including health warnings and other appropriate messages. Article 11 has consistently remained one of the articles of the Convention attracting the highest implementation rates among Parties, with stronger measures being gradually implemented.

According to the most recent Party reports on implementation, 101 of 130 Parties reported that they have banned descriptors on packaging and labeling that were misleading, deceptive or likely to create an erroneous impression of the product, and 114 Parties reported that they have adopted policies requiring tobacco product packaging to carry health warnings describing the harmful effects of tobacco smoke. In addition, 111 Parties have introduced measures to ensure that health warnings are large, clear, visible and legible.

- Another specific provision of the FCTC that has been previously noted in this Council is Article 13, which requires Parties to undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. That comprehensive ban must be read in light of the broad definition



of “tobacco advertising and promotion” which, according to Article 1(c) “means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.” The Guidelines for the implementation of Article 13 include “packaging and product design features” on the indicative list of forms of advertising, promotion and sponsorship.

Again, the most recent Party reports indicate that 91 Parties have introduced a comprehensive ban on tobacco advertising, promotion and sponsorship. Further, 90 Parties reported that they prohibit tobacco product packaging from carrying advertising or promotion, including design features that make such products attractive.

- The respective Guidelines for the implementation of Articles 11 and 13 were both adopted by the consensus of the Parties, and each recommends that Parties should consider adopting standardized or plain packaging measures.
- Further, Article 2 addresses the relationship between this Convention and other agreements and legal instruments. It states that “In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.”

Relevant WHO FCTC COP decisions

The governing body of the Convention, the Conference of the Parties or COP, has also adopted a number of decisions to reflect their priorities in this important area.

- At its 4th session in November 2010 the COP adopted the Punta del Este Declaration (Decision FCTC/COP4(5)) regarding public health policy, international trade and the activities of the tobacco industry. The Punta del Este Declaration reiterates the firm commitment of Parties to the FCTC “to prioritize the implementation of health measures designed to control tobacco consumption” and “their concern regarding actions taken by the tobacco industry that seek to subvert and undermine government policies on tobacco control”. In relation to the Parties’ rights to adopt measures to protect public health, the Punta del Este Declaration makes specific reference to Articles 7 and 8 of the TRIPs Agreement, as well as to paragraphs 4 and 5(a) of the Doha Declaration on the TRIPs Agreement and Public Health, adopted by the 4th session of the WTO Ministerial Conference in November 2001.
- Most recently, at its 6th session earlier this month, the COP adopted the Moscow Declaration (Decision FCTC/COP6(26)) which calls on Parties to “strengthen collaboration on tobacco control” and “to accelerate the full implementation of the WHO FCTC at national levels” in view of the need to reduce the global burden of non-communicable diseases. At the same session, the COP adopted a decision (FCTC/COP6(14)) on highlighting the importance of international cooperation in the “Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry”.

Thank you very much for this opportunity to provide additional information on the WHO FCTC to the Council for TRIPS.

Statement delivered by Dr Armando Peruga, Programme Manager, Tobacco Free Initiative, and Dr Vera da Costa e Silva, Head, Framework Convention on Tobacco Control Secretariat, on behalf of WHO