



2024/649

19.2.2024

COUNCIL DECISION (EU) 2024/649

of 15 November 2023

on the position to be taken on behalf of the Union at the 10th session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and Article 168(5), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The WHO Framework Convention on Tobacco Control (WHO FCTC) ⁽¹⁾, negotiated under the auspices of the World Health Organization, was concluded by the Union pursuant to Council Decision 2004/513/EC ⁽²⁾ and entered into force on 27 February 2005.
- (2) Pursuant to Article 23(5) of the WHO FCTC, the Conference of the Parties (COP) is to take the decisions necessary to promote the effective implementation of the WHO FCTC.
- (3) The objective of Directive 2014/40/EU of the European Parliament and of the Council ⁽³⁾ is to approximate the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products in order to ensure, inter alia, that the Union meets its obligations under the WHO FCTC. The objective of Directive 2003/33/EC of the European Parliament and of the Council ⁽⁴⁾ is to approximate the laws, regulations and administrative provisions of the Member States relating to the advertising of tobacco products and their promotion.
- (4) At its 10th session, the COP is expected to adopt certain acts that are capable of having legal effects, including an act that is capable of decisively influencing the content of Union law relating to tobacco control. In particular, the envisaged decision relating to tobacco advertising, promotion and sponsorship, including the adoption of supplemental, specific guidelines for the implementation of Article 13 of the WHO FCTC, and the envisaged decisions relating to possible amendments to the Rules of Procedure of the COP, including an amendment to the procedure for the appointment of the Head of the WHO FCTC Secretariat, constitute acts that are capable of having legal effects or of decisively influencing the content of legislation adopted by the Union.
- (5) Therefore, it is appropriate to establish the position to be taken on the Union's behalf at the 10th session of the COP regarding those acts. Certain parts of that position relate to areas where the Union shares competence with its Member States. In that respect, this Decision should not be understood as altering the division of competences between the Union and its Member States.
- (6) In line with the Union's position expressed at the eighth session of the COP, the Union should support the adoption of the new proposed guidelines for the implementation of Article 13 of the WHO FCTC on tobacco advertising, promotion and sponsorship and the depiction of tobacco in the entertainment media, in line with the Union's overall objective to reduce the consumption of tobacco and nicotine products.

⁽¹⁾ OJ L 213, 15.6.2004, p. 9.

⁽²⁾ Council Decision 2004/513/EC of 2 June 2004 concerning the conclusion of the WHO Framework Convention on Tobacco Control (OJ L 213, 15.6.2004, p. 8).

⁽³⁾ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).

⁽⁴⁾ Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (OJ L 152, 20.6.2003, p. 16).

- (7) In order to enable appropriate preparation and representation of Union positions at sessions of the COP, the Union should propose an amendment to the Rules of Procedure of the COP which requires the WHO FCTC Secretariat to distribute official conference documents at least 120 days before each COP.
- (8) For the purpose of simplifying the work at the COP and of enabling the holding of virtual sessions of the COP, as well as to provide for the possibility of designating an acting Head of the WHO FCTC Secretariat, the Union should support proposed amendments to the Rules of Procedure of the COP which pursue such aims.
- (9) The Union should also support the improvement of the process for the selection and appointment of the Head of the WHO FCTC Secretariat, in particular by simplifying the procedure for a single renewal of the term of office, while respecting the objective performance criteria,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on behalf of the European Union at the 10th session of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) is set out in the Annex to this Decision.

Article 2

Refinement of the position referred to in Article 1 may be agreed to, in the light of developments at the 10th session of the COP to the WHO FCTC, by the representatives of the Union in close consultation with Member States during on-the-spot coordination meetings, without a further decision of the Council.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 15 November 2023.

For the Council
The President
P. NAVARRO RÍOS

ANNEX

ADDENDUM

to the COUNCIL DECISION

on the positions to be taken on behalf of the European Union at tenth session of the Conference of Parties to the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC)

Union positions on the key issues to be discussed at the tenth session of the Conference of the Parties to the FCTC, in Panama from 20 to 25 November 2023.

I. Tobacco advertising, promotion and sponsorship: depiction of tobacco in entertainment media: report by the Working Group (document FCTC/COP/10/8). The Union:

Thanks the working group for the report,

1. In line with the objectives of the FCTC, supports the adoption of specific guidelines according to the lines proposed by the WG on cross-border tobacco advertising, promotion and sponsorship (TAPS), addressing inter alia new and innovative marketing strategies, assessing initiation and consumption with special emphasis on young people and children, recommending the application of the bans of TAPS or restriction, for those Parties that are not in a position to undertake a comprehensive ban owing to their constitutions or constitutional principles, to all types of media, including digital media and digital media communication platforms.
2. Welcomes the recommendation to reduce tobacco depictions in entertainment media.
3. Such guidelines should, in particular:

supplement the existing Guidelines on Article 13 of the FCTC, and in no way substitute or replace them;

ensure that civil society has a crucial role in ensuring, monitoring and supporting their enforcement and implementation; conflict of interest, notably with the tobacco industry or its representatives should be avoided.

cover digital media communication platforms in the widest possible manner, including internet-accessible online spaces where users can post, purchase, view, share, create, upload, stream or engage with content that includes any form of electronic media such as digital video, audio, pictures, social media, apps, games, web pages and interactive media;

ensure effective enforcement of TAPS bans by asking Parties to work collaboratively and systemically to monitor, identify, remove and/or prevent cross-border TAPS and TAPS across digital media communication platforms;

recommend a comprehensive ban/restriction, in line with Article 13.2 and 13.3 of the FCTC, on advertising, promotion and sponsorship of all tobacco, especially novel and emerging tobacco products, including devices used with them, the function of which is to enable the consumption of such products;

impose particular obligations, in accordance with national law, on content hosts to identify TAPS and remove TAPS at least when notified by the competent authorities or civil society of tobacco advertising, promotion and sponsorship.

II. Possible amendments to the Rules of Procedure of the Conference of the Parties: report by the Secretariat (document FCTC/COP/21)

The Union:

1. Supports amendments proposed to simplify and rationalise the work at the COP, such as accepting the approval of the verbatim records after the close of the session or introducing the general possibility of live webcasting of agenda items of COP sessions, subject to an approval by the COP at the beginning of each session.

2. Agrees to clarify, without amending the Rules of Procedure of the COP, that verbatim records of plenary meetings are understood to include audio files.
3. Supports the amendment related to arranging for virtual sessions of the COP, when exceptional measures are required by an extraordinary situation. At the same time, it should also take into consideration the need to balance the environmental costs of in-presence session and the need for such sessions whenever possible. Virtual meetings should always be organised with the maximum protection from tobacco industry influence.
4. Supports the amendment to define more clearly the participation of the members of the Bureau of the Meeting of the parties (MOP) in the appointment of the Head of the Secretariat, as well as the amendment providing for the possibility of designating an acting Head of the Secretariat, when required.
5. Supports the amendment related to the presence of accredited media in public sessions, as this amendment leads to better consistency between Rules 2 and 32.
6. Proposes an amendment of Rule 8 that currently obliges the Secretariat to distribute the provisional agenda, together with other conference documents, to the Parties at least sixty days before the opening day of the session. This period should be extended to 120 days before the opening of the session in order to enable regional economic integration organizations and federal countries to properly prepare and establish their positions. This period should at the least be ensured for conference documents for COP decisions that are legally binding on the Parties or have important policy or legal implications.

[fall-back position: The Union can agree with any extension of the distribution period beyond current 60 days before the opening of the session, and at least for conference documents for COP decisions that are legally binding on the Parties or have important policy or legal implications.]

III. Appointment of the Head of the Convention Secretariat: report by the Bureau (document FCTC/COP/23)

The Union:

1. Thanks the Bureau for the report, containing joint recommendations of the Bureau of the COP and Bureau of the MOP to improve the process of selection and appointment of the Head of the Secretariat and criteria for the selection of candidates for the position of the Head of the Secretariat.
2. Supports the proposed improvements of the process for the selection and appointment of the Head of the Secretariat, established by decisions FCTC/COP8(8) and FCTC/MOP1(12), including modifications to simplify a single renewal of the term of office of the Head of the Secretariat for a further four years, provided that his/her performance is beforehand evaluated and assessed positively.
3. Supports the improved criteria for the selection of the candidates for the position of the Head of the Secretariat; however, requests that aspects related to the Protocol to the FCTC are added to the selection criteria. In particular, documentary criteria 1 should also include possible background, knowledge and experience in fight against illicit trade, and documentary criteria 2 should also include possible experience in fight against illicit trade and strong links or network with the international anti-fraud community.

[fall-back position: The Union can agree with the proposed improved criteria also if the aspects related to the Protocol are not added to them or added only to certain extent.]