

Agenda item 4.5

Draft Decision: Implementation of measures to prevent and reduce tobacco consumption, nicotine addiction and exposure to tobacco smoke, and the protection of such measures from commercial and other vested interests of the tobacco industry in light of the tobacco industry’s narrative on “harm reduction” (Articles 5.2(b) and 5.3 of the WHO FCTC)

(Document FCTC/COP11/P/CONF./5(a))

Union Position

The European Union:

- 1) Thanks Brazil, Maldives, Panama and Thailand for proposing the draft Decision on Articles 5.2(b) and 5.3 of the WHO FCTC.
- 2) Recalls its position on the Report by the Convention Secretariat under agenda item 4.5 (in document FCTC/COP/11/10).
- 3) Can support the proposed draft Decision on Articles 5.2(b) and 5.3 of the WHO FCTC with the following amendments (**in bold**) reflecting the European Union position on the report of the Convention Secretariat under the agenda item 4.5:
 - In 2(a): “to implement Article 5.2(b) fully by adopting **effective** measures to prevent and reduce nicotine addiction, **as appropriate under national laws**, including:
 - (i) by taking **comprehensive regulatory** measures, **which could include such as** prohibiting or restricting the manufacture, importation, distribution, presentation, sale and use of **all**-novel and emerging nicotine products, including ENDS, ENNDS and nicotine pouches;
 - (ii) by ensuring that such measures apply, **as appropriate**, to **all**-novel and emerging nicotine products in any of its naturally or synthetically derived forms, including nicotine analogues; and
 - (iii) by **considering which ensuring that measures that apply to tobacco products under other** provisions of the WHO FCTC **could also be are adopted and** implemented in respect of novel and emerging nicotine products, **as appropriate and** in a manner that is consistent with the regulatory approach adopted;
 - In 2(b): “in light of Article 5.3 and its Guidelines for implementation, to apply, **as appropriate**, measures to monitor, prevent and firmly reject “harm reduction” (or “reduced risk”) narratives used by the tobacco industry and those working to further its interests [...]”

[Fallback position 1: The EU will not oppose the adoption of the decision on Articles 5.2(b) and 5.3 of the WHO FCTC in a wording that is similar to, or in line with, what is proposed above.]

[Fallback position 2 (*taking into consideration that the text might be significantly affected by the discussions during COP*): The EU will not oppose the adoption of the decision on Articles 5.2(b) and 5.3 of the WHO FCTC as long as the final text is not in contradiction with other EU positions agreed for this agenda item and the remainder of the agenda items.]

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Union Position

The European Union:

- 4) Thanks Brazil, Maldives, Panama and Thailand for proposing the draft Decision on Articles 5.2(b) and 5.3 of the WHO FCTC.
- 5) Recalls its position on the Report by the Convention Secretariat under agenda item 4.5 (in document FCTC/COP/11/10).
- 6) Can support the proposed draft Decision on Articles 5.2(b) and 5.3 of the WHO FCTC with the following amendments (**in bold**) reflecting the European Union position on the report of the Convention Secretariat under the agenda item 4.5:
 - In 2(a): “to implement Article 5.2(b) fully by adopting **effective** measures to prevent and reduce nicotine addiction, **as appropriate under national laws**, including:
 - (iv) by taking **comprehensive regulatory** measures, **which could include such as** prohibiting or restricting the manufacture, importation, distribution, presentation, sale and use of **all**-novel and emerging nicotine products, including ENDS, ENNDS and nicotine pouches;
 - (v) by ensuring that such measures apply, **as appropriate**, to **all**-novel and emerging nicotine products in any of its naturally or synthetically derived forms, including nicotine analogues; and
 - (vi) by **considering which ensuring that measures that apply to tobacco products under other** provisions of the WHO FCTC **could also be are adopted and** implemented in respect of novel and emerging nicotine products, **as appropriate and** in a manner that is consistent with the regulatory approach adopted;

- In 2(b): “in light of Article 5.3 and its Guidelines for implementation, to apply, **as appropriate**, measures to monitor, prevent and firmly reject “harm reduction” (or “reduced risk”) narratives used by the tobacco industry and those working to further its interests [...]”

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