

The World Health Organization's Framework Convention on Tobacco Control (FCTC) Tenth Conference of the Parties (COP10) takes place on November 20 to 25 in Panama City. This is a biennial event under the auspices of the FCTC treaty, attended by all 193 WHO member governments including the treaty's 182 Parties (national delegations) to the Convention and other non-Party members accredited to the WHO.

We will not know the agenda until later this year, but we are able to identify what is likely to be discussed from documents already published by the FCTC Secretariat. Drawing from documents from previous COP meetings, and the eighth report of the WHO study group on tobacco product regulation (TobReg), we expect these threats to be under discussion during COP10.

### **A Ban on open systems**

Page 166 of the [8<sup>th</sup> TobReg \(TobReg8\) report](#) recommends that *“Regulators should not permit ENDS in which users can control device features and liquid ingredients (i.e. open-system ENDS).”* It is also mentioned elsewhere in the document.

Page 223: *“Regulators should make sure that customizable products that can be used to deliver nicotine in products such as open-system ENDS are removed from the market; otherwise, users will add unorthodox and illicit additives to their products.”*

Page 313 *“to prohibit the sale of electronic nicotine delivery systems and electronic non-nicotine delivery systems in which the user can control device features and liquid ingredients (that is, open systems);”*

### **A Ban on flavours**

A report from COP7 ([COP7/11](#)), states on page 6 that: *“Parties that have not banned the importation, sale and distribution of ENDS and ENNDS may consider “banning or restricting the use of flavours that appeal to minors.”* This is also mentioned several times in the TobReg8 document.

Although it is admitted on page 64 that flavours help adults to switch, *“Among adults, e-cigarette flavours increase product appeal and are a primary reason for using the product”*, it then goes on to recommend prohibition.

Page 223: *“A full ban on all flavours in all nicotine and tobacco products would appear to be a strong approach to curbing young people’s use of tobacco products.”*

Page 228: *“Where flavours are not banned, their regulation in nicotine and tobacco products should be consistent globally; i.e. the availability of flavours should be regulated similarly for all nicotine and tobacco products rather than for each product.”* (note: flavours are banned in tobacco products in the UK, so this recommendation is for a ban on all vape flavourings other than tobacco).

### **A Restriction on nicotine salts**

The TobReg8 report discusses how nicotine salts deliver nicotine more effectively than other forms. This is a good thing as it helps people who smoke to switch to safer products. However, TobReg8 authors ignore this benefit and only see nicotine salts as attractive to non-smokers and a route to addict another generation to nicotine. It therefore makes the following recommendation.

Page 293: *“on the basis of rigorous evidence, restrict manipulation of nicotine concentration and form by manufacturers.”*

## **A Restriction on nicotine delivery (nicotine flux)**

Nicotine flux is the rate of vapour emissions from e-cigarettes. Regulating on this basis would limit everything from battery size to nicotine levels and nicotine forms. This would make all products effectively the same. It could also entail restricting puff duration or applying a minimum interpuff interval. The subject is discussed in the TobReg8 report.

Page 164 *“This focus would also require that ENDS products not allow users to access many of the device, liquid and user behaviour characteristics that influence nicotine flux, such as “closed-system” ENDS with built-in limits on puff duration.”*

Page 166 *“Regulators should focus on nicotine emission rate or flux (i.e. outcome) as a regulatory target, instead of any single input variable (e.g. liquid nicotine concentration or device power).”*

## **Redefinition of smoke**

To justify regulating vaping exactly the same way as smoking, the FCTC Secretariat has discussed redefining what smoke is. Page 4 of a report from COP9 ([COP9/10](#)) discusses how they propose to do this.

*“...those (aerosols) generated by chemical reactions involving heat are termed “smoke” ... Can the aerosols of novel and emerging tobacco products qualify as “tobacco smoke”? Yes. ... Thus strictly speaking, visible aerosols deriving in whole or in part from thermally driven chemical reactions qualify as “smoke”, even when combustion is not involved.”*

## **Redefinition of switching/quitting**

FCTC documents have discussed why switching to heated tobacco is not cessation despite being vastly less harmful than combustible tobacco. A report from COP9 ([COP9/9](#)) discusses this on pages 9 and 10.

*“HTPs should be treated as tobacco products”, and therefore “taxed at the same rate as CCs (combustible cigarettes)”. Proposals include to ban use “where smoking is prohibited”, “require large graphic health warnings and plain packaging”, and “apply existing bans on tobacco advertising, promotion and sponsorship”,*

TobReg8, page 117, denies that heated tobacco can help people quit and recommends that *“Even if future evidence supported HTPs as effective switching aids (i.e. substituting one tobacco product for another), they should never be considered as treatment for smoking cessation, which includes quitting nicotine use.”*

On this note, a link to vaping products (and therefore justification for extending this to vaping in the future) is provided by explaining that *“As is the case with ENDS and ENNDS, the administration of nicotine with HTPs (heated tobacco) requires the combination of a source of nicotine with a device. The apparatus may be sold separately from the nicotine liquid or tobacco insert, but it is necessary to the user’s experience since they are an integrated product.”*

## **Bringing all reduced risk nicotine products into the remit of the FCTC**

The goal of many of these recommendations is to portray vapour, heated tobacco aerosol, and combustible tobacco smoke as equally harmful and, therefore, to bring the products into the remit

of the FCTC. This is to satisfy the terms of the [FCTC treaty](#) itself which is clear that its role is to reduce the health harms from **tobacco smoke**, not nicotine.

*Article 1(d): “tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;*

*Article 3, page 5: The objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.*