

Article 19:

Advancing

tobacco control



Regional workshops to advance Article 19: Between COP6 and COP7, Brazil, Panama, and the Pan American Health Organization held two workshops on Article 19 implementation in Brazil and Latin America more broadly.

Harnessing the power of liability to hold Big Tobacco accountable

ARTICLE 19 OF THE FCTC IS VISIONARY

For too long, the tobacco industry has used legal threats to intimidate governments into abandoning the implementation of the treaty's boldest measures. It is time to shift the burden of tobacco onto the industry, force it to respect the rule of law, and make it pay for the harms caused by its products.

The Framework Convention on Tobacco Control (FCTC) contains a powerful provision that will advance all of the lifesaving measures in the FCTC: Article 19 on liability, which Parties can use to hold the tobacco industry legally liable for its abuses. It has the potential for governments to recover the costs of treating tobacco-related disease from the tobacco industry and use their legal systems to ensure their right to do so.

Since the fifth Conference of the Parties (COP), Parties and experts have created a practical, online toolkit that provides guidance to Parties to advance Article 19.¹

ONE ARTICLE: DOUBLE THE IMPACT

The Article 19 implementation toolkit:

- Is a tool released by the expert group in March of 2017 following COP7.
- Identifies three scenarios for Parties looking to use or strengthen their civil liability mechanisms, including:
 - Facilitating access to justice for victims of smoking-related disease (on both a collective and individual basis).
 - Recovering health care cost recovery.
 - Enforcing existing tobacco control measures or general laws relevant to tobacco, including injunctive relief.

- Includes a “decision tree,” which enables any given country to plot their path to successful litigation for each of the three scenarios.

In order for Parties to maximize the effectiveness of this toolkit and to advance further implementation of Article 19,¹ the Secretariat should finish its work to create and promote Article 19 resources.

RECOMMENDATIONS

At COP8, Parties should take the following actions:

1. Mandate the Secretariat to complete the COP6 and COP7 mandate to create the necessary tools and resources to assist Parties in implementing Article 19:
 - a. Continue to update the toolkit by incorporating relevant information and material, including information received from the Parties pursuant to their reporting obligations under the Convention.
 - b. Create a database of experts on Article 19.
 - c. Create and make available sample legislation and related resources.
 - d. Explore options to mobilize resources, mechanisms of assistance and other forms of cooperation to ensure Parties have sufficient access to the information and expertise necessary to implement Article 19.
 - e. Monitor progress on Parties’ implementation of Article 19 through existing WHO FCTC reporting mechanisms.
2. Dedicate funding to ensure the Secretariat has the resources to fulfill its mandate.

3. Collaborate with the Secretariat to hold workshops on Article 19 to train governments to use the expert group’s toolkit.

WHY SUPPORT ARTICLE 19?

- It is one of the most powerful but underutilized articles of the treaty.
- Parties need tools and expertise for successful implementation of this highly technical article.
- Successful legal actions against the tobacco industry could deter abusive behavior worldwide.
- Experience shows that implementation of Article 19 can:
 - Force the tobacco industry to reveal millions of internal documents containing its tactics to undermine health.
 - Provide much-needed resources to implement tobacco control policies.
 - Create the public climate and political will to pass and enforce the lifesaving measures enshrined in the FCTC.
 - Obtain financial compensation on behalf of governments or individual victims.
 - Expose and halt misconduct, deter future misconduct, and punish wrongdoing.
 - Denormalize tobacco use and damage the tobacco industry’s reputation.

For more information, email

MakeBigTobaccoPay@corporateaccountability.org
and visit CorporateAccountability.org/Liability.

ENDNOTES

¹ For additional information please see:
http://www.who.int/fctc/cop/cop7/FCTC_COP7_11_EN.pdf