WHO FCTC COP-11
Forward-looking tobacco control measures
a delegate's guide

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The 11th Conference of the Parties (COP-11) to the WHO Framework Convention on Tobacco Control (FCTC) will meet 17-22 November 2025 in Geneva. This document provides a guide to the sixteen "forward-looking measures" to be discussed in Agenda item 4.1 of the COP.

I have no relevant conflicts of interest, and no issues arise under Article 5.3.

Table of Contents

INTRODUCTION **2**

SUMMARY **2**

COMMENTS ON THE SIXTEEN "FORWARD-LOOKING MEASURES" **3**

A) TOBACCO SUPPLY **3**

(I) RETAIL REDUCTION 3
(II) BAN ON INCENTIVES TO RETAILERS 3
(III) PRICE CONTROLS FOR TOBACCO PRODUCTS AND DEVICES ("MINIMUM PRICE POLICIES") 3
(IV) BIRTHDATE-BASED SALES RESTRICTIONS (BSRS) ("TOBACCO-FREE GENERATION") 3
(V) INCREASE IN MINIMUM LEGAL AGE FOR SALES OF TOBACCO PRODUCTS 4
(VI) BAN/PHASE OUT SALES OF TOBACCO PRODUCTS 4

B) INSTITUTIONAL STRUCTURE/MARKET **5**

(I) ENVIRONMENTAL CONTROLS ("PRODUCER PAYS") 5
(II) END OF ANY GOVERNMENT SUPPORT FOR TOBACCO FARMING 5
(III) MEASURES TO REDUCE TOBACCO SUPPLIER PROFITS AND PRICING POWER 5
(IV) END THE COMMERCIAL SALE OF TOBACCO INDUSTRY PRODUCTS 6
(V) QUOTA ON TOBACCO MANUFACTURE AND IMPORTS, FOLLOWED BY REGULAR REDUCTION ("SINKING LID") 6

C) PRODUCT **6**

(I) LOW/VERY LOW NICOTINE CONTENT LEVELS IN COMBUSTIBLE TOBACCO PRODUCTS 6
(II) BAN ON ALL FLAVOURING AGENTS AND OTHER ADDITIVES IN TOBACCO PRODUCTS 7
(III) TOBACCO SUPPLY FREEZE ON BRANDS AND REDUCTION OF VARIANTS 8
(IV) BAN ON CIGARETTE FILTERS 8

D) CONSUMER **8**

(I) EXPANSION OF SMOKE-FREE VENUES IN PRIVATE/SEMI-PRIVATE ENVIRONMENTS AND REDUCTION OF EXPOSURE TO SECOND- AND THIRD-HAND TOBACCO SMOKE 8

FORWARD-LOOKING MEASURES THAT HAVE BEEN EXCLUDED **9**

Introduction

So-called "forward-looking measures" will be on the COP-11 agenda (Agenda item 4.1) and set out in the COP paper FCTC/COP/11/5 *Forward-looking tobacco control measures (in relation to Article 2.1 of the WHO FCTC)*.[1] This paper and supporting materials were compiled by an expert group consisting mainly of tobacco control activists.

Article 2.1 is a simple clause that encourages Parties to take measures beyond the scope of the FCTC and confirms that the FCTC does not stop them from doing that (an anti-pre-emption clause):

> *2.1. 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.*

However, this clause is not a device for extending the scope of FCTC; that is done through Articles 28 and 29. The term "forward-looking measures" does not appear in the FCTC, and it should not be assumed that more extreme tobacco control measures should always be the "forward" direction of travel. There is a mounting body of evidence that many prohibition measures are politically unpalatable, beset by unintended consequences, drive illegal trade, or are excessively intrusive in adult autonomy. The idea that there should be no limit to the severity of tobacco control measures demands challenge.[2]

Summary

- Seven of the sixteen "forward-looking measures" fall within the scope of the FCTC and can be implemented by any Party under the relevant FCTC articles without recourse to Article 2.1. These do not need to be listed here.
- Most of the rest are untried and unlikely to be workable in the foreseeable future. Many of the measures involve some form of prohibition, yet the justifications fail to address the likely unintended consequences of banning products that millions of people wish to use. Some of the measures will make little difference to public health, even if successfully implemented.
- The report takes an undifferentiated approach to "tobacco products", yet there is a very pronounced difference in risk between combustible and non-combustible tobacco products (oral tobacco, heated tobacco). The focus should be on measures to address *smoking*.
- A draft decision states that Parties should report on their progress on these measures. There is no need for separate reporting on measures already within the scope of the FCTC, and no logical basis for reporting on measures outside its scope, favoured by tobacco control activists.
- The measures listed are, in fact, "backwards looking", relying on a coercive and punitive command and control model of public health. This is becoming steadily less tenable amid advancing communications technology, market flexibility, organised crime, and rising public distrust of unaccountable public health authorities.
- The most compelling "forward-looking measures" —making nicotine use *much* safer —have been omitted and ignored, yet would accelerate the end of smoking by consent rather than coercion.

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[1] There are also supporting information papers: FCTC/COP/11/INF.DOC./1, and supplementary documents A compilation of briefings on forward-looking measures and Briefing on legal challenges to forward-looking measures.

[2] See: Lund, K. E., & Saebo, G. (2024). Challenges in legitimizing further measures against smoking in jurisdictions with robust infrastructure for tobacco control: How far can the authorities allow themselves to go? *Harm Reduction Journal*, *21*(1), 33.

Comments on the sixteen "forward-looking measures"

The expert group has identified sixteen measures under four headings. Each is discussed below using the structure of Annex 2 to the COP paper FCTC/COP/11/5.

a) Tobacco supply

(i) Retail reduction

This measure falls outside the scope of the FCTC but could be pursued under the flexibilities granted under Article 2.1. The evidence supporting such measures is very poor: there tends to be a higher density of retailers in urban areas, where the population is dense, people generally walk or use transit, and there may be higher concentrations of tobacco users due to socioeconomic gradients in smoking. Supply goes where the demand is – much of the evidence presented implies that supply creates the demand.

Reducing retail outlet density will increase travel times (a form of arbitrary taxation through the costs of time and inconvenience) for those who find their most convenient store no longer sells tobacco. It will also concentrate supply, potentially creating oligopoly conditions in retail. It is not straightforward to determine who should be allowed to sell and who should be denied access to the market, and on what basis —by lottery, by license auction, or by some sort of bidding process and how to secure equitable coverage? Policymakers should consider likely behavioural responses to such a policy: will people simply buy elsewhere? Make fewer purchases but buy in bulk? Will third parties become intermediaries by purchasing in bulk and selling on? If so, would they also introduce illicit supply and sell to young people?

If such a measure were implemented, what products would no longer be sold? Though this measure works by making life more difficult for tobacco users in the hope of making them quit, it may simply add to the burdens of already difficult lives. One possible mitigation would be to allow any store to stock non-combustible alternatives, thereby creating an incentive for behaviour change.

(ii) Ban on incentives to retailers

Such bans fall within the scope of Article 13 of the FCTC. See 13(4)(c) "*restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public*". There is no reason to define these as forward-looking measures; they do not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures.

A nuanced approach to retail incentives could be shaped to incentivise behaviour change from cigarette smoking to the use of smoke-free products.

(iii) Price controls for tobacco products and devices ("minimum price policies")

Price controls fall within the scope of Article 6 of the FCTC. They are an option under Article 6(2)(a) "*implementing tax policies and, where appropriate, price policies*". There is no reason to define these as forward-looking measures; they do not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures.

Such measures would aim to prevent the marketing of budget brands – or to make them more expensive. Policymakers should consider the likely consequences for those who continue to smoke: more financial pain and more regressive effects. Given that taxes often account for 70-80% of the price of tobacco, taxes may be a better instrument than measures that would *increase* tobacco companies' profit margins.

(iv) Birthdate-based sales restrictions (BSRs) ("tobacco-free generation")

This measure would be outside the scope of the FCTC because its impact is felt only by **adults.** It has an effect once people age beyond the typical minimum age for legal sale, usually age 18 or 21. These minimum age limits *are* within the scope of the FCTC under Article 16: *Sales to and by minors,* but a tobacco-free generation is not, because it affects adults rather than minors. Though the UK will be showcasing this measure, it is not yet law and will not have an effect until 2027, when the first of those born after 1 January 2009 turn 18 (the current minimum age of sale). The main problems with the tobacco-free generation are as follows:

- It raises novel issues of principle related to adult autonomy and age discrimination: for example, in 2040, the UK measure would require retailers to impose a minimum legal age of 31.
- It does not address smoking in the main population at greatest risk: people who are still smoking in middle age and were born well before 2009.
- The problem of youth smoking will be solved by young people never smoking in the first place or by switching to smoke-free alternatives well before they are in danger of significant harm from smoking. The measure is fighting the wrong battle.
- Age restrictions are not very effective: the UK currently has a minimum age of sale of 18, but a smoking prevalence of 13.8% in 16-17-year-olds.
- Even under extreme and improbable assumptions, the UK measure offers no health benefits until 2044 and only trivial health benefits until the mid-2050s. But even this assumes many people born after 2009 would take up smoking and continue to smoke for decades, which is unlikely.
- Most young people who are determined to smoke will do so, as they do now. We can expect an age-segmented illicit or informal market to form to meet whatever demand there is.

A more robust approach would be to raise the minimum age to 21 (see (v) below). There is reasonable evidence for that measure, and it does not raise significant issues of principle. The most critical issue for policymakers is to recognise that age controls are not particularly effective, and that policy should not rely on them.

(v) Increase in minimum legal age for sales of tobacco products

Increases in the minimum legal age for sale fall within the scope of the FCTC Article 16, which requires Parties "*to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen".* There is no reason to define these as forward-looking measures; they do not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures.

One option would be to set an age threshold of 21 for smoking products, but 18 for smoke-free products. Staggered age limits would help young people who have taken up smoking to migrate before their smoking becomes entrenched in adulthood. The most critical issue for policymakers is to recognise that age controls are not particularly effective, and that policy should not rely on them or treat them as if no one younger than the designated age will use such products.

(vi) Ban/phase out sales of tobacco products

This measure would be outside the scope of the FCTC. It seems to be predicated on the idea that a legal ban causes the banned product to disappear, whereas it will trigger behaviour change in both supply and demand. The advocates of such a measure should be aware of the experience of Bhutan and South Africa. Very high taxes differ from a ban only in degree; as products become unaffordable to individuals, they might as well be banned. Policymakers can learn from the chaotic and violent fiasco in Australia, where high taxes have driven a large share of the market into illicit trade. Taking a wider view, the prohibition of drugs has not served society well; with enforcement activity generally causing supply (and sometimes demand) to adapt and failing to materially increase prices. Supply by cartels and other

criminal networks brings a range of detriments: violence, intimidation, extortion, corruption, and significant policing and enforcement costs. Yet little has been achieved.

b) Institutional structure/market

(i) Environmental controls ("producer pays")

Environmental controls fall within the scope of the FCTC. They are the subject of Article 18 and are to be discussed in Agenda Item 4.3. There is no reason to define these as forward-looking measures; they do not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures.

There is a case for such measures on environmental grounds, though it will make little difference to health. However, a polluter-pays or producer-pays regime would usually be part of waste management policy and be applied more generally to a variety of avoidable material flows. Policymakers should apply normal disciplines: carefully define the objective (is it raising money or protecting the environment?) and scope (is it waste generally or just tobacco-specific?), develop options, and test their cost and feasibility.

(ii) End of any government support for tobacco farming

This measure is outside the scope of the FCTC. There is no basis for doing this under the FCTC, but it makes little sense as a tobacco control measure. That is because tobacco farming subsidies are essentially a *social policy* designed to support the rural poor (or favoured farmers) or meet other development objectives. Tobacco leaf is already a tiny fraction of the cost of a cigarette (the auction price of flue-cured tobacco is typically about US$3 per kg, and each cigarette uses one gram or less). Removing such subsidies would have no impact at all on public health, an unpredictable effect on the environment, and possible social harms. Long-standing advice from development institutions such as the World Bank and the IMF is to eliminate all commodity subsidies to improve economic efficiency and strengthen fiscal sustainability. However, this will typically require adjustment —for example, by using funds for diversification, as envisaged in Article 17 of the FCTC.

(iii) Measures to reduce tobacco supplier profits and pricing power

This measure would be outside the scope of the FCTC. It is true that some tobacco companies have exceedingly high profit margins for a technologically simple, mature product with low input and production costs (operating margins in 2024: Altria: 57%, BAT: 35%, PMI: 35%). Their pricing power stems from oligopoly pricing behaviour, low demand elasticity (consistent with an addictive product), and the masking effects of taxation, allowing the companies to raise underlying prices substantially while increasing retail prices only slightly. The expert group proposes a maximum wholesale price, combined with high taxes or a "polluter pays" levy, to keep retail prices high and maintain a disincentive to smoking. The aim here does not seem to be to change the prices consumers see, but to reduce tobacco companies' revenues and profits, thereby penalising shareholders.

There are situations in which governments control prices (e.g., utilities and some services), address market power (many have competition regulators), and tax windfall profits (e.g., hydrocarbons). The profitability of tobacco companies is an issue about market power. It should be treated as such, with referrals to competition authorities (for example, the Competition and Markets Authority in the UK, the Federal Trade Commission in the US) to make a case for intervention. Usually, that is done to protect consumers from price gouging or restrictive practices, but in this case, consumers would not benefit.

A faster way to put pressure on tobacco companies is to increase the competition they face by extending the market to include all consumer nicotine products and encouraging competition to reduce margins by increasing cross-elasticities between nicotine products.

(iv) End the commercial sale of tobacco industry products

This measure would be outside the scope of the FCTC. It aims for a form of nationalisation of the tobacco trade: "*This model requires tobacco industry products to be supplied by not-for-profit enterprises that operate under a strict public health mandate, overseen by a not-for-profit authority*". The danger is that these not-for-profit enterprises operate in the same way as state-owned tobacco companies or parastatals, which generally do little for public health. There may also be significant costs in appropriating tobacco industry assets, brands and intellectual property, though it is not clear how this proposal would work in practice. It is unclear what business practices these supposedly public health undertakings would adopt to deter tobacco use while selling tobacco: Opening an hour a day? Creating a repellent retail experience? Based in inaccessible locations? It is likely that tobacco users would seek alternative supplies, or that these non-profits would be vulnerable to corruption or extortion.

In a bizarre aside, the expert group worries that this measure might be so successful that it would cause people who smoke to switch to far safer alternatives.

> *A key consideration is that the implementation of this model, if applied to tobacco products only, could lead to tobacco users switching to nicotine products such as electronic nicotine delivery systems (ENDS) and nicotine pouches. This would mean that their nicotine addiction would be maintained, and the tobacco industry would continue to profit from this addiction, while users face the health, social and economic consequences of their continued addiction*.

They clearly do not see switching to much safer smoke-free nicotine products as a desirable behaviour change (which it obviously is if your goal is to reduce disease and death). They must be implying that the scope of this nationalisation should therefore apply *to all nicotine products*.

A better idea would be to use restrictions on the most dangerous products to encourage migration to much safer products. A further step to become nicotine-abstinent is always possible, but all the substantial health gains come from quitting *smoking*.

(v) Quota on tobacco manufacture and imports, followed by regular reduction ("sinking lid")

This measure would be outside the scope of the FCTC. The problem is introducing high costs and complexity to do the same job as taxes. A quota and sinking lid system is a form of "cap and trade" system, an approach used in environmental policy (e.g., emissions trading systems). Economically, such systems are equivalent to setting a tax at the market-clearing level of whatever quota is set. The problem is that a trading system is vastly more complicated than taxation for the same economic effect. The only reason a quota trading system would be used is if taxation is politically unpalatable or if it is essential to secure the precise quantity of the quota. In a quota system, the quantity traded is fixed, while the price adjusts. With taxes, the price (tax) is fixed, but the quantity adjusts. Quota systems require methods for setting and allocating quotas (auctions, grandfathering?) and for managing entry and exit. Both tax and quota systems are equally vulnerable to illicit trade if prices rise too high.

There are no advantages and many disadvantages to using quantity-based measures rather than tax-based measures to reduce tobacco volumes. There is considerable experience with tobacco taxation: it would be better to build that into a risk-proportionate taxation regime, which would incentivise consumer (and corporate) migration from high-risk to low-risk nicotine products.

c) Product

(i) Low/very low nicotine content levels in combustible tobacco products

This measure is within the scope of the FCTC Article 9: *Regulation of the contents of tobacco products*. There is no reason to define this as a forward-looking measure; it does not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures. It has been pursued and reversed in the United States and New Zealand. In practice, it is a *de facto* ban on combustible tobacco products. This is because smoking is a nicotine-seeking behaviour, and the policy aim is to reduce the nicotine to non-rewarding and reinforcing levels. Such a measure would trigger the same sort of behaviour change as a ban on these products: essentially switching to other forms of nicotine use (potentially beneficial, though not in every case) or accessing illicit versions of the regulated products with high levels of nicotine (increasing harms). Given that the effect is approximately the same, there are few advantages of this measure over a ban, which has the merit of clarity and not facilitating counterfeiting.

The main barrier to the measure is not technical – it can be done. As with a ban, the barriers are:

- *Politics*: Will lawmakers do it? Politicians would have to brave the backlash from a significant fraction of the population of smokers, who would be angry about it and how it would play into populism.
- *Ethics*: Is it right? The effort to achieve behaviour change by the force of law, and whether a better approach to public health is to work with the consent of those affected.
- *Utilitarian*: Will it work? A range of foreseeable negative consequences, such as illicit trade, and impacts on policing, taxation, and the supply chain.

A better, faster and politically feasible way to reduce smoking is to actively promote the low-risk alternatives. This has the advantage of working through *consent* rather than *coercion*, and the main policy cost is communicating the value of switching clearly and candidly. This would build momentum behind already rising trends of rapid displacement.

(ii) Ban on all flavouring agents and other additives in tobacco products

This measure is within the scope of the FCTC Article 9: *Regulation of the contents of tobacco products*. There is no reason to define this as a forward-looking measure; it does not require Parties to go beyond the FCTC or draw on Article 2.1 to implement such measures. Many jurisdictions, including the European Union, have already done this for tobacco products. The big flavours in combustible tobacco come from combustion products, rather than flavour additives. A flavour ban is a reasonable policy for *smoking* products, though it may be prone to workarounds such as menthol inserts or capsules.

The issue is applying this measure to products that are safer alternatives to cigarettes, including non-combustible tobacco products. These products cannot rely on combustion and smoke to impart flavour, so nearly all use flavour ingredients. An over-extensive ban on flavours can therefore function as a *de facto* ban on safer products or limit the choice to flavours that are not especially attractive, such as artificial tobacco flavour. Policymakers should consider likely adverse effects, which include:

- More smoking: by degrading the appeal of the safer products relative to cigarettes, the policy supports the incumbent smoking products, which do not rely heavily on artificial flavours. Economic evidence suggests that smoking increases in response to bans on flavoured ENDS.
- More illicit trade: people will wish to use flavoured products even if they are banned. This is one of the reasons why more than 98% of vapes sold in Australia are sold illegally.
- More workarounds: the policy would encourage DIY additives and home mixing, or flavour "shots" added separately.

There is concern about flavours that may appeal to youth, though over many decades, millions of young people have consumed tobacco without additional flavouring. There are good reasons to control *flavour descriptors* (how flavours are described on packs, branding and promotion) as this is a form of marketing

and should be subject to marketing controls. For example, non-combustible tobacco flavour descriptors could be controlled under Article 11 of the FCTC: *Packaging and labelling of tobacco products*, with a requirement to describe flavours accurately and without linguistic or graphic adornments that appeal to adolescents.

(iii) Tobacco supply freeze on brands and reduction of variants

This measure would be outside the scope of the FCTC. It is hard to see what purpose it would serve: it "*aims both to freeze the quantity of tobacco products available in the market and to reduce the variety of products by banning – or, at a minimum, placing a moratorium on – the entry of new products*". This measure would clearly protect mega-brands like Marlboro. There is little justification for government intervention to reinforce the market power of dominant incumbents, and none is provided in the paper.

If applied to non-combustible tobacco products (oral tobacco, heated tobacco) as the wording suggests, it would be a barrier to pro-health competitive innovation. It would take pressure off the cigarette trade, which has been in rapid decline in some jurisdictions through displacement by heated products.

(iv) Ban on cigarette filters

This measure is within the scope of the FCTC Article 9: *Regulation of the contents of tobacco products*. It is premised on the correct idea that filters do not have the protective effect that many people who smoke may believe. Filters, therefore, provide false reassurance and could diminish the desire to quit or keep people smoking on false pretences. So, the idea is to ban filters to dispel this misconception.

Justifying a ban on filters is likely to be difficult for regulators. What if filters have a small protective effect, though not as much as people believe? In this case, a regulator removing filters would risk making the products more dangerous at the individual level, thereby disincentivising use at the population level. That would be a novel regulatory philosophy. How could a regulator assure the public that the filters were having no effect or harmful effects? In my view, the evidence base for this claim is currently too weak.

The misrepresentation of "lights" and "mild" cigarettes as less harmful is a conceptually similar example. There has not been a ban on the light and mild cigarettes themselves or the filter ventilation that enabled the deceit. The problem has been addressed by banning the light and mild *descriptors*. It is not possible to repeat that approach exactly for filters, as they advertise their own presence. It may be better to start by using warnings (Article 11: *Packaging and labelling of tobacco products*) and information (Article 12: *Education, communication, training and public awareness)* to address the false reassurance implied by filters. Once the public has a better understanding of the deception and the safety questions have been more thoroughly addressed, then a filter ban may be more plausible.

d) Consumer

(i) Expansion of smoke-free venues in private/semi-private environments and reduction of exposure to second- and third-hand tobacco smoke

This measure would be outside the scope of the FCTC. Article 8: *Protection from exposure to tobacco smoke* calls for restrictions in workplaces and public places: *"providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places."* It does not envisage controls on smoking in private places, such as homes, vehicles, or gardens. There could be a public health and ethical case to protect young people at home from smoke exposure. However, it would be difficult to extend this reasoning to general bans on smoking in private places, including where there are no young people or no non-consenting adults.

The issue for policymakers is how far the government should reach into controlling behaviours in private spaces and with what rationale for intervention.

Forward-looking measures that have been excluded

The most compelling forward-looking direction for tobacco and nicotine policy is to focus on reducing the significant risks to those who continue to use smoke, by encouraging them, in their own interests and at their own expense, to switch to much safer ways of consuming the drug nicotine. A harm reduction strategy also includes young people who would otherwise take up smoking.

- **Goals**. Focus single-mindedly on the outcome that matters most: reducing disease and death. In practice, this means reducing *smoking* by setting targets for reduction in *smoking* and measuring success through declines in *smoking*.
- **Risk communication**. Become truthful and candid about the relative risks of smoking and smoke-free nicotine use. The differences are likely 1-3 orders of magnitude. This should be reflected in the WHO fact sheets, statements, and promotional materials, for example.
- **Advice**. Provide straightforward, actionable advice to the public and health professionals to encourage switching from high-risk to low-risk nicotine use, either as an end in itself or as a highly beneficial first step in attaining abstinence.
- **Taxation**. Apply risk-proportionate taxation to create financial incentives for both consumers and suppliers to migrate from high-risk to low-risk nicotine products.
- **Regulation**. Design and apply risk-proportionate regulations that apply the most stringent control measures to the most dangerous products, cigarettes. For far safer smoke-free products, the focus should be on consumer protection measures.
- **Lawfulness**. Above all, keep markets lawful. Illicit trade leaves a market unregulated and controlled by criminal networks, which will sell any illicit product or service to anyone and often draw in young people as suppliers. In practice, this means lifting many prohibitions (46 countries have banned e-cigarettes) and carefully assessing whether regulatory or fiscal measures will trigger illicit trade.
- **Do no harm**. One of the most critical forward-looking measures is to undo harmful policies decided in the past on insufficient data. For example, 46 countries have banned much safer products but allowed the most dangerous products to be freely available. These bans should be reversed. Since the European Union snus ban in 1992, 20 million EU citizens have died from smoking-related disease – that ban should be lifted
- **Youth**. Control marketing, packaging, branding, and descriptors for all nicotine products, but recognise that advertising of smoke-free nicotine products, where there is a high level of smoking, functions as anti-smoking advertising and denormalisation of smoking. Use age restrictions and retail licensing where feasible.
- **Rethink nicotine**. Develop a credible conceptual framework for managing the popular recreational drug nicotine in society, recognising that the demand for it is likely to persist indefinitely, as with other psychoactive substances, including caffeine, alcohol, and cannabinoids. Once that fundamental fact is understood, the challenge is to shape a legal market of acceptably safe products with workable safeguards and controls.