

# The WHO tobacco control treaty meetings are closed bubbles of cultivated groupthink - a comparison with the UN climate change treaty



Stakeholders with legitimate (and sometimes life-or-death) interests are deliberately excluded from FCTC meetings.

At the start of COP-9, the head of the FCTC convention secretariat proudly drew a comparison with the other COP, the one going on in Glasgow dealing with the UN Framework Convention on Climate Change (UNFCCC). Perhaps she hoping some of the interest in UNFCCC COP-26 would rub off on the altogether more tawdry FCTC COP-9. But the tobacco COP takes an aggressive exclusionary and insular approach to stakeholders that would never be tolerated in the climate COP. This post compares the two COPs.

*Two COPs are happening at the same time [#COP9](#)*

and [@COP26](#)

There are important parallels between the [@UNFCCC](#) & the WHO FCTC

The tobacco epidemic & climate change are both manmade & preventable

Both treaties aim to protect our present & future generations [#FCTCSavesLives](#)  
[pic.twitter.com/9RF9lrSNCO](https://pic.twitter.com/9RF9lrSNCO)

— Adriana Blanco Marquizo (@BlancoMarquizo) [November 8, 2021](#)

## **FCTC restricts access and hand-picks observers**

As shown in the table [below](#), there is a sharp contrast between the climate COP meetings and tobacco COP meetings. The FCTC tobacco COP has highly restrictive and opaque practices that ensure that it operates as an echo chamber populated by compliant observers. It chooses so-called “civil society” organisations according to their willingness to support the FCTC and contribute to its implementation. It excludes many legitimate perspectives: notably consumers, pro-harm reduction public health experts, policy think tanks and critical economists, libertarians, and commercial entities affected by decisions made by COP. All of this can be done without allowing tobacco companies excessive influence as required by Article 5.3.

In the FCTC, any non-governmental organisation (NGO) can be refused observer status at the request of a single party. NGOs are required to be international and committed to tobacco control, ruling out most consumer organisations who see themselves as victims of tobacco control. NGO observers are required to file reports on their activity with the Secretariat for approval. The Secretariat then makes recommendations about who should be granted observer status, retained as observers, or expelled. The “civil society” organisations chosen are mainly grant-funded tobacco control organisations, often with bizarre views about public health that bear little relationship to the norms in the countries they come from or anything like good practice in policy and science.

For this COP, the FCTC process will be used to exclude several organisations and bolster the groupthink bubble. See [FCTC/COP/9/4](#) - Applications for the status of observer to the Conference of the Parties.

Out - organisations the secretariat wishes to exclude

- ASH Finland
- Common Market for Eastern and Southern Africa (COMESA)
- International Network of Nicotine Consumer Organisations (INNCO)
- New Nicotine Alliance (NNA) UK
- Parlement Africain de la société civile
- Science for Democracy
- Think Tank Africa WorldWide Group

In - organisations the secretariat wishes to admit

- Action on Smoking and Health (ASH)
- African Tobacco Control Alliance (ATCA)
- Smoke Free Partnership (SFP)
- Tobacco Control Research Group (TCRG)
- Vital Strategies Inc.

No doubt the COP will rubber-stamp the recommendation and the officials of supposed liberal democracies will again be complicit in unaccountable bureaucratic malpractice.

## **A comparison between tobacco and climate change treaties**

This insularity is *not* a feature of the UNFCCC climate COP meetings. A comparison with the UN Framework Convention on Climate Change is revealing.

FCTC (tobacco control)	UNFCCC (climate change)
<p>Number and type of observers</p> <p>As at 8 November 2021</p> <p>21 non-governmental organisations (NGOs) <a href="#">[source]</a></p> <p>28 Intergovernmental organisations (IGOs) <a href="#">[source]</a></p> <p>One observer, the Framework Convention Alliance (FCA) is a holding group for about 300 organisations nearly all of which would not qualify if they had to apply using the current criteria. Its members can attend under the FCA umbrella - but they must meet FCA's membership requirements and support its tobacco control <a href="#">vision and mission</a>. This organisation was given <i>de facto</i> permanent observer status under the <a href="#">Rules of procedure 32(1)</a>:</p> <p><i>Nongovernmental organizations which participated in the Intergovernmental Negotiating Body on the WHO Framework Convention on Tobacco Control and in the Open-ended Intergovernmental Working Group on the WHO Framework Convention on Tobacco Control are accredited as observers to the Conference of the Parties.</i></p> <p>This is referring to meetings held in 1999-2003. No business or consumer organisations have been granted observer status. No organisations critical of the FCTC, its interpretation by COP, WHO, the Secretariat, any parties or tobacco control generally have been admitted. They are ruled out by selection criteria, veto and reporting requirements.</p>	<p>Number and type of observers</p> <p>As of 2019 is 2,500 organisations (2,360 NGO and 140 IGOs) were admitted as observers. The NGOs represent a broad spectrum of interests. They include representatives from business and industry, environmental groups, farming and agriculture, indigenous populations, local governments and municipal authorities, research and academic institutes, labour unions, women and gender and youth groups. <a href="#">[source]</a></p> <p><a href="#">[list]</a></p> <p>Includes Business NGOs likely to be hostile to the aims of the UNFCCC, such as the World Coal Association, International Association of Oil and Gas Producers (IOGP), Organisation of International Automobile Manufacturers and International Council for Mining and Metals (ICMM). Does not admit for-profit businesses.</p>

FCTC (tobacco control)	UNFCCC (climate change)
<p>Criteria for observer status</p> <p>Applicants must be international. This excludes most individuals (e.g. academics) and organisations that support tobacco harm reduction.</p> <p>They must have aims and activities that are “in conformity” with the FCTC “spirit purpose and principles”. This effectively excludes critics.</p> <p><a href="#">Rules of procedure 31(2)</a></p> <p><i>31.2. ... international and regional non-governmental organisations whose aims and activities are in conformity with the spirit, purpose and principles of the Convention, may apply for observer status, which may be granted by the Conference of the Parties, based on the report of the Secretariat, and taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention. Such applications should be submitted to the Secretariat not later than ninety days before the opening of the session.</i></p>	<p>Criteria for observer status</p> <p>Applicants may be a national body and only have to show they have relevant knowledge, not necessarily a particular policy perspective.</p> <p><a href="#">UNFCCC Article 7(6)</a></p> <p><i>Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object.</i></p>
<p>Decision-making on observer status</p> <p>The Secretariat reviews conformance with criteria and makes a recommendation to the COP, which has to agree by consensus. As a result, any party has a veto.</p> <p><a href="#">Rules of procedure 31.2</a></p> <p><i>“granted by the Conference of the Parties, based on the report of the Secretariat, and taking into account the 17th and 18th preambular paragraphs as well as Article 5.3</i></p>	<p>Decision-making on observer status</p> <p>The Secretariat reviews applications and makes recommendations to the COP based on capabilities. An applicant can only be blocked by one-third of the parties.</p> <p><a href="#">UNFCCC Article 7(6)</a></p> <p><i>may be so admitted unless at least one third of the Parties present at the session object</i></p>

FCTC (tobacco control)	UNFCCC (climate change)
<p>Qualifiers</p> <p>Observers should contribute to ‘tobacco control’ efforts.</p> <p>From rule 31.2 on observers- referring to <a href="#">FCTC text</a></p> <p>17<sup>th</sup> recitation:</p> <p><i>Emphasising the special contribution of non-governmental organisations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women’s, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,</i></p>	<p>Qualifiers</p> <p>None</p>
<p>Reporting requirement</p> <p>The accredited NGOs must provide reports on their activities in support of the FCTC implementation.</p> <p>These form the basis of their continued participation</p> <p>Rules of Procedure rule 31.3</p> <p><i>31. 3. The Conference of the Parties shall review the accreditation of each non-governmental organisation at any of its regular sessions and thus determine the desirability of maintaining its observer status.</i></p> <p>What this means was set out at COP6</p> <p><i>NGOs with observer status to the COP will be requested to submit a report on their activities to the Secretariat every two years. Such reports shall be submitted at the latest six months before the opening of the next session of the COP. In this regard, the COP adopted a standard reporting questionnaire to be used by NGOs which will be available on web-based format in due course. (<a href="#">FCTC/COP/6/26</a>)</i></p> <p>See <a href="#">NGO reports for 2020</a>.</p>	<p>Reporting requirement</p> <p>None</p>

FCTC (tobacco control)	UNFCCC (climate change)
<p>Media access</p> <p>FCTC COP meetings exclude the press after initial formalities and only allow engagement through staged press conferences.</p>	<p>Media access</p> <p>UNFCCC COP meetings try to encourage the greatest possible press engagement, including in-person and via online access. See UNFCCC <a href="#">COP-26 press and media</a></p>

## Summarising the problem

Admission to the FCTC as an observer is problematic in several ways:

- FCTC observers must support the aims of the Convention. It is not enough that they are affected by it or that they may be well-informed critics. UNFCCC observers have to be ‘qualified in the matters covered by the Convention’. This is a radically different approach, and it means that a much broader range of stakeholders has access to the meetings and delegates: a far more democratic process.
- FCTC requires observer organisations to be transnationals. UNFCCC admits national bodies. FCTC has a loophole for small organisations it finds supportive, but not for small consumer organisations or individuals who have specialised knowledge but do not operate internationally.
- FCTC observers must be approved by consensus by the Parties (i.e. each Party has a veto, whereas UNFCCC requires one-third of the parties to block an observer. This FCTC has a strong filter against critics, including critics of any party. This is a very tame view of ‘civil society’.
- FCTC emphasises contribution to tobacco control. UNFCCC does not require any particular approach. FCTC requires its observers to be working on behalf of the treaty. Again, being affected by it or having critical views is not enough.
- FCTC requires observers to report on activities undertaken to implement the Convention. UNFCCC does not require reporting by observers or expect them to implement the Convention. The FCTC effectively enforces compliance among its “civil society” observers by demanding reports on their activity and commitment, backed by the threat of deselection.
- The “civil society” organisations involved have no incentives to press for

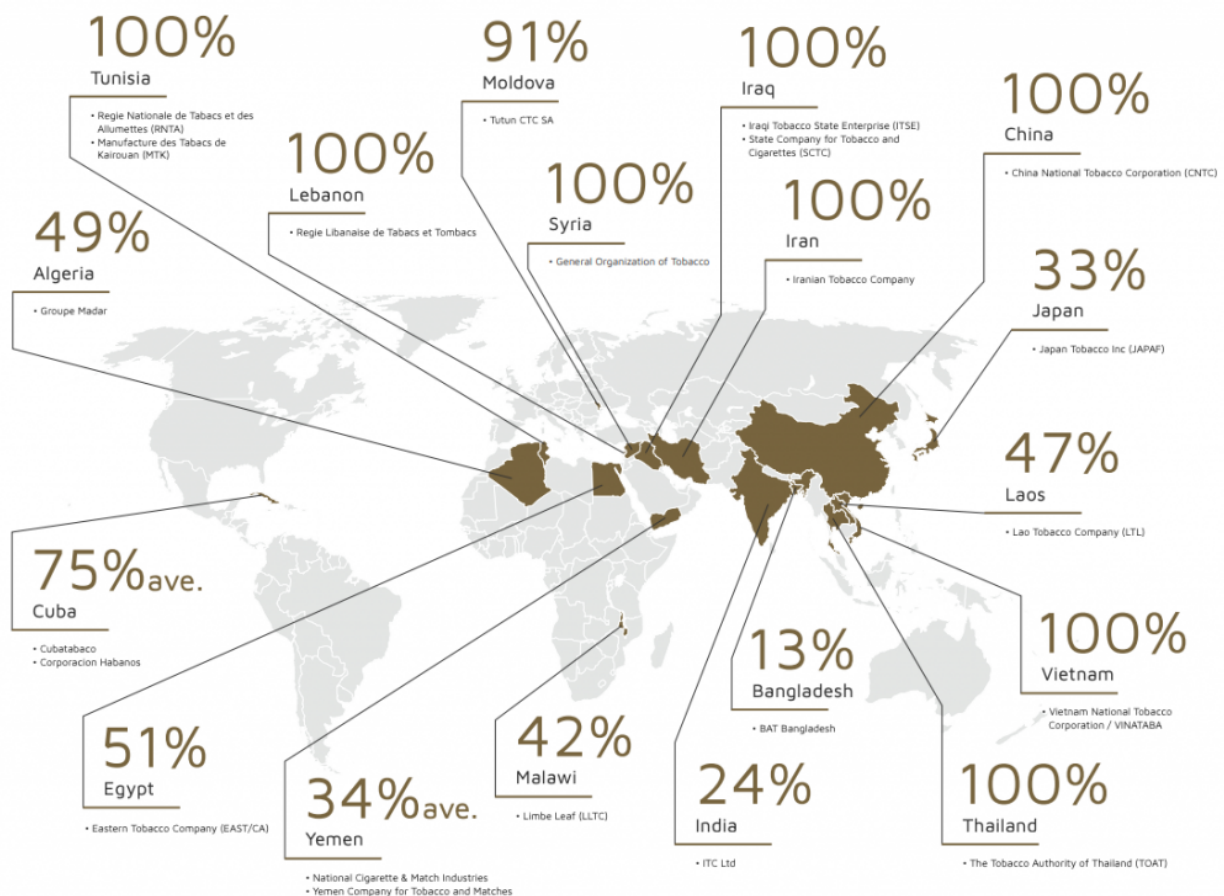
greater transparency, broader consultation, more comprehensive access or all the usual things that we would expect genuine civil society organisations to pursue. They are compromised beneficiaries of the FCTC's exclusive, undemocratic and unaccountable *modus operandi*.

There is no point in any organisation interested in tobacco harm reduction or concerned about the perverse consequences of FCTC measures trying to gain access to the meetings. The COP and Secretariat have established insurmountable barriers to access and a selection process that will only admit compliant and obedient organisations to participate in the proceedings.

## **Keeping out Big Tobacco? Or just suppressing dissent?**

The usual justification for these measures is typically absurd... that it will keep out tobacco companies. That is a deeply questionable end in itself - these companies will be major players in the shift of the market from combustible to non-combustible products. But in practice it is absurd, many of the government delegations have state-owned tobacco companies and some have representatives or sponsors of these industries on their delegations. See [\*Contradictions and Conflicts\*](#), 2020, a report by the Foundation for a Smokefree World.





## State-owned tobacco companies - Foundation for a Smokefree World

Again, the comparison with the climate treaty is instructive. The UNFCCC has the coal industry, Big Oil and major fossil fuel interests like Saudi Aramco and Russia's Gazprom to contend with. But it doesn't shut out every other perspective to keep them at bay.

The much more likely reason is that the WHO, Convention Secretariat and many delegates wish to continue saying obviously false and misleading things, especially about vaping and heated tobacco products, but without fear of challenge and the embarrassment of being corrected or satirised. It's cult behaviour and only cult followers can be admitted. This is about creating a secure bubble to allow a certain kind of groupthink to flourish unhindered by reality, pragmatism and results.

## Further reading

- Chris Snowdon, [The secret tobacco conference starts today](#), 8 November 2021

- Chris Snowden provides highlights from an academic paper on the subject: Gregory F. Jacob, [Administering the Mark of Cain: Secrecy and Exclusion in the FCTC Implementation Process](#), Fordham International Law Journal, 2018
- Jim McDonald, [The secret tobacco control meeting you can't attend](#), Vaping 360 5 November 2021