

Article 19:

Advancing

tobacco control



Brazil, Panama, and the Pan American Health Organization have held several regional workshops on Article 19 implementation. Moving forward, similar workshops held between experts and attorneys general of countries worldwide are essential to facilitate liability actions globally.

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 toolkit²:

- 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).
 - 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.

RECOMMENDATIONS

Governments at all levels should begin implementing Article 19 by:

- Using the FCTC's online toolkit² to identify where to begin and how to overcome potential roadblocks.
- Launching liability suits against the tobacco industry.
- Following the lead of, and learning lessons from, the experience of countries that have initiated liability action, such as Brazil, Canada, and USA³.

Civil society organizations (CSOs) and experts should:

- Mobilize in-country stakeholders to raise the visibility of the potential for liability.
- Collaborate with international partners to host in-country liability workshops for CSO and government officials.

At COP10, Parties should:

1. Request the FCTC Secretariat to complete the COP7 and COP8 decisions to create the necessary tools and resources to assist Parties in implementing Article 19⁴.
2. Dedicate funding to ensure the FCTC Secretariat has the resources to fulfill its mandate.
3. Collaborate with the FCTC Secretariat to hold workshops on Article 19 to train governments to use the expert group's toolkit.

For more information, email

TobaccoCampaign@CorporateAccountability.org

and visit MakeBigTobaccoPay.org.

ENDNOTES

1 [https://fctc.who.int/publications/m/item/fctc-cop7\(11\)-implementation-of-article-19-of-the-who-fctc-liability](https://fctc.who.int/publications/m/item/fctc-cop7(11)-implementation-of-article-19-of-the-who-fctc-liability)

2 <http://untobaccocontrol.org/impldb/tobacco-control-toolkit/#/>

3 <https://www.tobaccofreekids.org/what-we-do/global/legal/resources>

4 [https://fctc.who.int/publications/m/item/fctc-cop8\(18\)-protection-of-public-health-policies-with-respect-to-tobacco-control-from-commercial-and-other-vested-interests-of-the-tobacco-industry](https://fctc.who.int/publications/m/item/fctc-cop8(18)-protection-of-public-health-policies-with-respect-to-tobacco-control-from-commercial-and-other-vested-interests-of-the-tobacco-industry)

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 impede the tobacco industry's ability to bolster its reputation.