

Article 19:

Catapulting progress

on tobacco control



Powerful tools exist to hold Big Tobacco liable for its harms. Workshops between experts and government officials in countries worldwide are essential to facilitate liability actions globally.

Liability has the power 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 implementation of the treaty's boldest measures. It is time to shift the burden of tobacco onto the industry, compel it to respect the rule of law, and make it pay for the harms caused by its products.

The WHO Framework Convention on Tobacco Control (FCTC) contains a powerful provision that will advance all of its lifesaving measures: Article 19, which Parties can use to hold the tobacco industry liable for its abuses. It has the potential for governments to recover costs from the tobacco industry—from health damages to environmental harms.¹

That's why more and more countries² around the world, from Brazil³ to South Korea⁴ to Canada,⁵ are pursuing liability as a means to address the epidemic of tobacco-related illness. Most recently, the U.S. city of Baltimore launched a first-of-its-kind lawsuit to make tobacco corporations pay for their pollution.⁶

Parties and experts created a practical, online toolkit that provides guidance to Parties to advance Article 19.⁷ But Parties have expressed⁸ that they need further support to unlock its full potential.

A UNIQUE OPPORTUNITY AT COP10

At COP10 in Panama, Parties have the opportunity to strengthen Article 19 implementation. The actions below will catapult progress on Article 19—and in doing so, advance implementation of the FCTC's lifesaving potential.

RECOMMENDATIONS FOR PARTIES

At COP10, Parties should:

1. Establish an expert group to recommend principles, practices, and policy options for strengthening liability laws.
2. Dedicate funding to ensure the FCTC Secretariat has the resources to fulfill its COP7 mandate, including providing technical guidance on implementing Article 19 and forming frameworks for cooperation on liability, as well as the new requests below.

3. Request the FCTC Secretariat to:

- Fully comply with its as-yet-incomplete COP7 mandate and report on progress at COP11.
- Arrange a regular item on tobacco industry accountability and liability for every COP.
- Study environmental remediation and ecological restoration to address decades of environmental harms, and present options at COP11.
- Study the feasibility of imposing financial guarantees for future harms of e-cigarettes, heat-not-burn tobacco products, and similar devices, or for future claims based on current or past harms, and present options at COP11.
- Hold Article 19 workshops to train governments to use the FCTC’s online toolkit⁹ and other tools.

Governments at all levels should collaborate with civil society and experts to begin implementing Article 19 by:

- Adopting policies to advance tobacco industry liability as part of comprehensive tobacco control.
- Using the FCTC’s online toolkit¹⁰ to identify how to begin and overcome potential roadblocks.
- Launching liability suits against the tobacco industry — including collaborating with and learning from countries that have initiated liability action, like Brazil, South Korea, Canada, and U.S.¹¹

WHY ADVANCE ARTICLE 19?

- It is one of the most powerful but underutilized articles of the treaty.
- It is a means of securing justice for those harmed by tobacco corporations.
- Its implementation can unlock funding for a wide range of lifesaving tobacco control measures.
- Plus, experience shows that implementation of Article 19 can:
 - Recover health care costs incurred by governments for tobacco-related harms to people (called “health care cost recovery” in some legal systems).
 - Recover environmental costs¹² incurred by governments for tobacco-related harms to the planet (called “environmental cost recovery” in some legal systems).¹³
 - Create the public climate and political will to pass and enforce the lifesaving measures enshrined in the FCTC.
 - Expose and halt misconduct, deter future misconduct, and punish wrongdoing.
- More and more countries are taking action for liability—but many more need tools and expertise to implement this highly technical article.
- The time is ripe to hold the deadly tobacco industry liable. In fact, thousands of people around the world,¹⁴ along with organizations and liability experts,¹⁵ are urging Parties to act on liability.

For more information, email
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and visit MakeBigTobaccoPay.org.