

## **POST TREATY WORK OF THE COP RELATING TO TOBACCO HARM REDUCTION**

**With thanks to Jeannie Cameron for permission to reproduce her text here**

The first official reference to ENDS was at FCTC COP4 in 2010 where the COP decided to prepare a report regarding the experience of the Parties in relation to ENDS for COP5 in 2012. COP5 invited the WHO to identify options for the prevention and control of ENDS and to examine the emerging evidence on the health impacts and report to COP6 in 2014.

COP6 recognised that Parties have adopted various strategies to regulate ENDS including an outright ban on sales; marketing ENDS as a medicine; regulating them as tobacco products; or no control at all. COP6 invited Parties to consider taking measures to prevent initiation of ENDS by non-smokers and youth and vulnerable groups; to minimize as far as possible potential health risks to ENDS users and protect non-users from exposure to their emissions; to prevent unproven health claims from being made about ENDS; to

protect tobacco-control activities from all commercial and other vested interests related to ENDS, including interests of the tobacco industry.

COP6 invited Parties to consider prohibiting or regulating ENDS, including as tobacco products, medicinal products, consumer products, or other categories, as appropriate, taking into account a high level of protection for human health; urging Parties to consider banning or restricting advertising, promotion and sponsorship of ENDS.

COP6 invited Parties and WHO to comprehensively monitor the use of ENDS and requested the WHO to prepare an expert report, with independent scientists and concerned regulators, for COP7 with an update on the evidence of the health impacts of ENDS, potential role in quitting tobacco usage, the impact on tobacco control efforts and to subsequently assess policy options.

The WHO report to COP7 (FCTC/COP7/11\_2016) was comprehensive and incorporated the 2015 scientific recommendations on ENDS by the WHO Study Group on Tobacco Product Regulation (TobReg), and the 2016 informal consultation on policy options and four background papers commissioned by WHO. The document describes what ENDS are; the ability to aid smokers to quit; the ability to initiate youth; health risks to bystanders; market size, marketing, commercial interests, and regulatory options. The Report is relatively balanced. For example, paragraph 5 on the potential role of ENDSs in tobacco control reads as follows:

### ***POTENTIAL ROLE OF ENDS/ENNDS IN TOBACCO CONTROL***

*5. If the great majority of tobacco smokers who are unable or unwilling to quit would switch without delay to using an alternative source of nicotine with lower health risks, and eventually stop using it, this would represent a significant contemporary public health achievement. This would only be the case if the recruitment of minors and non-smokers into the nicotine-dependent population is no higher than it is for smoking, and eventually decreases to zero. Whether ENDS/ENNDS can do this job is still a subject of debate between those who want their use to be swiftly encouraged and endorsed on the basis of available evidence, and others who urge caution given the existing scientific uncertainties as well as the performance variability of products and the diversity of user behaviour.*

COP7 officially welcomed the report and invited the parties to consider applying regulatory measures such as those referred to in document FCTC/COP7/11 to prohibit or restrict the manufacture, importation, distribution, presentation, sale and use of ENDS/ENNDS, as appropriate to their national laws and public health objectives.

It further requested the Convention Secretariat to invite Parties to monitor and report on scientific, regulatory and market developments such as initiation, cessation, advertising and promotion and WHO to report on the development of methods by regional and international standards-development organizations for the testing and measuring of contents and emissions of ENDS, at either the eighth or the ninth session of the COP.

At COP8 in 2018 reported only a global status report in terms of approach to regulation and market size update. COP8 advised that a full report with further guidance will be prepared and presented at COP9. This report will determine the future direction of ENDS and it is hoped that it will be based on evidence and science. It expected that the UK will have played a pivotal role in the development of the report and will uphold its views during COP9 – the outcome will depend on positions taken by the governments to COP9 (2020).