

It doesn't have to be this way!

**Transparency and consultation - a comparison between FCTC and the UN Framework Convention on Climate Change**

Source: [All-Party Parliamentary Group on Vaping - Inquiry into the WHO Framework Convention on Tobacco Control \(FCTC\) Conference of the Parties \(COP\) Memorandum by Clive Bates, February 2021](#)

FCTC (tobacco control)	UNFCCC (climate change)
<p><b>Number and type of observers</b>            21 non-governmental organisations (NGOs) <a href="#">[source]</a>            28 Intergovernmental organisations (IGOs) <a href="#">[source]</a></p> <p>The Framework Convention Alliance (FCA) is a holding group for 300 smaller organisations. Any 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>.</p> <p>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><b>Number and type of observers</b>            As of 2018, over 2,200 NGOs and 130 IGOs are 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> <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>
<p><b>Criteria for observer status</b>            Applicants must be international and must have aims and activities be "in conformity" with the FCTC "spirit purpose and principles". This effectively excludes critics.</p> <p><a href="#">Rules of procedure</a> 31(2) 31.2. ... <i>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</i></p>	<p><b>Criteria for observer status</b>            Applicants may be a national body and only have to show they have relevant knowledge, not necessarily a particular policy perspective. <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><i>Secretariat not later than ninety days before the opening of the session</i></p>	
<p><b>Decision-making on observer status</b></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>  <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><b>Decision-making on observer status</b></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>  may be so admitted unless at least one third of the Parties present at the session object</p>
<p><b>Qualifiers</b>  Observers should contribute to ‘tobacco control’ efforts.</p> <p>From rule 31.2 on observers- referring to <a href="#">FCTC text</a></p> <p><b>17th recitation:</b>  <i>Emphasising the special contribution of nongovernmental 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><b>Qualifiers</b>  None</p>
<p><b>Reporting requirement</b></p> <p>The accredited NGOs must provide reports on their activities in support of the FCTC implementation. 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><b>Reporting requirement</b>  None</p>

*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 webbased format in due course.*  
[\(FCTC/COP/6/26\)](#)

See [NGO reports for 2020](#).

- 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.