

## A Framework Convention on Alcohol Control: getting concrete about its contents

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### Abstract

This article proposes and discusses the text of a Framework Convention on Alcohol Control which would serve public health and welfare interests. The history of alcohol's omission from current drug treaties is briefly discussed. The paper spells out what should be covered in the treaty, using text adapted primarily from the Framework Convention on Tobacco Control, but for the control of trade from the 1961 narcotic drugs treaty. While the draft provides for the treaty to be negotiated under the auspices of the World Health Organization, other auspices are possible. Excluding alcohol industry interests from the negotiation of the treaty is noted as an important precondition. The articles in the draft treaty and their purposes are briefly described, and the divergences from the tobacco treaty described and justified. The text of the draft treaty is provided as Supplementary material. Specification of concrete provisions in a draft convention points the way towards more effective global actions and agreements on alcohol control, whatever form they take.

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## INTRODUCTION

Alcoholic beverages have been prepared and consumed by humans for longer than recorded history.<sup>1</sup> But that drinking is often problematic has been recognised since ancient times.<sup>2</sup> While the production of alcoholic beverages was originally a cottage industry,<sup>3, pp. 11-12</sup> it has become increasingly industrialised and dominated by multinational firms, controlling and trading not only the actual product across national borders but also dealing in international licenses, trademarks and other “intellectual property” concerning their product. Though a majority of alcohol is consumed in the continent in which it is produced, much of it is part of international trade in terms of its branding, licensing, production and distribution. In each of these aspects, it is potentially subject to international trade agreements, in which it is commonly treated as an ordinary product. The social and health harms from drinking are largely local, but the production and marketing is highly and increasingly internationalised.<sup>4</sup>

Most nations of the world have found it in their national interest to impose controls on the alcohol market at national or subnational levels.<sup>5</sup> In recent decades, the substantial health and social harms from alcohol have also received increasing attention internationally. Studies of the risk factors for the global burden of disease have consistently found alcohol to be in the top ten risk factors for disability and death.<sup>6</sup> Besides these harms primarily to the drinker, there are also many harms from drinking to others around the drinker, and more attention is

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<sup>1</sup> E Guerra-Doce, “The origins of inebriation: archaeological evidence of the consumption of fermented beverages and drugs in prehistoric Eurasia” (2015). 22 *Journal of Archaeological Method and Theory* 751.

<sup>2</sup> R Room and W Hall, “Frameworks for understanding drug use and societal responses”. In: A Ritter, T King and M. Hamilton, eds. *Drug Use in Australian Society*, 2<sup>nd</sup> edition, pp. 69-83. (Sydney: Oxford University Press 2017).

<sup>3</sup> R Room, D Jernigan, B Carlini-Marlatt, O Gureje, K Mäkelä, M Marshall, ME Medina-Mora, M Monteiro, C Parry, J Partanen, L Riley and S Saxena, *Alcohol in Developing Societies: A Public Health Approach*. (Helsinki: Finnish Foundation for Alcohol Studies & Geneva: World Health Organization, 2002).

<sup>4</sup> D. Jernigan and CS Ross. “The alcohol marketing landscape: Alcohol industry size, structure, strategies, and public health responses” (2020) Supplement 19, *Journal of Studies on Alcohol and Drugs* 13-25.

<sup>5</sup> World Health Organization, *Global Status Report: Alcohol Policy*. (Geneva: World Health Organization, 2004).

<https://apps.who.int/iris/bitstream/handle/10665/42801/9241580356.pdf>

<sup>6</sup> GBD 2016 Alcohol Collaborators, “Alcohol use and burden for 195 countries and territories, 1990–2016: a systematic analysis for the Global Burden of Disease Study 2016” (2018) 392 *The Lancet* 1015; LS Flor and E Gakidou, “The burden of alcohol use: better data and strong policies towards a sustainable development” (2020) 5 *The Lancet Public Health* e10.

now being paid to the substantial extent of these harms.<sup>7</sup> In the public health interest, the World Health Organization is accelerating action on its Global Strategy to Reduce the Harmful Use of Alcohol (hereafter Global Strategy),<sup>8</sup> and recommends to member states as priorities in the public health interest such measures as increased taxes to discourage overuse, and limits on availability, marketing and promotion.<sup>9</sup> However, a WHO staff review of the first decade of the Global Strategy acknowledged that “there is no progress in reducing the total per-capita alcohol consumption in the world compared to 2010”, and that, despite some improvements, alcohol policy development and implementation “are still far from accomplishing effective protection of populations from alcohol-related harm”.<sup>10</sup>

Alcohol is thus a classic example of a commodity which is valued but causes substantial harm, mostly at the local level, which is produced, traded and promoted in an increasingly internationalised market. It is the only widely used and strongly psychoactive commodity which is not subject to a public health treaty.<sup>11</sup> While it will probably be harder to reach an international consensus on alcohol than on other psychoactive substances, the experience with the Framework Convention on Tobacco Control (FCTC)<sup>12</sup> suggests that simply the

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<sup>7</sup> K Karriker-Jaffe, R Room, N Giesbrecht and TK Greenfield, “Alcohol's harm to others: Opportunities and challenges in a public health framework” (2018) 79 *Journal of Studies on Alcohol and Drugs* 239; A-M Laslett, R Room, O Waleewong, O Stanesby and S Callinan, eds. *Alcohol's Harms to Others: A Cross-National Study* (Geneva: World Health Organization, 2019).  
<https://apps.who.int/iris/handle/10665/329393>

<sup>8</sup> World Health Organization, WHO to accelerate action to reduce the harmful use of alcohol. (Geneva: WHO, 2020) <https://www.who.int/news-room/detail/28-03-2020-who-to-accelerate-action-to-reduce-the-harmful-use-of-alcohol> (accessed 2 May, 2020)

<sup>9</sup> World Health Organization, *Tackling NCDs: 'Best buys' and other recommended interventions for the prevention and control of NCDs* (Geneva: WHO, 2017).  
<https://apps.who.int/iris/bitstream/handle/10665/259232/WHO-NMH-NVI-17.9-eng.pdf?sequence=1> (accessed 15 February, 2020)

<sup>10</sup> World Health Organization, *Implementation of the WHO Global Strategy to Reduce the Harmful Use of Alcohol since Its Endorsement, and the Way Forward*. Discussion paper. Geneva: WHO, 2019). [https://www.who.int/docs/default-source/alcohol/2010-strategy/discussion-paper.pdf?sfvrsn=a171471c\\_2](https://www.who.int/docs/default-source/alcohol/2010-strategy/discussion-paper.pdf?sfvrsn=a171471c_2) (accessed 8 May, 2020)

<sup>11</sup> R Room and J Cisneros Örnberg, “The governance of addictions at the international level”. In: P Anderson, G Bühringer and J Colom, eds., *Reframing addictions: policies, processes and pressures* (Barcelona: ALICE-RAP Ebook, 2014). Available at: [http://www.alicerap.eu/resources/documents/doc\\_download/216-alice-rap-e-book-reframing-addictions-policies-processes-and-pressures.html](http://www.alicerap.eu/resources/documents/doc_download/216-alice-rap-e-book-reframing-addictions-policies-processes-and-pressures.html)

<sup>12</sup> World Health Organization, *WHO Framework Convention on Tobacco Control*. (Original 2003; Geneva: World Health Organization, Document Production

existence of such a binding international agreement is an important step forward: in trade disputes about tobacco products, the existence of the FCTC is routinely recognised and cited in such disputes, while citations of the WHO's Global Strategy on alcohol in the same circumstances are much rarer.<sup>13</sup> There is thus a strong argument for reaching international agreements on limits and controls on the alcohol market which protect national and subnational regulations for public health and in the public interest, and which counter the efforts of industry interests to nullify national controls through trade agreements and disputes.

New efforts to establish global coordination on alcohol policy from a public health perspective have been under way since the early 2000s, including the World Health Organization's establishment in 2006 of the Global Strategy.<sup>14</sup> As a part of these efforts, there have been a number of calls by scholars with interest in international alcohol policy for a Framework Convention on Alcohol Control (FCAC).<sup>15</sup>

But these calls have generally lacked detail on what such a treaty should include. This paper aims to fill this gap by setting forth considerations on what should be covered in the treaty,

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Services, 2005).

<https://apps.who.int/iris/bitstream/handle/10665/42811/9241591013.pdf;jsessionid=6A7F0F6DC80F791694FF87079CB23C5B?sequence=1>

<sup>13</sup> P O'Brien, "Informal dispute settlement in international trade law: the Global Strategy to Prevent the Harmful Use of Alcohol and the Framework Convention on Tobacco Control compared". Presented at a conference on Public Health and the Global Governance of Alcohol, Melbourne, Australia, 30 September - 3 October, 2019.

<sup>14</sup> World Health Organization, Global Strategy to Reduce the Harmful Use of Alcohol. (Geneva: World Health Organization, 2010).

[https://www.who.int/substance\\_abuse/msbalcstrategy.pdf](https://www.who.int/substance_abuse/msbalcstrategy.pdf)

<sup>15</sup> For example: American Public Health Association, A call for a framework convention on alcohol control. Policy Statement 200615. (Washington, DC: APHA, 2006) <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/07/11/50/a-call-for-a-framework-convention-on-alcohol-control> (accessed 15 February, 2020); R Room, L Schmidt, J Rehm and P Mäkelä, "International regulation of alcohol" (2008) 337 *British Medical Journal* a2364. doi: 10.1136/bmj.a2364; S Casswell and T Thamarangsi, "Reducing harm from alcohol: call to action" (2009) 373 *The Lancet* 2247; R Room, "Alcohol as a public health risk: New evidence demands a stronger global response" (2013) 2 *International Journal of Alcohol and Drug Research* 7, <http://www.ijadr.org/index.php/ijadr/article/view/134/94>; SLA Yeung and T Lam, "Unite for a Framework Convention for Alcohol Control" 393 *The Lancet* 1778.

and providing and discussing a draft text as a concrete model of what it might contain. The draft text (see Supplementary material) adapts text from the existing international treaties on other psychoactive substances. Broadly, its provisions on control of international trade in alcohol are based on articles in one of the three international drug conventions, while its provisions concerning control of the domestic market in a signatory country are based on articles in the FCTC. The paper concludes with a discussion of processes by which such a treaty might be adopted and come into effect.

## PRECEDENTS AND PARALLELS FOR AN ALCOHOL TREATY

There is a considerable history in the last 130 years of international agreements on controls of attractive but problematic commodities, and particularly for substances which, like alcohol, are psychoactive. The first such international agreement, indeed, was about alcohol: European colonial powers agreed in the Brussels General Act of 1889-90 to limit commerce in “trade spirits” for native populations in a broad band of central Africa.<sup>16</sup>, pp. 165-168 Though it was incorporated into the responsibilities of the League of Nations by a 1919 agreement, there was little effort to enforce the agreement after the 1930s, and it was eventually nullified by the end of the colonial era.

The early 20<sup>th</sup> century saw the beginnings of what is now the global drug control system, with an initial international treaty to control the opium market agreed to in 1912 and coming into full effect as part of the agreements at the end of the First World War.<sup>16</sup>, pp. 11-13, <sup>19</sup> After the Second World War, responsibility for the drug treaties was assumed by the United Nations. The current system, which by 1995 covered 282 substances,<sup>17</sup> includes three treaties, from 1961, 1971 and 1988, and operates under the auspices of the UN Office on Drugs and Crime. The treaties include provisions for additions to the list of psychoactive substances which would logically apply both to alcohol and tobacco. While this was acknowledged in the official UN commentary on the 1971 treaty, the commentary adds that those negotiating the treaty “did not intend” to apply it to alcohol.<sup>18</sup>, pp. 47-48 And when the issue has occasionally been raised in the World Health Organization committee responsible for recommending additions to the list of substances covered by the treaties, further discussion of this inconvenient suggestion has been quickly and indefinitely deferred.<sup>19</sup>

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<sup>16</sup> K Bruun, L Pan and I Rexed, *The Gentlemen’s Club: International Control of Drugs and Alcohol*. (Chicago: University of Chicago Press, 1975)

<sup>17</sup> I Bayer and H Ghodse, “Evolution of international drug control, 1945–1995” (1999) 51 *Bulletin on Narcotics* 1.

<sup>18</sup> [A Lande] *Commentary of the Convention on Psychotropic Substances*. Document E/CN.7/589. (New York: United Nations, 1976)

<sup>19</sup> R Room, “Drug legalization and public health: general issues, and the case of cannabis”. In: H Pickard and S Ahmed, eds., *The Routledge Handbook of Philosophy and Science of Addiction*, pp. 518-530. (New York: Routledge, 2018)

As public health concerns about tobacco as a freely promoted commodity increased in recent decades, a new agreement was finally reached under World Health Organization auspices for international control of the market in tobacco, the FCTC,<sup>12</sup> adopted by the World Health Assembly in 2003 and entering into effect in 2005. The designation of “framework convention” was adopted early in thinking about the treaty to indicate a minimum aim of agreement on a framework of principles to which more specific protocols could later be added.<sup>20</sup> But in the end the treaty did include agreement on concrete steps, so that the “framework” designation is somewhat misleading.

The tobacco convention states clearly that its object is “to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke” (Art. 3), but takes a public health-oriented control approach rather than the prohibitive approach of the drug conventions concerning any nonmedical use. The tobacco convention thus established a precedent for a negotiating a treaty on a problematic psychoactive substance on a global basis and under the auspices of the World Health Organization, and proposals for a treaty on alcohol have generally assumed that it would be negotiated under the auspices of WHO. But that is not the only option. For instance, the 2006 Convention on the Rights of Persons with Disabilities was negotiated and comes under the jurisdiction of the UN’s Department of Economic and Social Affairs,<sup>21</sup> in line with preferences of some advocacy groups for disability rights being dealt with under a social rather than a medical model.<sup>22</sup> For another example, the the 2005 Convention against Doping in Sport, which includes coverage of some psychoactive substances, was sponsored by United Nations Education, Scientific and Cultural Organization (UNESCO).<sup>23</sup> Or the treaty might be negotiated under the auspices of a regional international body, but opened also to countries elsewhere for signature. Thus the first international treaty on doping in sport<sup>24</sup> was negotiated in 1989 under the auspices of a regional intergovernmental body, the Council of Europe, but was an “open” convention, meaning it

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<sup>20</sup> TAL Taylor and R Roemer, International strategy for tobacco control.

WHO/PSA/96.6. (Geneva: Programme on Substance Abuse, World Health Organization, 1996)

[https://apps.who.int/iris/bitstream/handle/10665/61186/WHO\\_PSA\\_96.6.pdf](https://apps.who.int/iris/bitstream/handle/10665/61186/WHO_PSA_96.6.pdf)

<sup>21</sup> DESA, Convention on the Rights of Persons with Disabilities (CRPD). (New York: Department of Economic and Social Affairs, United Nations, 2020).

<https://www.un.org/development/desa/disabilities> (accessed 27 April, 2020)

<sup>22</sup> R Room, “International control of alcohol: alternative paths forward” (2006). 25 Drug and Alcohol Review 581.

<sup>23</sup> B Houlihan, “Achieving compliance in international anti-doping policy: An analysis of the 2009 World Anti-Doping Code” (2014). 17 Sport Management Review 265.

<sup>24</sup> Sport Conventions Division. For a clean and healthy sport: the Anti-Doping Convention. (Strasbourg: Council of Europe, n.d.) <https://rm.coe.int/for-a-clean-and-healthy-sport-the-anti-doping-convention/16807314b5> (accessed 15 February, 2020)



could be and was also joined by countries outside of Europe.<sup>25, 26, p. 141</sup> While the World Health Organization is the most obvious auspice for negotiating an international convention on alcohol control, it is not the only option, and the Framework Convention on Tobacco Control is not the only precedent and potential model for an alcohol convention.

## INDUSTRY INFLUENCE IN TREATY NEGOTIATION AND IMPLEMENTATION

A major issue to be addressed concerning any alcohol treaty is the role of the industry in policy decisions about its product. In public health policymaking on a global level, the tobacco industry is now in a unique position, along with the arms industry: as stated in §44 of the World Health Organization's Framework of Engagement with Non-State Actors, "WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry".<sup>27</sup> This position implements for WHO's own work a strong version of the General Obligation that states who are party to the Framework Convention on Tobacco Control have agreed to: "In setting and implementing their public health policies with respect to tobacco control, parties shall act to protect these policies from commercial and other vested interest of the tobacco industry in accordance with national law" (§5.3 of the FCTC<sup>12</sup>).

The position has been characterised as "tobacco exceptionalism",<sup>28</sup> since the rules on consultation and presence at the table at WHO and in other public health policy situations are generally less stringent for alcohol and other commercial products with significant public health harms. Yet it has been cogently argued that the similarities in market structure and in political strategies between alcohol and tobacco industry interests "raise important questions about the appropriateness of current forms of engagement between policy-makers and the alcohol industry".<sup>29, p. 13</sup> Parallel strategies have been found in the alcohol and tobacco

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<sup>25</sup> Council of Europe. Details of Treaty No. 135: Anti-Doping. (Strasbourg, France: Treaty Office, Council of Europe, 2020).

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/135>  
(accessed 27 April, 2020)

<sup>26</sup> R Room, B Fischer, W Hall, S Lenton and P Reuter, *Cannabis Policy: Moving beyond Stalemate*. (Oxford, etc.: Oxford University Press, 2010)

<sup>27</sup> World Health Assembly, Annex: Framework of Engagement with Non-State Actors, Annex to WHA Resolution 69.10, 28 May 2016, pp. 4-19.  
[https://www.who.int/about/collaborations/non-state-actors/A69\\_R10-FENSA-en.pdf](https://www.who.int/about/collaborations/non-state-actors/A69_R10-FENSA-en.pdf) (accessed 27 April, 2020).

<sup>28</sup> J McCambridge and S Morris, "Comparing alcohol with tobacco indicates that it is time to move beyond tobacco exceptionalism" (2019). 29 *European Journal of Public Health* 200.

<sup>29</sup> B Hawkins, C Holden, J Eckhardt and K Lee, "Reassessing policy paradigms: A comparison of the global tobacco and alcohol industries" (2018). 13 *Global Public Health* 1.

industries' use of "informal channels of corporate influence on global health policymaking".<sup>30</sup> Reviewing the literature on alcohol industry influence on policymaking, McCambridge et al.<sup>31</sup> found consistent evidence that "alcohol industry interests are involved in policymaking strategically to advance [their] commercial interest", including efforts to influence the framing of issues, the use of multiple organisational forms, and the pursuit of long-term relationship-building with key decision-makers. While building in protection for public health interests from inappropriate commercial influence is an issue for consideration in the substance of an alcohol treaty, it also needs to be addressed and dealt with in the treaty preparation and negotiation process.

## THE PARTS OF THE TREATY AND THEIR FUNCTIONS

A proposed full text for the treaty can be found in the Supplementary Material for this paper, and this discussion refers to that text. The proposed treaty's structure follows the general structure of the FCTC, being divided into 11 parts and a preamble. The parts include: an introduction; a set of statements of the objective, of guiding principles and of general obligations; a set of nine articles dealing with measures relating to the reduction of demand for alcohol; a set of three articles relating to the reduction of supply; an article on protection of the environment; an article on questions related to liability; a part with three articles on scientific and technical cooperation and reporting of information; a part with four articles on institutional arrangements and financial resources; an article on settlement of disputes; and a final part with nine articles concerning such matters as the adoption process, adding protocols (further provisions) to the treaty, reservations by parties to the treaty, and withdrawal from it.

The different parts of the treaty are designed to serve different functions. The Preamble states the reasoning behind consensus on joint action that the treaty represents. A public health-oriented alcohol convention would need to start from and express an international consensus that, in view of serious adverse effects of alcohol use on public health and welfare, there is a need for substantial and continuing intergovernmental agreement and action. Elements in this consensus are commonly spelled out in some detail in Preambles to conventions, as well as in the convention's provisions. Preamble statements in treaties offer guidance on the intent behind specific provisions in the body of the treaty, and are often cited in international tribunal or court decisions interpreting a specific provision of a treaty.

Introduction. Apart from specifying what is included in the meaning of key terms used in the body of the treaty (Article 1), the introductory part situates the treaty with respect to national laws and to other bilateral or multinational agreements that may related to it (Article 2), and

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<sup>30</sup> E Suzuki and S Moon, "Informal channels of corporate influence on global health policymaking". In: N Kenworthy and K Lee, eds., *Case Studies on Corporations and Global Health Governance: Impacts, Influence and Accountability*, pp. 73-88. (Lanham, Maryland: Rowman and Littlefield, 2018).

<sup>31</sup> J McCambridge, M Mialon and B Hawkins B, "Alcohol industry involvement in policymaking: a systematic review" (2018). 113 *Addiction* 1571.



states that the treaty does not hinder such laws and agreements, provided they are compatible with it.

Objectives, Guiding principles, and General obligations. Part II of the treaty puts in more concrete terms than the Preamble what has been agreed on as the frame of shared understanding between the parties on principles and practices that the nations agree to in their implementation of the treaty. Article 3, on the treaty's Objective, states the intention that treaty will provide a framework for measures to be implemented at international and national levels which would support national and subnational regulation of alcohol production, distribution, sale and use so as to minimise health and social harms from use. The Guiding principles (Article 4) set out what the parties agree will be each country's general commitments, for instance to international cooperation and to the involvement of civil society, in implementing the treaty. The General obligations (Article 5) commit the parties to the treaty to finance and form a national focal point responsible for planning and action, and to adopt and implement legislation in accordance with the treaty. As well, parties to the treaty commit to cooperate with and contribute to the financing of intergovernmental organizations in the implementation of the treaty.

Measures to control the alcohol market and promotion, and for public education and training. The nine Articles in Part III of the treaty are its heart in terms of commitment to implement a set of public health strategies for controlling levels of alcohol consumption and reducing levels of alcohol-related harm. It should be noted that, although the treaty would represent a binding agreement, what is agreed to in this part is mostly about intentions, structures, and reports of activities, with very little mention of specific provisions or measures of compliance and success. As with the tobacco treaty, what looks like a binding agreement which could be enforced by international jurisprudence is in fact mostly an agreement on principles and intentions. Article 6 commits parties to the treaty to taking account of public health objectives "as appropriate" in setting tax and price policies on alcoholic beverages, and Article 7 extends this general commitment to "non-price measures" for controlling the demand for alcoholic beverages. Article 8 requires government agencies be established to regulate production and sale of alcoholic products, and that persons or enterprises that trade in alcoholic beverages or provide places for their consumption be licensed by the agencies, under conditions specified by and enforced under the licence. However, there is no specification in the article of what the conditions on the licences should be. Article 9 includes some more specific provisions for preventing sales of alcoholic beverages to "minors", with a recommendation that the minimum age for such sales be 18. It includes also a couple of more general measures which facilitate controlling sales to minors, such as prohibiting vending machines for alcohol products.

Articles 10 and 11 primarily apply to the production and import levels of the alcohol industry, regulating the contents of alcohol products and disclosures about them (Article 10) and their packaging and labelling (Article 11). The draft treaty is fairly specific about such issues as size and rotation of warning labels, reflecting national experiences with both tobacco and alcohol warning labels, but not specific about the content of the labels, other than that information on the ingredients and percentage ethanol content of the product should be listed.

Article 13, on advertising, promotion and sponsorship, will probably also apply mostly to production, import and distribution levels of the alcohol industry. It calls for a “comprehensive ban of all alcohol advertising, promotion and sponsorship” by five years after accession to the treaty, but provides various escape clauses for such a ban, and specifies some minimum conditions in lieu of such a ban. Adoption and implementation of this article is likely to be the most fiercely resisted by alcohol industry interests.

The remaining two articles in this Part are concerned with the other conventional parts of alcohol policy. Parties are committed by Article 12 to raising public awareness of risks to the drinker and to others from alcohol consumption, and to using alcohol control measures for public health, and by Article 14 to developing and implementing educational programs in community institutions and treatment facilities for alcohol use disorders. There is no specification of the scope and little of the content of such programs.

Control of international trade. Part IV contains two articles on control of international trade in alcohol: Article 15 on controlling the legal trade and suppressing illegal trade in alcohol, and Article 16 on control of the export and import of alcoholic beverages. As noted below, Article 16’s provisions on international trade are modelled on provisions in the 1961 Single Convention on Narcotic Drugs rather than on the tobacco convention. Unlike the FCTC, Article 16 also includes a provision (Section 16) that it takes precedence over free trade and equal-treatment provisions of the international trade agreements under the auspices of the World Trade Organization (WTO) and other trade agreements (Article 16, section 16), since it has proven difficult to get the system of trade and investment agreements, disputes and adjudication to apply to alcoholic beverages the public health exception in free-trade agreements.<sup>32, p. 83</sup> The two following articles (17 and 18) offer general support for alternatives to work on alcohol production and sales, and for protection of their environment and health. The next Part (Article 19) discusses consideration and mutual support concerning legal liability for damages due to adverse effects of alcohol.

Institutions of the treaty and cooperation of Parties. Seven articles (20-26) are concerned with scientific and technical cooperation, and with institutional and financial arrangements for the operation of the treaty. Articles 20 and 21 commit parties to undertaking national research on alcohol control, to develop and cooperate in surveillance of alcohol production, consumption and problems, and to develop knowledge about alcohol laws and regulations and their enforcement, and to report and exchange information on these matters and on the implementation of the treaty. Accordingly, Article 22 commits the parties to cooperate directly or through international bodies in scientific, technical and legal fields on matters relevant to the treaty. Article 23 establishes a Conference of Parties to meet regularly as a governing body of the treaty’s implementation, with Article 25 spelling out its competence to work with other international and regional bodies. Article 24 provides for a permanent

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<sup>32</sup> D Gleeson and R Labonté, *Trade Agreements and Public Health: A Primer for Health Policy Makers, Researchers and Advocates*. (Singapore, etc.: Palgrave Macmillan, 2020)

Secretariat to coordinate meetings and work under the treaty, and in cooperation with other international and regional bodies. Article 26, on financial resources for the operations under the treaty, recognises the importance of the issue, and suggests ways and means of obtaining resources, but makes the Conference of Parties responsible for finding financial mechanisms for implementing the treaty and meeting its objectives.

Procedures for treaty adoption and amendment. The remaining articles of the treaty cover issues applicable to all treaties: means of settling disputes between parties concerning the treaty (Article 27), procedures for amending and adding annexes or protocols to the treaty (Articles 28, 29, 33), rights of Parties to vote in matters under the treaty, and to make reservations or withdraw from it (Articles 32, 30, 31), and specification of the authenticity of texts in the main UN languages, and of the means of the treaty's ratification and entry into force (Articles 34-38).

## DIVERGENCES FROM THE PROVISIONS OF THE TOBACCO CONVENTION

The main differences from the FCTC in the structure and ordering of the proposed alcohol treaty result from the differences in content, discussed below, so that the proposed alcohol treaty includes Article 8, on regulation of production and sale, and Article 16, with provisions relating to international trade, resulting in moving around (from Article 16 to 9) and combining (9 and 10 to 10) a few of the FCTC articles. The proposed alcohol treaty does not contain an equivalent of the FCTC's Article 8, Protection from exposure to tobacco smoke; alcohol is involved in considerably more harm to others than tobacco,<sup>33</sup> but harms from exposure to a chemical byproduct of use are not prominent among them. Harms to others in which drinking is a factor are a major consideration in regulation of conditions of sale (Article 8 in the proposed treaty) and of international trade (Article 16), provisions which are not included in the FCTC. It should be acknowledged that there are major areas of national and local law in most countries deterring or discouraging alcohol's role in such harms – for instance, on drink driving, intoxicated violence, intoxicated caring for children and others – which are not dealt with in the proposed treaty. If it is felt that international agreement and action is needed in these areas, they could be added to the treaty during its negotiation or afterwards by protocol, or dealt with separately in other international agreements.

Substantively, the model of the FCTC has not been followed in several respects. A major area of weakness in the tobacco treaty is its measures to monitor and control the international legal trade. Apparently it was felt at the time of the treaty's negotiation that anything which could be agreed on in this regard would be a net loss to public health, so that the topic was omitted. For tobacco, the issue made its way back onto the agenda in terms of the inadequacy of the Convention in controlling illegal trade. The result was the adoption in

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<sup>33</sup> DJ Nutt, LA King and LD Phillips, "Drug harms in the UK: a multicriteria decision analysis" (2010). 376 The Lancet 1558.

November 2012 of a 47-article Protocol to Eliminate Illicit Trade in Tobacco Products,<sup>34</sup> which modifies the convention and went into effect on 25 September 2018. In seeking to eliminate the illicit market, the protocol's provisions cover also the licit market, providing for detailed licensing and control of all entities involved in that market, in order to deter and trace diversion to the illicit market. Building on the national systems, a global tracking and tracing regime for legal tobacco supplies, from the tobacco plant to the retail sale of the manufactured product, is to be established by September 2023.

This highly ambitious system has not yet been set up at the international level, so evidence is lacking on its functionality. In the meantime, tobacco industry interests have taken elaborate steps to gain effective control of any global “track and trace” surveillance system.<sup>35</sup> The provisions for control of the legal trade in alcohol in the draft alcohol treaty (Article 16) are modelled instead on the less ambitious system for legal international trade required by the 1961 Single Convention on Narcotic Drugs – provisions which reflected a half-century of experience already at that time in regulating at the international level the legal trade in opiates and other medications. A related difference from the tobacco treaty is the recognition in the Objectives (Article 3) that, while alcoholic beverages are legal commodities in a majority of countries, in some they are not; following principles of comity in international law,<sup>36</sup> the Objectives commit states not to undercut other countries' domestic legislation by failing to respect an import ban where sale or use is prohibited.

The model of the FCTC has also been substantially changed in two other respects. First, while tobacco products are derived from a single plant species, alcohol beverages draw on a variety of plants as raw materials, and most of these plants have other uses, often as foodstuffs. The distinguishing characteristic of alcoholic beverages is therefore not their raw material, but rather the fermentation or distillation process. The draft alcohol convention provisions reflect this in their wording, for instance in the definition of “alcohol products” in Article 1, and in the omission of an equivalent to Article 4, Section 6 of the tobacco convention, on transitional assistance to tobacco growers and workers. There are agricultural plants where a major part of their production is used in preparing alcoholic beverages – notably, grapes and hops – and an equivalent of the FCTC's provision on transitional assistance to growers and workers in these crops could be added to the alcohol treaty if provision beyond its Article 18 is needed.

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<sup>34</sup> World Health Organization, *Protocol to Eliminate Illicit Trade in Tobacco Products*. (Geneva: World Health Organization, 2013).  
[https://www.who.int/fctc/protocol/illicit\\_trade/protocol-publication/en/](https://www.who.int/fctc/protocol/illicit_trade/protocol-publication/en/) (accessed 15 February, 2020)

<sup>35</sup> AB Gilmore, AW Gallagher and A Rowell, “Tobacco industry's elaborate attempts to control a global track and trace system and fundamentally undermine the Illicit Trade Protocol” (2019) 28 Tobacco Control 127.

<sup>36</sup> JR Paul, “The transformation of international comity” (2008). 71 Law & Contemporary Problems 19.

Second, the draft also includes provisions concerning control of on-premise sales and consumption (Article 8, Section 5), in recognition of the long history of state alcohol control and regulation not only of production and sale of bottles and other containers of alcoholic beverages, but also of serving and on-premise drinking of alcoholic beverages in such places as restaurants, taverns and clubs (e.g., <sup>37</sup>). On the other hand, the draft alcohol convention omits some wording from the FCTC that arose from the particularly iniquitous and duplicitous history of tobacco industry interference in science and policy, and the understandable special emphasis in the FCTC on tobacco smoke and emissions.

## ADOPTING AN ALCOHOL TREATY

The draft alcohol convention follows the FCTC precedent in stating that it will enter into effect on the 90<sup>th</sup> day following the deposit of the instrument of ratification of the 40<sup>th</sup> party to the treaty. As noted, this resulted in the FCTC entering into effect two years after it was adopted.

It is potentially a long path between the conceptual exercise of spelling out provisions for an international agreement and such an agreement being actually agreed on and ratified. But it is time to move beyond abstract calls for a framework convention, and on to considering and debating concrete provisions and actions. The specification here of potential concrete provisions in a draft alcohol control convention, it is hoped, will point the way to effective global agreements and action on alcohol control.

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## Supplementary Material

### Draft Framework Convention on Alcohol Control

#### NOTES ON SOURCES AND ADAPTATIONS IN THE DRAFT CONVENTION

When it is stated below that the draft uses another treaty's language "unchanged", substitutions such as "alcohol" for "tobacco" will have been made. Also, reflecting developments in diagnostic language, "alcohol dependence or other use disorders" has been substituted for "tobacco dependence". The following Articles are essentially unchanged from the FCTC, or have only minor adaptations, and are not commented on here: 2, 5-7, 11-13, 15, 17-38.

*Preamble:* Modeled on the preamble in the Tobacco Convention, but trimmed down.

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<sup>37</sup> J Nicholls, *The Politics of Alcohol: a History of the Drink Question in England*. (Manchester & New York: Manchester University Press, 2009)

*Art. 1 – Use of terms:* adapted from the FCTC largely unchanged, with an additional definition (h) for “alcohol for personal use”. Note that the definition of “alcohol products”, as for “tobacco products”, is in terms of their intended use for human consumption, with specification also of a widely-used standard of minimum ethanol content.

*Art. 3 – Objective:* restated in terms appropriate for alcohol: (a) supporting provision for legal non-medical use in States which allow this; (b) supporting prohibition in States which do not. Paragraph 2 is modelled on Paragraph 3 of Article 28 of the 1961 Single Convention, but stated in terms of “alcohol products” rather than with reference to raw plant materials, since alcoholic beverages are made from a wide variety of organic materials which have diverse other uses.

*Art. 4 – Guiding principles:* Slimmed down a little from the FCTC, dropping tobacco-specific provisions on liability and on economic assistance for displaced growers and workers.

*Art. 8 – Regulation of production and sale:* Replaces “Protection from exposure to tobacco smoke” in the FCTC.

Paragraph 1 here is adapted from Article 23, Para. 1 of the 1961 Single Convention.

Para. 2 is a new provision exempting “alcohol for personal use” from the following paragraphs.

Para. 3 is adapted from Article 23, Para. 2 of the 1961 Single Convention.

Para. 4 is adapted from Article 19 of the 1961 Single Convention.

Para. 5 is adapted from Article 30 of the 1961 Single Convention, adding provisions for on-premise licenses and for controls of hours and days of sale, and for effective enforcement backed up by the threat of license suspension or loss.

*Article 9 – Sales to minors:* this is from Article 16 of the FCTC, dropping the provision on sale of cigarettes “individually or in small packets”, and providing for a total ban on alcohol products vending machines.

*Article 10 – Regulation of contents and disclosures:* this is taken with minor adaptations from Articles 9 and 10 of the FCTC.

*Article 14 – Demand reduction measures:* “limitation of use” is added to the FCTC text on “cessation”.

*Article 16 – Provisions relating to international trade:* Paragraphs 1-15 of Article 16 here, in all their considerable detail, are taken from Article 31 of the 1961 Single Convention, except that “type and percentage ethanol content” is substituted for the provisions on listing the name of the drug. Paragraphs 9 and 11-15 might be dropped if they are considered to be over-specific concerning the handling of export and import licences. Paragraph 16 is added, stating the precedence of the draft convention over any treaty which “provides for free movement or equitable treatment of goods or services in trade or commerce”. The intention here is to subordinate the operation of trade treaties and disputes to the provisions of the FCAC.



# DRAFT FRAMEWORK CONVENTION ON ALCOHOL CONTROL

## PREAMBLE

The Parties to this Convention,

*Determined* to give priority to their right to protect public health,

*Recognizing* that the control of the market for alcoholic beverages is a global issue with serious consequences for public health, calling for a comprehensive international response,

*Reflecting* the concern of the international community about the health and social consequences of alcohol consumption,

*Concerned* about the extent of worldwide consumption and production of alcoholic beverages, as well as about the burden this places on families and on national health systems,

*Recognizing* that scientific evidence has established health and safety risks associated with the use of alcohol,

*Recognizing also* that alcohol dependence is separately classified as a disorder in the International Classifications of Diseases, and that regular users of alcohol may become dependent,

*Deeply concerned* about alcohol consumption by children and adolescents worldwide,

*Seriously concerned* to forestall all forms of advertising, promotion and sponsorship aimed at encouraging the use of alcoholic beverages,

*Recognizing* that cooperative action is necessary to eliminate all forms of illicit trade in alcoholic beverages, including smuggling, illicit manufacturing and counterfeiting,

*Acknowledging* that alcohol control at all levels and particularly in developing countries and in countries with economies in transition requires substantial financial and technical resources,

*Mindful* of the social and economic difficulties that alcohol control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

*Conscious* of the valuable work being conducted by many States on alcohol control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations on alcohol control,

*Emphasizing* the special contribution of nongovernmental organizations and other members of civil society, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to alcohol control efforts nationally and internationally and the vital importance of their participation in national and international alcohol control efforts,

*Recognizing* the need to be alert to any efforts by producers or distributors of alcoholic beverages to undermine or subvert control efforts, and the need to be informed of activities of those involved in the alcohol market that have a negative impact on alcohol control efforts,

*Recalling* Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Recalling also* the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

*Determined* to promote measures of alcohol control based on current and relevant scientific, technical and economic considerations,

*Have agreed*, as follows:

## **PART I: INTRODUCTION**

### ***Article 1***

#### ***Use of terms***

For the purposes of this Convention:

- (a) “illicit trade” means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;
- (b) “regional economic integration organization” means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters;
- (c) “alcohol advertising and promotion” means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting an alcoholic beverage product or alcohol consumption either directly or indirectly;
- (d) “alcohol control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of alcoholic beverages and exposure to harm from others’ alcohol consumption;
- (e) “alcohol industry” means manufacturers, wholesale distributors and importers of alcoholic beverages;
- (f) “alcohol products” means products containing 0.05% or more of ethanol, commonly made by fermentation or distillation of organic materials, which are prepared, manufactured or sold to be used for human consumption;

- (g) “alcohol sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting an alcohol product or alcohol consumption either directly or indirectly;
- (h) “alcohol products for personal use” means a limited amount of alcohol products, with maximum amounts set by legislation, which is prepared or kept for personal or shared use without any remuneration or other consideration;

## ***Article 2***

### ***Relationship between this Convention and other agreements and legal instruments***

1. In order to better protect human health, Parties may implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.
2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

## **PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS**

## ***Article 3***

### ***Objective***

1. The objective of this Convention and its protocols is to provide a framework for alcohol control measures to be implemented by the Parties at the national, regional and international levels, thereby:
  - (a) Supporting States which legally provide for nonmedical sale or use to structure and control the market for alcohol products so as to minimize social and health harm from use;
  - (b) Supporting the alcohol control policies of States where nonmedical alcoholic beverage sale or use is prohibited.
2. The Parties shall adopt such measures as may be necessary to prevent illicit traffic in alcohol products.

## ***Article 4***

### ***Guiding principles***

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, *inter alia*, by the principles set out below:

1. Every person should be informed of the risk of health consequences and potential addictive nature of alcohol consumption, especially of long-term frequent use.
2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses.
3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective alcohol control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.
4. Comprehensive multisectoral measures and responses at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to alcohol consumption.
5. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

## **Article 5**

### ***General obligations***

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national alcohol control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
  - (a) establish or reinforce and finance a national coordinating mechanism or focal points for alcohol control; and
  - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for alcohol control.
3. In setting and implementing their public health policies with respect to alcohol control, Parties shall act to protect these policies from commercial and other vested economic interests, including those of the alcohol industry.
4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.
5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.
6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

## **PART III: MEASURES RELATING TO THE REDUCTION OF DEMAND FOR ALCOHOL PRODUCTS**

### ***Article 6***

#### ***Price and tax measures to reduce the demand for alcohol products***

1. The Parties recognize that price and tax measures are an effective and important means of controlling alcohol consumption by various segments of the population, in particular young persons.
2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning alcohol control and adopt or maintain, as appropriate, measures which may include:
  - (a) implementing tax policies and, where appropriate, price policies, on alcohol products so as to contribute to the health objectives aimed at minimizing harmful patterns of alcohol consumption; and
  - (b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free alcohol products.
3. The Parties shall provide rates of taxation for alcohol products and trends in alcohol consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

### ***Article 7***

#### ***Non-price measures to reduce the demand for alcohol products***

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing alcohol consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

### ***Article 8***

#### ***Regulation of the production and sale of alcohol products***

1. If a Party permits the production of alcohol products other than for personal use, it shall maintain one or more government agencies (hereinafter referred to in this article as the Agency) to carry out the functions required by this article.
2. A Party may choose to allow preparation and possession of alcohol products for personal use, within upper limits on amounts which are set by legislation. Such alcohol products for personal use may be exempted from sections 3 and 4 below.

3. The Agency shall license all producers and importers of alcohol products, other than for personal use. Only entities and persons licensed by the Agency shall be authorized to engage in such production or import. The Agency shall require that licensed producers and importers obtain periodical permits specifying the kinds and amounts of products they shall be entitled to handle, and that they meet specified standards of quality control. Each licence shall specify premises on which the products are produced or to which they are imported.
4. The Parties shall require that each wholesaler of alcohol products be under licence, except where the wholesaler is a State enterprise. The Parties shall: (a) Control all persons and enterprises carrying on or engaged in the wholesaling of alcohol products; (b) Control under licence the establishments and premises in which such wholesaling may take place; (c) Require that licensed wholesalers obtain periodical permits specifying the kinds and amounts of products they shall be entitled to handle, the premises on which the products are held during their handling, and that they meet specified standards of quality control.
5. The Parties shall require that trade in, distribution of, and places for use of alcohol products be under licence except where such trade or distribution is carried out by a State enterprise. The Parties shall: (a) Control all persons and enterprises carrying on or engaged in the trade or distribution of alcohol products; (b) Control under licence the establishments and premises in which such trade, distribution or provision may take place; (c) Require that licensed traders, distributors, and keepers of premises for use obtain periodical permits specifying the conditions of trade and distribution; (d) Specify hours and days when places for sale or use may sell or provide alcohol products; (e) Provide means for effective enforcement of alcohol controls, with provision for licenses to be suspended or revoked for non-compliance.

## ***Article 9***

### ***Sales to and by minors***

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of alcohol products to persons under the age set by domestic law, recommended to be not less than 18. These measures may include:
  - (a) requiring that all sellers of alcohol products place a clear and prominent indicator inside their point of sale about the prohibition of alcohol sales to minors and, in case of doubt, request that each alcohol purchaser provide appropriate evidence of having reached full legal age;
  - (b) banning the sale of alcohol products in any manner by which they are directly accessible, such as store shelves; and
  - (c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of alcohol products which appeal to minors.
2. Each Party shall prohibit or promote the prohibition of the distribution of free alcohol products to the public and especially minors.



3. The Parties recognize that in order to increase their effectiveness, measures to prevent alcohol product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
4. Each Party shall prohibit the introduction or use of alcohol products vending machines within its jurisdiction.
5. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-4 of this Article.
6. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of alcohol products by persons under the age set by domestic law, as set in accordance with paragraph 1 of this Article.

## ***Article 10***

### ***Regulation of the contents of and disclosures concerning alcohol products***

1. The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents of alcohol products, and for the regulation of these contents. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.
2. Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of alcohol products to disclose to governmental authorities information about the contents of alcohol products. Each Party shall further adopt and implement effective measures for public disclosure of information about risks and adverse health and welfare effects of consumption of alcohol products.

## ***Article 11***

### ***Packaging and labelling of alcohol products***

1. Each Party shall adopt and implement, in accordance with its national law, effective measures to ensure that:
  - (a) alcohol product packaging and labelling do not promote an alcohol product by any means. Further, any alcohol product packaging and labelling shall not provide information that is false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emission; and
  - (b) each unit packet and package of alcohol products and any outside packaging and labelling of such products also carry health warnings describing potential harmful effects of alcohol use, and may include other appropriate messages, including information on laws which apply and treatment referral information . These warnings and messages:

- (i) shall be approved by the competent national authority,
  - (ii) shall be rotating,
  - (iii) shall be large, clear, visible and legible,
  - (iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,
  - (v) may be in the form of or include pictures or pictograms.
2. Each unit packet and package of alcohol products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents of the alcohol product as defined by national authorities, including the percentage ethanol content.
  3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of alcohol products and any outside packaging and labelling of such products in its principal language or languages.
  4. For the purposes of this Article, the term “outside packaging and labelling” in relation to alcohol products applies to any packaging and labelling used in the retail sale of the product.

## ***Article 12***

### ***Education, communication, training and public awareness***

Each Party shall promote and strengthen public awareness of alcohol control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

- (a) broad access to effective and comprehensive educational and public awareness programmes on the health risks, including the addictive characteristics, of alcohol consumption;
- (b) public awareness about the risks to others from alcohol consumption, and about the benefits of the cessation of alcohol use and alcohol-free lifestyles as specified in Article 14.2;
- (c) effective and appropriate training or sensitization and awareness programmes on alcohol control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;
- (d) awareness and participation of public and private agencies and nongovernmental organizations in developing and implementing intersectoral programmes and strategies for alcohol control; and
- (e) public awareness of and access to information regarding adverse health and other consequences of production and consumption of alcohol products.

## *Article 13*

### *Alcohol advertising, promotion and sponsorship*

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship will tend to reduce the consumption of alcohol products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all alcohol advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all alcohol advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
  - (a) prohibit all forms of alcohol advertising, promotion and sponsorship that promote an alcohol product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
  - (b) require that health or other appropriate warnings or messages accompany all alcohol advertising and, as appropriate, promotion and sponsorship;
  - (c) restrict the use of direct or indirect incentives that encourage the purchase of alcohol products by the public;
  - (d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the alcohol industry and retail sellers on advertising, promotion and sponsorship not yet prohibited. The Party should make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;
  - (e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict alcohol advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and
  - (f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, alcohol industry sponsorship of international events, activities and/or participants therein.

5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.
6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.
7. Parties which have a ban on certain forms of alcohol advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border alcohol advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.
8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

## ***Article 14***

### ***Demand reduction measures concerning alcohol use disorders and cessation or limitation of use***

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation or limitation of alcohol use and adequate treatment for alcohol use disorders.
2. Towards this end, each Party shall endeavour to:
  - (a) design and implement effective programmes aimed at promoting the cessation or limitation of alcohol use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;
  - (b) include diagnosis and treatment of alcohol dependence and other use disorders and counselling services on cessation or limitation of alcohol use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;
  - (c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating alcohol dependence and other use disorders; and
  - (d) collaborate with other Parties to facilitate accessibility and affordability for treatment of alcohol dependence and other use disorders including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

## **PART IV: MEASURES RELATING TO CONTROLLING LEGAL TRADE AND SUPPRESSING ILLEGAL TRADE IN ALCOHOL**

### ***Article 15***

#### ***Illicit trade in alcohol products***

1. The Parties recognize that the elimination of all forms of illicit trade in alcohol products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of alcohol control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of alcohol products and any outside packaging of such products are marked to assist Parties in determining the origin of alcohol products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of alcohol products and their legal status. In addition, each Party shall:
  - (a) require that unit packets and packages of alcohol products for retail and wholesale use that are sold on its domestic market carry the statement: *"Sales only allowed in (insert name of the country, subnational, regional or federal unit)"* or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
  - (b) develop a practical tracking and tracing regime in compliance with Article 16 that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in alcohol products, each Party shall:
  - (a) monitor and collect data on cross-border trade in alcohol products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;
  - (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in alcohol products, including counterfeit and contraband alcohol products;
  - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband alcohol products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;
  - (d) adopt and implement measures to monitor, document and control the storage and distribution of alcohol products held or moving under suspension of taxes or duties within its jurisdiction; and
  - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in alcohol products.
5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.
6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and

proceedings, with a view to eliminating illicit trade in alcohol products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of alcohol products.

7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of alcohol products in order to prevent illicit trade.

## ***Article 16***

### ***Provisions relating to international trade***

1. The Parties shall not knowingly permit the export of alcohol products to any country or territory except in accordance with the laws and regulations of that country or territory.
2. The Parties shall exercise in free ports and zones the same supervision and control as in other parts of their territories, provided, however, that they may apply more drastic measures.
3. The Parties shall:
  - (a) Control under licence the import and export of alcohol products except where such import or export is carried out by a State enterprise.
  - (b) Control all persons and enterprises carrying on or engaged in such import or export.
4. (a) Every Party permitting the import or export of alcohol products shall require a separate import or export authorization to be obtained for each import or export. The authorization may allow an importation or exportation in more than one consignment.
  - (b) Such authorization shall state the type and percentage ethanol content of the alcohol product, the quantity to be imported or exported, and the name and address of the importer and exporter, and shall specify the period in which the importation or exportation must be effected.
  - (c) The export authorization shall also state the number and date of the import certificate (paragraph 5) and the authority by whom it has been issued.
5. Before issuing an export authorization the Parties shall require an import certificate, issued by the competent authorities of the importing country or territory and certifying that the importation referred to therein is approved, and such certificate shall be produced by the person or establishment applying for the export authorization.
6. A copy of the export authorization shall accompany each consignment and the Government issuing the export authorization shall send a copy to the Government of the importing country or territory.
7. (a) The Government of the importing country or territory, when the importation has been effected or when the period fixed for the importation has expired, shall return the export authorization with an endorsement to that effect, to the Government of the exporting country or territory.
  - (b) The endorsement shall specify the amount actually imported.



- (c) If a lesser quantity than that specified in the export authorization is actually exported, the quantity actually exported shall be stated by the competent authorities on the export authorization and on any official copy thereof.
8. Exports of consignments to a post office box, or to a bank to the account of a party other than the party named in the export authorization, shall be prohibited.
9. Exports of consignments to a bonded warehouse are prohibited unless the Government of the importing country certifies on the import certificate, produced by the person or establishment applying for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse. In such case the export authorization shall specify that the consignment is exported for such a purpose. Each withdrawal from the bonded warehouse shall require a permit from the authorities having jurisdiction over the warehouse and, in the case of a foreign destination, shall be treated as if it were a new export within the meaning of the Convention.
10. Consignments of alcohol products entering or leaving the territory of a Party not accompanied by an export authorization shall be detained by the competent authorities.
11. A party shall not permit any alcohol products consigned to another country to pass through its territory, whether or not the consignment is removed from the conveyance in which it is carried, unless a copy of the export authorization for such a consignment is produced to the competent authorities of such Party.
12. The competent authorities of any country or territory through which a consignment of alcohol products is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the accompanying copy of the export authorization unless the Government of that country or territory through which the consignment is passing authorizes the diversion. The Government of the country or territory of transit shall treat any requested diversion as if the diversion were an export from the country or territory of transit to the country or territory of new destination. If the diversion is authorized, the provisions of paragraph 7(a) and (b) shall also apply between the country or territory of transit and the country or territory which originally exported the consignment.
13. No consignment of alcohol products while in transit, or whilst being stored in a bonded warehouse, may be subjected to any process which would change its nature. The packing may not be altered without the permission of the competent authorities.
14. The provisions of paragraphs 11 to 13 relating to the passage of alcohol products through the territory of a Party do not apply where the consignment in question is transported by aircraft which does not land in the country or territory of transit. If the aircraft lands in any such country or territory, those provisions shall be applied so far as circumstances require.
15. Except as provided in paragraph 16, the provisions of this article are without prejudice to the provisions of any international agreements which limit the control which may be exercised by any of the Parties over alcohol products in transit.
16. In view of the health and social harms which can result from the use of alcohol products, this convention takes precedence over any international agreement or treaty which

provides for free movement or equitable treatment of goods or services in trade or commerce.

## ***Article 17***

### ***Provision of support for economically viable alternative activities***

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for alcohol product workers, growers and, as the case may be, individual sellers.

## **PART V: PROTECTION OF THE ENVIRONMENT**

## ***Article 18***

### ***Protection of the environment and the health of persons***

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of the cultivation and manufacture of ingredients for alcohol products within their respective territories.

## **PART VI: QUESTIONS RELATED TO LIABILITY**

## ***Article 19***

### ***Liability***

1. For the purpose of alcohol control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.
2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:
  - (a) information on the health effects of the consumption of alcohol products in accordance with Article 20.3(a); and
  - (b) information on legislation and regulations in force as well as pertinent jurisprudence.
3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.
4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.
5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to

support, upon request, the Parties in their legislative and other activities in accordance with this Article.

## **PART VII: SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION**

### ***Article 20***

#### ***Research, surveillance and exchange of information***

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of alcohol control. Towards this end, each Party shall:
  - (a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of alcohol consumption as well as research for identification of alternative crops and beverages; and
  - (b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in alcohol control activities, including research, implementation and evaluation.
2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of alcohol consumption. Towards this end, the Parties should integrate alcohol production and market surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.
3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:
  - (a) establish progressively a national system for the epidemiological surveillance of alcohol consumption and related social, economic and health indicators;
  - (b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global alcohol surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and
  - (c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of alcohol-related surveillance data.
4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding products and practices of industries producing materials for use in producing alcoholic beverages which are relevant to this Convention, and in

so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:

- (a) progressively establish and maintain an updated database of laws and regulations on alcohol control and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global alcohol control;
  - (b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and
  - (c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on alcohol production, manufacture and the activities of the alcohol industry which have an impact on the Convention or national alcohol control activities.
5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties with economies in transition to meet their commitments on research, surveillance and exchange of information.

## ***Article 21***

### ***Reporting and exchange of information***

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:
  - (a) information on legislative, executive, administrative or other measures taken to implement the Convention;
  - (b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;
  - (c) information, as appropriate, on financial and technical assistance provided or received for alcohol control activities;
  - (d) information on surveillance and research as specified in Article 20; and
  - (e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.
2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.
3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.
4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

## Article 22

### *Cooperation in the scientific, technical, and legal fields and provision of related expertise*

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national alcohol control strategies, plans and programmes aiming at, *inter alia*:
  - (a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to alcohol control;
  - (b) provision of technical, scientific, legal and other expertise to establish and strengthen national alcohol control strategies, plans and programmes, aiming at implementation of the Convention through, *inter alia*:
    - (i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, and promotion of cessation or limitation of use;
    - (ii) assisting, as appropriate, workers in jobs dependent on alcohol products in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and
    - (iii) assisting, as appropriate, growers supplying the alcohol market in shifting agricultural production to alternative crops in an economically viable manner;
  - (c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;
  - (d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for alcohol control strategies, plans and programmes;
  - (e) identification of methods for alcohol control, including comprehensive treatment of alcohol dependence and other use disorders; and
  - (f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of alcohol dependence and other use disorders.
2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

## **PART VIII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES**

## Article 23

### *Conference of the Parties*

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry

- into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.
2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.
  3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.
  4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.
  5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:
    - (a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;
    - (b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;
    - (c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;
    - (d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;
    - (e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;
    - (f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;
    - (g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and
    - (h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.
  6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

## ***Article 24***

### ***Secretariat***

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.
2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.
3. Secretariat functions shall be:
  - (a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;
  - (b) to transmit reports received by it pursuant to the Convention;
  - (c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
  - (d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;
  - (e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
  - (f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and
  - (g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

## ***Article 25***

### ***Relations between the Conference of the Parties and intergovernmental organizations***

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

## ***Article 26***

### ***Financial resources***

1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.
2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.

3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive alcohol control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to producing crops for alcohol production, including crop diversification, should be addressed and supported in the context of nationally developed strategies of sustainable development.
4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.
5. The Parties agree that:
  - (a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for alcohol control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;
  - (b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;
  - (c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and
  - (d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention.

## **PART IX: SETTLEMENT OF DISPUTES**

### ***Article 27***

#### ***Settlement of disputes***

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation, or conciliation. Failure to reach agreement by good offices, mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.
2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with



paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.

3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

## **PART X: DEVELOPMENT OF THE CONVENTION**

### ***Article 28***

#### ***Amendments to this Convention***

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.
2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.
3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.
5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

### ***Article 29***

#### ***Adoption and amendment of annexes to this Convention***

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.
2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.
3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

## **PART XI: FINAL PROVISIONS**

### ***Article 30***

#### *Reservations*

No reservations may be made to this Convention.

### ***Article 31***

#### *Withdrawal*

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

### ***Article 32***

#### *Right to vote*

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

### ***Article 33***

#### *Protocols*

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.
2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.
4. Only Parties to the Convention may be parties to a protocol.

5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.

## ***Article 34***

### ***Signature***

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at the World Health Organization headquarters in Geneva from [date] to [date], and thereafter at United Nations Headquarters in New York, from [date] to [date].

## ***Article 35***

### ***Ratification, acceptance, approval, formal confirmation or accession***

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.
2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.
3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

## ***Article 36***

### ***Entry into force***

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.

2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.
3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

## ***Article 37***

### ***Depositary***

The Secretary-General of the United Nations shall be the Depositary of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

## ***Article 38***

### ***Authentic texts***

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at [PLACE] this [DATE].