The WHO Framework Convention on Tobacco Control and health governance: 
*Regulating the global health impacts of corporations*

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Overview

- **WHO FCTC: Innovation in global governance**
  - response to globalisation
  - regulating corporations
  - managing conflict of interest

- **Distinctive model of public health governance:**
  - WHO Global Alcohol Strategy; Diet, Physical Activity & Health
  - ‘Healthy People. Healthy Lives’ in England

- **Significance of ‘tobacco exceptionalism’**

- **The corporation & public health:**
  - significance to contemporary public health
  - policy implications
WHO FCTC

- 1\textsuperscript{st} international treaty initiated by WHO
- aim to provide “an international legal instrument that will circumscribe the global spread of tobacco”
- anticipated combination of convention and protocols
- 4 year negotiations, adopted by WHA 2003
- came into effect February 2005
FCTC and globalization

- Explicit response to ways in which globalization exacerbates tobacco epidemic

_Preamble:_

The WHO FCTC was developed in response to the globalization of the tobacco epidemic. The spread of the tobacco epidemic is facilitated through a variety of complex factors with cross-border effects, including trade liberalization and direct foreign investment. Other factors such as global marketing, transnational tobacco advertising, promotion and sponsorship, and the international movement of contraband and counterfeit cigarettes have also contributed to the explosive increase in tobacco use.

- Recognises limits of national governance
  - Political and economic obstacles to advancing regulation
  - Global industry, transborder effects
Achievements & significance

- Ambitious attempt to regulate conduct & health impacts of corporations
  - alternative to voluntary regulation, CSR
- generally impressive text
- high levels of participation, led by LMICs
- acceleration & transfer of tobacco control policies
- ongoing process
  - INB Protocol on Illicit Trade in Tobacco Products
  - guidelines for implementation
Article 5.3 of the FCTC

Article 5.3 “in setting and implementing their public health policies ….. Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry”

- consultation restricted to that strictly necessary
- transparent and accountable interactions
“The tobacco industry has tried to prevent the development of a global strategy to combat tobacco consumption. Consequently, the WHO FCTC warns of the threat posed by the tobacco industry to global tobacco control... Article 5(3) obligates parties to the WHO FCTC to protect their public health policies regarding tobacco control from manipulation by the tobacco industry. The WHO FCTC is the only international convention to explicitly address the dangers of an industry subverting the object and purpose of a convention.”

“The foundation was recently informed that the chair of the board of our partner, the International Development Research Centre (IDRC), has until recently also been a Director of Imperial Tobacco Canada, Ltd. We are deeply disappointed by this revelation and feel this conflict is unacceptable as we work to support meaningful tobacco control programs in Africa. Therefore, we are terminating our tobacco control grant to IDRC, effective immediately.” **statement 10th Apr 2010**

WHO Commission on Social Determinants of Health & FCTC

“Global governance mechanisms – such as the Framework Convention on Tobacco Control – are required with increasing urgency as market integration expands and accelerates circulation of and access to health-damaging commodities. Processed foods and alcohol are two prime candidates for stronger global, regional, and national regulatory controls.”

“The development of the WHO’s FCTC is an excellent (if rare) example of coherent, global action to restrain market availability of a lethal commodity… Learning from the FCTC, the Commission urges WHO to initiate a discussion with Member States on regulatory action for alcohol control.”
Prof J. Mackay, “The war against tobacco: from the lessons of General Sun Tzu to the leadership of Sir John Crofton”

http://www2.streamingwizard.com/clients/rcpe/mackay081110/mackay.swf
WHO Global alcohol strategy

Resolution WHA63.13 endorsed May 2010:

“Economic operators in alcohol production and trade are important players in their role as developers, producers, distributors, marketers and sellers of alcoholic beverages. They are especially encouraged to consider effective ways to prevent and reduce harmful use of alcohol within their core roles mentioned above, including self-regulatory actions and initiatives.”

http://www.who.int/substance_abuse/alcstrategyaftereb.pdf
“Food companies & nutrition for better health”

"The private sector can be a significant player in promoting healthy diets and physical activity to the public. The food industry, retailers, catering companies… and the media all have important parts to play as responsible employers and as advocates for healthy lifestyles."

– WHO Global Strategy on Diet, Physical Activity and Health

“Policies need to be developed & implemented in partnership with corporate food sector if they are to achieve maximum impact” – Derek Yach 2007
“A radical new approach”

“work with industry and other partners to promote healthy living”

“reflect the Government’s core values of freedom, fairness and responsibility”

“use a ladder of interventions to determine the least intrusive approach necessary”

“aim to make voluntary approaches work before resorting to regulation”
Simply put "governance" means: the process of decision-making and the process by which decisions are implemented (or not implemented).

“good governance” has 8 attributes

http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp
Health policy & “tobacco exceptionalism”

“Tobacco use is unlike other threats to global health. Infectious diseases do not employ multinational public relations firms. There are no front groups to promote the spread of cholera. Mosquitoes have no lobbyists.”

- WHO Committee of Experts 2000

- Exceptional product: uniquely harmful
- Exceptional conduct: pariah industry
- Irreconcilable tensions with public health
- Uniquely regulated
Policy context shaped by exceptionalism

- Partnership precluded
- Interactions minimised & ‘regulated’
- Voluntary regulation recognised as inadequate & inappropriate
- Industry positions instinctively questioned
- Research funding relationships rejected
- Disinvestment campaigns

- Open political support problematic
- Conflict of interest procedures comparatively well-developed
- Political will to regulate
- Distinctive approaches to regulation legitimised, not seen as ‘anti-business’
- Easier for health objectives to prevail over other goals?
Beyond tobacco exceptionalism?

- divergence of interest between corporations & global health isn’t unique
- policy learning and collaboration across industries
- appropriation of tobacco industry discourse
- rejection of tobacco control as precedent for other health issues
- striking similarities in corporate strategies to undermine health policy
Different products, same strategies

Food & alcohol have used TI strategies to shape regulation:
- focusing on personal responsibility
- claim government intervention infringes individual liberty
- vilifying critics
- labelling studies opposing interests “junk science”
- corporate social responsibility to enhance reputation
- opposing effective binding regulation
- promoting self-regulation via voluntary codes

Food & alcohol companies have collaborated with TI:
- sharing youth marketing tactics
- managing regulatory environment

Gilmore AB, Savell E, Collin J 2011

http://jpubhealth.oxfordjournals.org/content/early/2011/02/06/pubmed.fdr008.full.pdf+html
“a legal instrument created for the sole purpose of facilitating trade, and it is programmed to do one thing exclusively – to maximize profits”

- Callard et al 2005
“The social responsibility of business is to increase its profits”

“I have said that there is one and only one social responsibility of business - to use its resources and engage in activities designed to increase its profits, so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.”

Regulating corporations & public health: NCDs & “industrial epidemics”

- Shifts policy focus from ‘agent’ (e.g., alcohol) or ‘host’ (‘problem drinker’) to the ‘disease vector’ (alcohol industry & its associates)
- Identifies diseases associated with both commercialization of dangerous products & broader consumption of commercial products
- Corporate activities drive epidemics in diverse ways:
  - Generational epidemics (replace old cohorts)
  - Targeted epidemics (single out particular groups)
  - Transnational epidemics (develop new markets)

(Jahiel & Babor 2007)
2008-2013 Action Plan for the Global Strategy for the Prevention and Control of NCDs

- cardiovascular diseases, cancers, chronic respiratory diseases and diabetes represent a leading threat to health and development
- the world’s biggest killers: 35 million deaths pa
  - 60% of all deaths globally
  - 80% in low- and middle-income countries
- Substantially preventable... “by eliminating shared risk factors, mainly tobacco use, unhealthy diet, physical inactivity and the harmful use of alcohol.
Significant potential for public health policy

- Redress “reluctance to tackle the more structural drivers of change” – Hawkes 2006

- Potential value in countering “‘lifestyle drift’—the tendency for policy to start off recognizing the need for action on upstream social determinants of health inequalities only to drift downstream to focus largely on individual lifestyle factors” – Popay et al 2010
Moving forward: policy agenda

- Rethink terms of corporate involvement in public health policy
- Examine broader applicability of lessons from tobacco control in regulation of NCDs
- Question presumption in favour of partnership
- Recognise limited scope for collaboration where core economic interests challenged
- Examine the potential of the WHO FCTC and Art. 5.3 in international policy
- Recognise limitations of current practice in tobacco control