Towards 'a balanced delegation' or enhancing global health governance? Analysis of parties' participation in the Conference of the Parties to the WHO Framework Convention on Tobacco Control

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ABSTRACT

Introduction The success of the WHO Framework Convention on Tobacco Control (FCTC) depends on Parties' active participation in its governance and implementation, particularly via biennial Conference of the Parties (COP) meetings. The COP's efficacy is threatened by declining attendance and reductions in travel support for developing countries, and there are growing concerns about transparency and representation in country delegations amid industry efforts to shape their composition.

Methods We examined Parties' participation in the COP based on official meeting records, and the relationship between attendance and strength of tobacco control based on national global tobacco control reports.

Results Attendance at the COP has decreased over time, and at several meetings would have fallen below 66% (the threshold for decision-making) if it wasn't for high levels of participation among low and lower-middle income countries. Despite their higher attendance at COP meetings, these countries represent a smaller share of meeting attendees due to the smaller size of their delegations. Additionally, there has been a decline in the proportion of delegates from ministries of health and tobacco control focal points. Nationally, COP participation is correlated with stronger tobacco control policies; attendance by low-income countries has a strong correlation with implementation of advertising bans, while attendance among high- and lower-middle income countries shows a moderate correlation with implementation of tobacco taxes.

Conclusions Supporting states to active engage in the COP is crucial for ongoing FCTC implementation, strengthening national capacity for tobacco control, and protecting the legitimacy and efficacy of global health governance.

INTRODUCTION

Fifteen years ago, the Framework Convention on Tobacco Control (FCTC)[1] became the first global health treaty negotiated under the auspices of WHO, following four years of intense negotiations. The development of the FCTC was unusual for its high level of Member State engagement, particularly that of developing countries[2] whose influence was seen as a key factor in the strength of the resulting Convention.[3] In the context of global governance – where the interests of poorer countries are often overshadowed by those of powerful elites[4–6] – such an achievement is to be highly prized.

While the FCTC is justly hailed as a public health triumph,[7,8] its success is reliant upon the strength and coherence of the international movement that gave rise to its existence and that sustains and protects its realisation in the face of persisting challenges.[2] This is widely acknowledged with reference to the need for accelerated implementation of core FCTC measures at national level. There is growing evidence that such implementation accelerates tobacco control measures and reduces smoking prevalence.[7,9] Yet while the Convention has now been ratified by 180 countries and the European Union,[10] only an estimated 10% of the world's population are protected by best practice in tobacco taxation, with comprehensive advertising bans and smoke-free environments covering just 15% and 20% respectively.[11] Progress in many areas is hampered by competing priorities,[12] limited national capacity[13] and the active opposition of the industry.[14,15]

The salience of such political dynamics illustrates that there is nothing inevitable about the success of the FCTC process, highlighting the importance of key governance attributes. Of particular significance here is the Conference of the Parties (COP), the governing body

charged to "keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation."[1] The COP met for the first time in Geneva in February 2006; subsequent iterations were held in Thailand (COP2, 2007), South Africa (COP3, 2008), Uruguay (COP4, 2010), South Korea (COP5, 2012), Russia (COP6, 2014), and India (COP7, 2016), with COP8 returning to Geneva in October 2018. Among multiple challenges confronting the COP,[16] its attributes of participation and representation have become both politicised and increasingly vulnerable in two key respects.

Firstly, the issue of travel support to enable developing country participation in the COP became highly contested following COP4.[16,17] The active leadership role of low and lower-middle income countries, widely seen as critical to the success of FCTC negotiations,[2,3] has been underpinned by their receipt of travel support to enable attendance. The implementation of a COP4 decision to adopt a far more restrictive policy (for 'least developed' countries) was delayed during COP5-COP7 via successive *ad hoc* funds, with the Head of the Convention Secretariat warning of "a risk that the COP would no longer be quorate" (p30)[18] in their absence.[19]

Alongside anxiety about a widening democratic deficit in the FCTC, discussions at COP6 and COP7 were characterised by increasing concern about country delegations with tobacco industry affiliations. Potential responses to this issue included consideration of requiring delegates to declare any such links [20] while civil society participants at COP7 noted an apparent evolution in tobacco industry strategy, with some country delegations obstructively deploying procedural or legalistic arguments to delay discussions.[21] The significance afforded by the tobacco industry in seeking to influence the work of the COP was subsequently demonstrated by an internal PMI document obtained by Reuters.[22] This framed the FCTC as

"a regulatory runaway train" in which health concerns dominate over other interests; the document set out PMI's aim to "[p]ush for a balanced delegation", by encouraging greater representation of finance, foreign affairs, customs and commerce ministries in national delegations.[23]

In this context, it becomes increasingly important to understand the dynamics of the COP and to discuss their implications for tobacco control policy. This paper aims to build on an earlier analysis of participation at COPs 1-4[16] to consider developments in countries' participation, including by income group; to examine changes in the composition of delegations (with reference to the proportion of health officials); and to assess the relationship between participation in the COP and the strength of key tobacco control measures at national level.

METHODS

i) Participation in the FCTC COP

Building on previous work,[17] we examined trends in countries' participation in COP from the first meeting in 2006 to the seventh meeting in 2016. For each of these seven meetings, we used official records [10, 24–30] to identify which countries were Parties to the FCTC at the time of the meeting, which were represented at the meeting, and (for those represented) the size and composition of their delegation, i.e. the number of delegates drawn from government departments focused on health (including tobacco control), finance, foreign affairs, and other areas (including agriculture and trade). Consistent with previous analyses, we categorised all

Parties according to their World Bank income group (low, lower-middle, upper-middle, and high-income),[31] except for a small number of Parties (Cook Islands, Niue, Nauru, Tuvalu) which are not included in the World Bank income classification for years where the national population is <300,000 (supplementary table 1). As well as being the international standard, the World Bank categories are updated every year – thus allowing us to re-classify countries whose population and/or GDP per capita increased substantially between COP sessions.

We calculated Parties' participation or 'turnout' at each COP based as a proportion of those countries that had ratified the FCTC at the time of each meeting, and examined trends in participation by income group. (Parties not assigned to a World Bank income category were excluded from analyses by income group – i.e. they were not included in the list of potential attendees for this analysis.) We further examined the proportion of total delegates at each COP that came from each income group, and the proportion of delegates affiliated with specific government departments (including health and non-health agencies).

ii) Relationship between participation in COP and strength of tobacco control

We examined the relationship between Parties' attendance across the first seven COP meetings and the strength of their tobacco control policies, as stated in the 2017 global tobacco control reports.[11] We focused on three key measures of tobacco control: increased taxes on tobacco products; protecting people from tobacco smoke via legislation enforcing smoke-free environments in public places; and bans on tobacco advertising, promotion and sponsorship. (Parties to the FCTC report against six key measures of implementation, of which these three measures – alongside public information campaigns – are ranked on the Tobacco Control Scale as having the greatest impact.[32] We did not use public information

campaigns as part of our assessment, because countries' use of these is not consistent over time; that is, countries may have had no recent public information campaigns despite having invested in them in the past.) For each measure, we created a three-point categorisation (table 1) across which Parties were approximately evenly distributed. That is, for each policy we divided Parties into three levels of implementation (minimal, partial or comprehensive) with each level containing approximately one third of all Parties (i.e. the 'comprehensive' category represents the top third of Parties in terms of implementation of the relevant policy – not necessarily those meeting the threshold for 'best practice' in relation to that policy).

Table 1. Strength of implementation for three key tobacco control measures

Level of implementation	Tobacco taxation	Smoke-free environments*	Bans on advertising, sponsorship and promotion
Minimal	<30% of retail price is tax	<=2 public places covered by smoke-free legislation	Absence of ban OR ban that does not cover national television, radio and print media
Partial	30-60% of retail price is tax	3-7 public places covered by smoke-free legislation	Ban on national television, radio and print media
Comprehensive†	>60% of retail price is tax	All public places covered by smoke-free legislation	Bans on all forms of direct and indirect advertising

*The global tobacco control reports list seven specific public places that may be covered by smoke-free legislation, with an eighth category for 'All other public places'
†'Comprehensive' refers to the level of implementation reached by the top third of Parties for that measure (rather than 'best practice')

We examined the relationship between Parties' COP attendance and the strength of their tobacco control policies based on both categories of attendance (<=1 meetings; 2-6 meetings; all 7 meetings) and the total number of meetings attended (0-7). For the former (categories of COP attendance), we examined the correlation with the extent of implementation visually and by calculating Goodman and Kruskal's gamma coefficients[33] for each tobacco control measure. For the latter (total number of meetings attended), we used binomial logistic regression analysis to assess the association between COP meeting attendance and 'comprehensive implementation' of each measure.

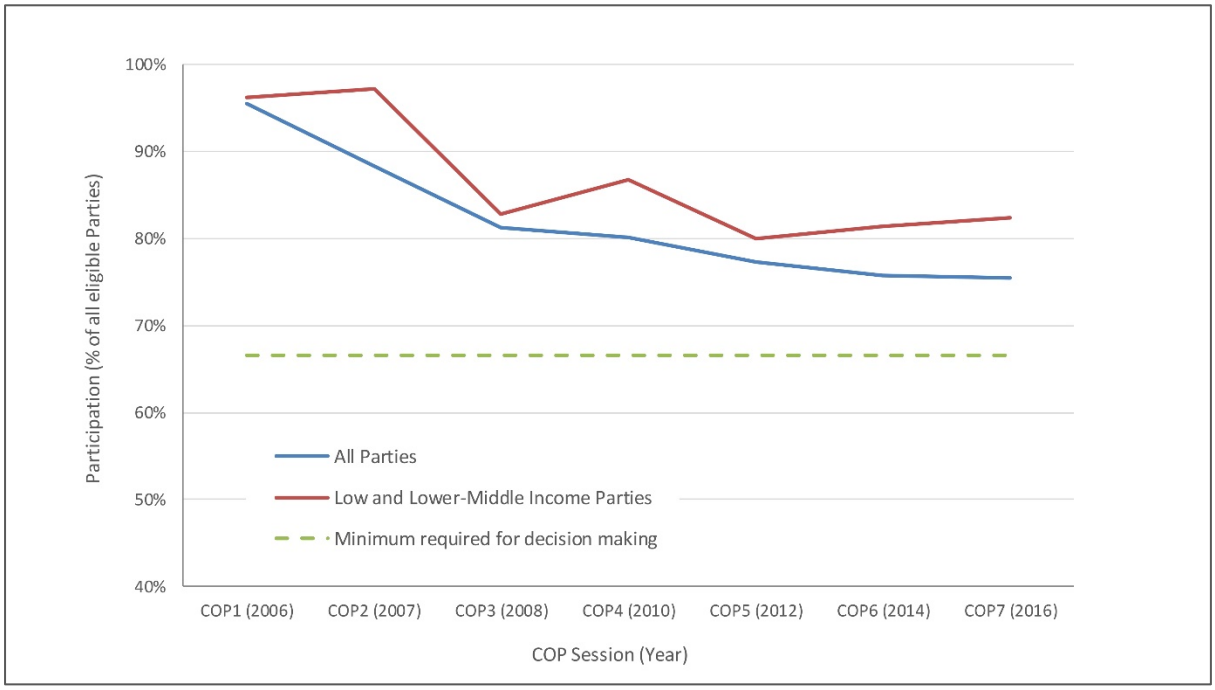
All statistical analyses were carried out by EP using Predictive Analytics SoftWare (IBM SPSS Statistics for Windows, Version 22.0, 2013).

RESULTS

i) Participation in the FCTC COP

While Party participation in COP meetings remains extensive, it has declined over time (figure 1). The first COP in 2006 enjoyed very high levels of participation, with over 95% of all eligible countries represented at that meeting. The following 10 years saw a broad decline in Party 'turnout' which had dropped to around 75% at the last meeting in 2016.

Figure 1. Participation at first seven COP meetings by all Parties* and by Parties from low and lower-middle income groups†, 2006-2016



*That is, Member States that were Parties to the FCTC at the time of the relevant COP meeting
†World Bank income categories exclude some very small states (e.g. Cook Islands, Niue) which are therefore not included in calculating participation by income group.

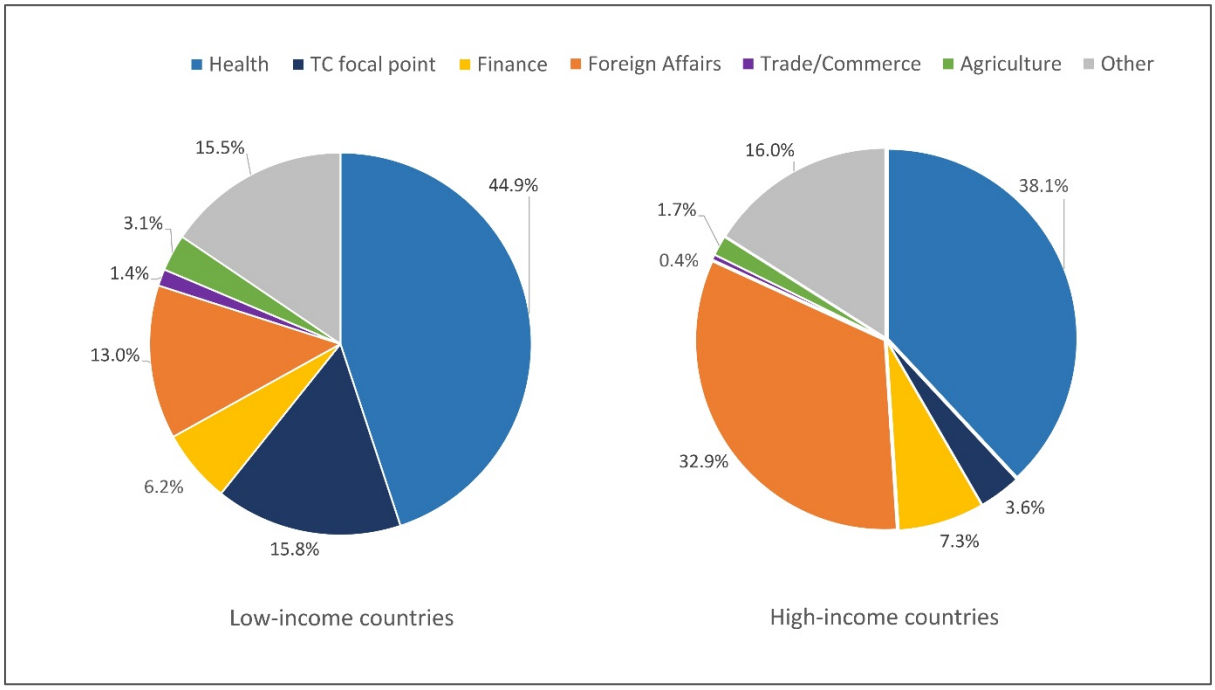
Participation in the COP has consistently been higher among low and lower-middle income countries, which typically make up around half the Parties represented at the meetings (supplementary table 2). At COP7, for example, attendance among eligible low- and lower-middle income countries was 82%, while among high and upper-middle income countries it was only 73%. Overall, low and lower-middle income countries are more likely to have attended some or all of the seven COP meetings (supplementary table 3) with only 5.4% never attending or attending only once, compared with the 9% of high and middle-income countries that have attended only once or not at all.

While low and lower-middle income countries are more likely to attend the COP, they tend to have much smaller delegations than high or upper-middle income countries. Thus delegates from low and lower-middle income countries have historically comprised only a quarter to a third of all country delegates (supplementary table 4), despite making up half the Parties represented at the meeting. The proportion of delegates from low and lower-middle-income countries has slightly increased over time and was particularly high at the last COP in India (a lower-middle income country), although all other COP meetings were numerically dominated by delegations from wealthier countries.

We also found considerable variation in the composition of delegations by income group, and over time. Delegations from lower income countries are more likely to be drawn from national ministries of health and tobacco control focal points, which together comprise over 60% of delegates from low income countries; while delegates from non-health departments such as foreign affairs and finance make up a greater proportion of delegations from higher income countries, with health departments making up just 42% of all delegates (figure 2).

The proportion of COP delegates drawn from ministries of health (including tobacco control focal points) was particularly low at COP1 in Geneva, reflecting the tendency for many countries to utilise their standing diplomatic representatives to the United Nations. While the proportion of health-focused delegates has been strikingly higher outside of Geneva, this has tended to decrease over time (table 2); from a high of almost two-thirds of delegates at COP3, at the most recent COP session (COP7) in 2016, ministries of health contributed only a third of all meeting delegates.

Figure 2. Institutional affiliation* of national delegates attending COP meetings (2006-2016) from low and high income countries.



*'Health', Ministry of Health or equivalent; 'TC focal point', national focal point for tobacco control (usually within Ministry of Health); 'Foreign Affairs', Ministries of Foreign Affairs, Diplomatic Missions or equivalent; 'Finance', Ministry of Finance, Treasury or equivalent; 'Agriculture', Ministry of Agriculture or equivalent; 'Trade', Ministry of Trade, Commerce or equivalent; 'Other', all other categories including other government departments (e.g. Justice), delegates described by role ('scientist', 'expert' etc), delegates from non-governmental institutions, and delegates with no institutional descriptor.

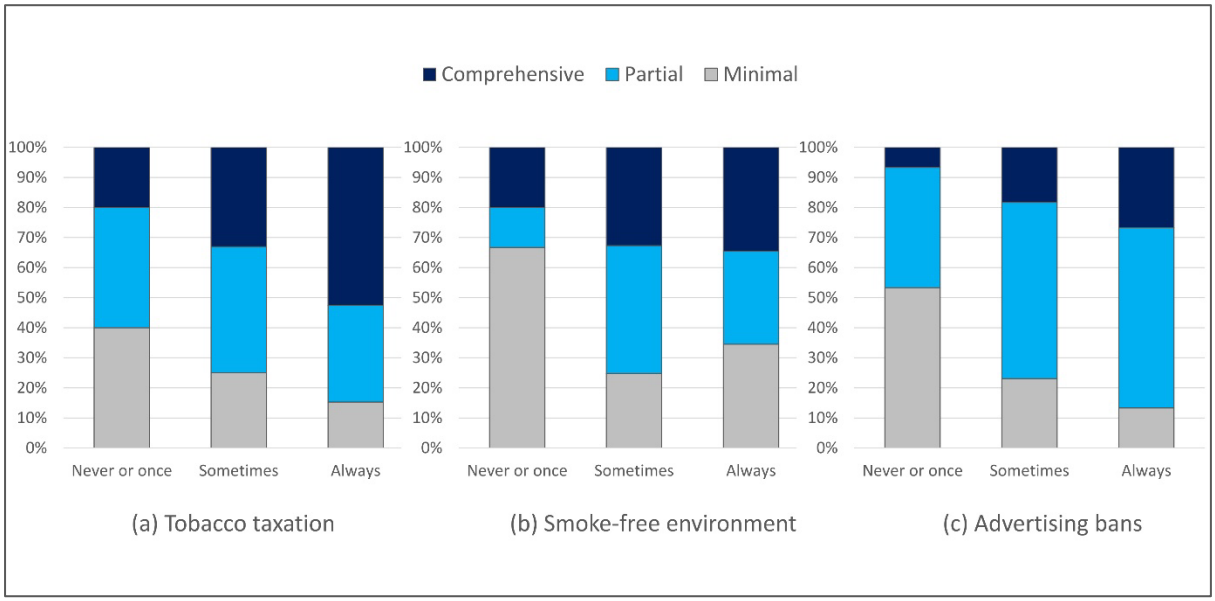
Table 2. Proportion of delegates from health ministries (including tobacco control focal points) by COP session and income group

Year (location) of COP meeting	Total delegates at meeting	Proportion of meeting delegates from national health ministries (including tobacco control focal points) by income group*				
		Low	Lower Middle	Upper Middle	High	All income groups
COP1: 2006 (Switzerland)	474	42.1%	40.7%	34.8%	37.9%	35.5%
COP2: 2007 (Thailand)	396	85.3%	77.0%	53.9%	48.3%	58.3%
COP3: 2008 (South Africa)	412	94.9%	70.3%	61.7%	46.9%	62.1%
COP4: 2010 (Uruguay)	457	75.5%	63.7%	45.9%	42.7%	52.1%
COP5: 2012 (South Korea)	508	65.5%	50.0%	36.3%	40.2%	43.9%
COP6: 2014 (Russia)	489	62.8%	40.5%	30.9%	37.7%	38.7%
COP7: 2016 (India)	673	32.6%	31.8%	34.7%	41.4%	35.0%

ii) Relationship between participation in COP and strength of tobacco control

We found evidence of a correlation between Parties' attendance at COP meetings and the strength of their national tobacco control policies, as indicated by our three chosen measures. The proportion of Parties with comprehensive implementation of policies (for tobacco taxation, smoke-free environments and advertising bans) increased with increasing frequency of attendance at the COP meetings (figure 3). This relationship is clearest for taxation and advertising bans (gamma coefficient = 0.35 for both), and weakest for smoke-free policies (gamma coefficient = 0.29).

Figure 3. Strength of Parties' tobacco control policies (% with minimal, partial and comprehensive implementation) by frequency of COP attendance



Attendance at each additional COP session (from 1-7) was associated with an increased likelihood of Parties being in the most comprehensive category of tobacco control, although this was statistically significant only for taxation. For each additional COP meeting attended, the odds ratio for comprehensive implementation was 1.28 (95% confidence interval (CI) 1.08-1.52) for taxation, 1.19 (95% CI 1.00-1.41) for smoke-free policies, and 1.24 (95% CI 1.00-1.53) for advertising bans.

The strength of this relationship appears to be mediated by income group as well as the specific tobacco control measure examined (supplementary table 5). When we stratified Parties by income, we found that low-income countries showed a particularly strong correlation between COP attendance and implementation of advertising bans (gamma coefficient = 0.65). High-income and lower-middle income countries showed a moderate correlation between COP attendance and implementation of tobacco taxes (coefficient = 0.38 and 0.37 respectively), while upper-middle income countries showed a moderate correlation

between COP attendance and implementation of smoke-free environments (coefficient = 0.31). We were unable to perform logistic regression by income sub-group as small numbers in some cells meant the model was unstable.

DISCUSSION

Our findings reveal some important trends in relation to FCTC Parties' participation in COP meetings. First, attendance at the COP has declined steadily over time, from 96% at the first COP to 75% at the seventh. Second, participation in COP meetings is consistently higher among low and lower-middle income countries, although these Parties tend to have much smaller delegations and are therefore less numerically dominant at COP meetings than high and upper-middle income countries. Third, a greater proportion of delegates from low and lower-middle income countries (LLMICs)come from national ministries of health (including national tobacco control focal points), in part reflecting the status of these ministries as recipients of travel support. Overall, the smaller size of delegations from low and lower-middle income countries means that the composition of COP meetings is reflective of more wide-ranging high and middle-income delegations, which tend to include substantially more representatives from non-health ministries (particularly foreign affairs and finance).

Participation in the COP is important for maintaining representation and accountability in both formal decision-making terms and with respect to the legitimacy and efficacy of the COP as a negotiating forum. A turnout rate of 66% is required for the COP to be able to take decisions.[34] While attendance to date has remained above this level, the general downward trend raises the possibility that turnout at a future COP meeting could drop below the

required threshold for the session to be able to perform its crucial governance functions. In addition to jeopardising the formal requirement for quoracy, the experience of other global governance mechanisms suggests that declining attendance could trigger diverse problems including reduced buy-in from disenfranchised Parties, weakened legitimacy and accountability, and – ultimately – stalling of progress on FCTC implementation. This highlights the potential seriousness of problems posed to the work and viability of the COP, underpinning the risk for tobacco control of sleepwalking towards chaos in the absence of support that can ensure effective participation.

In relation to participation by low and lower-middle-income countries, their strong attendance record highlights their importance in maintaining adequate representation at COP meetings. Participation rates for high and upper-middle income Parties have fallen below 66% at three of the seven COP meetings (supplementary table 2), meaning these meetings have been crucially reliant on much higher levels of attendance among low and lower-middle income countries. The decision to substantially reduce travel support to the majority of these countries[28] could therefore have serious consequences, not only for their representation and involvement in decision-making, but for the viability of the entire COP process.

Beyond the basic issues of numbers, it will be important to monitor both participation and discussions emerging from the eighth COP in Geneva in order to address key questions regarding the governance dynamics of tobacco control and global health. It seems almost certain that the proportion of COP delegates drawn from ministries of health will continue to decline, given the understandable pressures on financially straitened governments to rely on diplomatic missions to provide representation. Additionally, the fact that the Illicit Trade Protocol came into effect in 2018 means that COP8 and subsequent COP sessions will be

immediately followed by the Meeting of the Parties to the Protocol (MOP). While interested high income countries will be able to send complex and extensive delegations drawing on expertise from across multiple ministries, countries struggling to send a minimalist delegation might be expected to send an official from, for example, customs and excise rather than health.

It is, of course, highly desirable that the COP (and MOP) should be able to engage with and work across multiple ministries and policy spheres. Yet such a shift also clearly aligns, however inadvertently, with PMI's desire to "[m]ove tobacco issues away from [health]" by "push[ing] for a balanced delegation"; that is, one with much stronger representation from ministries of finance, commerce and industry.[23] The tobacco industry's desire to undermine the pre-eminence of health officials at the COP serves as a reminder that the wider primacy of health goals in addressing tobacco issues within the UN system and global governance is neither inevitable nor unchallenged. WHO did not assume lead status on tobacco issues within the UN until the development of the FCTC[2]; some agencies, notably the International Labour Organization, have been strikingly reluctant to manage risks of tobacco industry interference in policy[35]; and it cannot be assumed that governance instruments established to promote health will not be subverted to advance other agendas. The potential for the tobacco industry to appropriate core aspects of the ITP, including by countries adopting the industry-designed product pack marker system CODENTIFY[36,37] (now Inexto Suite) emphasises the need to buttress the strength of health-oriented officials in delegations for FCTC negotiations.

This case is reinforced by our analysis demonstrating a broad correlation between Parties' attendance at the COP and the strength of their national tobacco control policies, as indicated by legislation on tobacco taxation, smoke-free public places and bans on advertising,

promotion and sponsorship. This finding is perhaps unsurprising, since attendance at the COP and implementation of key FCTC measures will both be linked to a country's commitment to and capacity for advancing tobacco control[16,38]; while, less positively, low levels of COP attendance and weak implementation of tobacco control may reflect low political commitment or be linked with higher levels of industry involvement in national policy.[15] Yet this correlation also speaks to the value of countries' participation in global health governance in terms of democratic participation, policy engagement and capacity-building. COP meetings are a forum for exchanging information and experience, promoting best practice, and increasing awareness of both threats and opportunities to effective tobacco control [16], and participation can be expected to both strengthens and be strengthened by delegates' commitment to reducing the future health burden of tobacco.[39] This relationship may be particularly important for low income countries, in whom we found the strongest correlation between COP attendance and implementation of advertising bans (often seen as one of the first steps in a national tobacco control strategy[40]). Such dynamics have long been viewed as central to the wider process impacts of the FCTC, with information exchange seen as crucial to accelerating policy diffusion.[41] In turn this suggests that there is a strong case for viewing strong investment in travel support, which may be viewed as something of a bureaucratic burden, as a core investment in global tobacco control; maximising Parties' participation in the COP should be framed as an important mechanism for advancing implementation of the FCTC.

Our study has some limitations, most notably its reliance on official records for details of Parties' participation – which indicate numbers registered as attending, but not the level or quality of their participation. Our classification of delegates' institutional affiliation is also imperfect, since some delegates are listed in official records without an institutional

affiliation, a smaller number are affiliated with non-government agencies such as research institutes, and non-governmental personnel (e.g. from NGOs or academia) occasionally sit in meetings as part of national delegations. Our reliance on World Bank categories of national income meant we were unable to classify some very small states (such as the Cook Islands and Niue) that are not included in this classification. Finally, our assessment of the strength of national tobacco control policy focuses on the presence (or absence) of specific legislation – which will not capture more nuanced aspects such as the extent of enforcement or budgetary commitments to tobacco control. We have not sought to assess other aspects of FCTC implementation in which there may be important distinctions between income groups, including countries' contributions to treaty funding and their support for establishing a financing mechanism such as a global fund.

More broadly, while our data demonstrate important trends in COP participation they do not speak directly to the reasons for Parties' attendance or non-attendance (for example, how decisions regarding attendance might be affected by the location of a COP, or whether the holding of regional meetings that aim to develop consensus positions in advance of the COP might reduce the perceived importance of attending. Our results point to the need for more in-depth qualitative research to factors influencing Parties' participation in the COP (and Protocol's MOP) and to identifying potential barriers and facilitators. Developing such understanding is critical to realising the potential of the COP as a beacon of effective, democratic global health governance.

In conclusion, our study highlights the importance of maintaining structural support to protect Parties' participation in the COP, particularly that of low and lower-middle income countries. The FCTC has rightly been hailed as a rare example of effective global governance in which

developing countries have played a significant role,[3,42] but its ongoing success and effectiveness are not a given. In many respects the FCTC remains surprisingly fragile; its financial basis and support structure still require further development.[16] Maintaining high levels of representation and participation at the COP requires sustained attention on the policy agenda alongside maximizing transparency in delegations and developing a strategic framework for FCTC implementation.

What this paper adds

- The success of WHO's Framework Convention on Tobacco Control (FCTC) depends on Member States' ongoing engagement in its governance, including appropriate representation and prioritisation of health goals at the Conference of Parties (COP). This is threatened by potential declines in attendance and tobacco industry attempts to influence delegations in order to delay progress on implementation
- Parties' participation in the COP has declined over time and would have fallen below the threshold for decision-making without high levels of representation from low and lower-middle income countries, many of whom have lost travel support for attendance
- Lower developing country attendance is likely to shift the composition of COP meetings away from health officials and towards other interests, which comprise a greater proportion of delegates from high income countries
- Member States' attendance at COP meetings is associated with more comprehensive implementation of national tobacco control policies, suggesting a link between active participation in the FCTC and national capacity for advancing tobacco control and resisting industry interference in policymaking
- Renewed support for participation in the COP is crucial in order to protect the legitimacy and efficacy of global governance for tobacco control and health

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Competing interests None

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