

This side-by-side text advises Member States in the Eastern Mediterranean on options to consider in relation to HTPs.

It is framed around the WHO FCTC Articles as these are a comprehensive to tobacco control. This text is necessary as HTPs are a new type of product and many Member States have request guidance in how best to proceed in relation to these products. It was developed with selected Member States from the region, WHO experts and external consultants at a regional consultation in WHO EMRO.

This side by side text Region is not limited to Parties to the WHO FCTC and could be useful to WHO Member States in other WHO Regions.

WHO FCTC Article	HTPs	Best practice case
Article 1: Use of Terms	HTPs are tobacco products and Member States should treat and regulate them as such. <i>“HTPs should be subject to the same policy and regulatory measures applied to all other tobacco products, in line with the WHO Framework Convention on Tobacco Control (WHO FCTC).<sup>1</sup>”</i>	
Article 2	To better protect human health, Member States are urged to implement measures and good practice beyond the regulatory options specified in this document and for Parties to the WHO FCTC, beyond those required by the WHO FCTC and its protocols. Therefore, nothing in the document shall prevent countries from imposing more stringent requirements.	
Article 3	The objective to reduce continually and substantially the prevalence of tobacco use can be met by banning or strongly regulating these products. Member states have banned these products while the evidence is examined and research is conducted.	
Article 5: General Obligations	The relevant legislation, national action plan and multi-sectoral committees related to tobacco control should cover all tobacco products.	
Article 5.3: Tobacco Industry influence  In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies	Member States can consider regulatory options, such as 1. Banning the importation, sale, and distribution of HTPs OR 2. Allowing the importation, sale, and distribution of HTPs with the following provisions a) Comprehensively applying Article 5.3 and all COP decisions to HTPs as HTPs are classified as a tobacco product. b) Data provided by the industry must be validated using internationally approved methods by	

<sup>1</sup>Heated tobacco products (HTPs) information sheet

<p>from commercial and other vested interests of the tobacco industry in accordance with national law.</p>	<p>scientists with no conflict of interest with the industry. These laboratories shall not be owned or controlled directly or indirectly by the tobacco industry.</p>	
<p>Article 6: Price and tax measures to reduce the demand for tobacco</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions: <ol style="list-style-type: none"> <li>a) Comprehensively apply Article 6 to HTPs as they are tobacco products aiming to contribute to the health objectives to reduce tobacco consumption and preventing HTPs becoming affordable. No duty free sales of these products should be allowed.</li> </ol> <p><b>With regards to the tobacco sticks, pods or plugs:</b></p> <ol style="list-style-type: none"> <li>b) Member states should consider applying the same tax rate as applied to the most commonly used premium tobacco product, for example some Member States apply the same tax rate to HTP sticks, pods and plugs as they apply to cigarettes. WHO recommends that &gt;75% of the retail price of a pack of cigarettes should be tax or at least 70% of retail price be excise tax.</li> </ol> <p><b>With regards to the device:</b></p> <ol style="list-style-type: none"> <li>c) Member states should consider applying excise tax to the device collected at the manufacturer or importer level. Either an ad valorem excise tax with a possible minimum specific floor or an excise specific tax.</li> <li>d) Member states should consider preventing under-declaring the value of the device in order to pay less excise duties (ad valorem) and custom duties by establishing a list of prices of comparable products on the market and actively correct prices and applying a specific excise duty or establish a minimum value (minimum tax base).</li> <li>e) In Member States that apply a higher rate of VAT on tobacco products than on general products should consider applying this higher rate of VAT also to HTP devices.</li> <li>f) Control of importation of separate parts and assembly after importation to avoid excise tax on the device by only allowing manufacturing of devices to licensed operators.</li> </ol> </li> </ol>	<p>Georgia taxes HTPs tobacco heat sticks, pods and plugs at the same rate as cigarettes.</p>

<p>Article 8 : Protection from exposure to tobacco smoke</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPS</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions:             <ol style="list-style-type: none"> <li>a) Emission of HTPs constitute tobacco smoke and therefore should be included in work to comprehensively implement Article 8 in line with the guidelines for implementation.</li> <li>b) A sign for HTPs should be developed and then all no smoking signs should carry the signs of HTPs to alert the public to them.</li> <li>c) All public places listed below completely smoke-free (or at least 90% of the population covered by complete subnational smoke-free legislation). Designated Smoking Rooms should not be allowed as these do not work and are difficult to enforce.                 <ul style="list-style-type: none"> <li>• Health-care facilities</li> <li>• Educational facilities other than universities</li> <li>• Universities</li> <li>• Government facilities</li> <li>• Indoor offices and workplaces not considered in any other category</li> <li>• Restaurants or facilities that serve mostly food</li> <li>• Cafés, pubs and bars or facilities that serve mostly beverages</li> <li>• Public transports</li> <li>• Religious sites</li> </ul> </li> <li>c) A comprehensive implementation plan should be developed and enforced</li> </ol> </li> </ol>	<p>Ban of use in enclosed public spaces same as other smoked tobacco products; Austria Belgium; France Monaco; Poland Spain; Sweden Republic of Korea</p>
<p>Article 9: Regulation of the contents of tobacco products</p> <p>&amp;</p> <p>Article 10: Regulation of tobacco product disclosures</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions:             <ol style="list-style-type: none"> <li>a) Comprehensively apply Articles 9 and 10 to HTPs, as they are tobacco products.</li> </ol> <p><b>Regulating contents of products:</b></p> <ol style="list-style-type: none"> <li>a) In addition to the Partial Guidelines on the implementation of Articles 9 and 10, the HTP device should have safety measures written including considerations around the power (limited to 25 Watts) and other measures.</li> <li>b) The design of devices and accessories should be regulated in terms of shapes &amp; size (e.g. Turkey water pipe device regulations), flavours, smell,</li> </ol> </li> </ol>	<p>EU</p>

	<p>colors in line with the Partial Guidelines to prevent these products being perceived as attractive.</p> <ul style="list-style-type: none"> <li>c) Collecting data via devices, including directly or indirectly from the devices via electronic communication with the device itself, on user preferences and use patterns should be banned.</li> <li>d) Manufacturers and third parties should be prohibited from using data on use patterns from devices to feedback to the devices to control the performance of the device, such as controlling puff patterns and intensity or recommending changes in liquid or tobacco plugs.</li> <li>e) Ban all flavours or components, such as packages, capsules or any technical features allowing modification of smell and taste of the product</li> </ul> <p><b>Disclosures from industry to government:</b></p> <ul style="list-style-type: none"> <li>a) If collecting data via devices, including directly or indirectly from the devices via electronic communication with the device itself, on user preferences and use patterns is not banned, then data collected on devices regarding user preferences and use of device should be shared with governments.</li> <li>b) Development of a reporting template for product information and requiring electronic reporting of such information</li> </ul> <p><b>Sanctions:</b></p> <ul style="list-style-type: none"> <li>a) Declaration that the manufacturer and importer bear full legal liability for the quality and safety of the product, when placed on the market and used under normal or reasonably foreseeable conditions.</li> </ul>	
<p>Article 11: Packaging and labelling of tobacco products</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions: <ul style="list-style-type: none"> <li>a) As HTPs are tobacco products; comprehensively apply Article 11 including enforcing a law requiring mandated specific health warnings covering at least 50% of the inner and outer packaging of device and tobacco heat sticks, pods or plugs, e.g., packaging of midwakh in GCC. The warnings should be large, clear, visible and legible (e.g. specific colours, font style and sizes are mandated), written in the principle language of the country and regularly rotated.</li> </ul> </li> </ol>	<p>South Korea</p>

	<ul style="list-style-type: none"> <li>b) As the HTP device is a tobacco accessory, graphic health warnings (GHW) should also be applied to the packaging, as well as the product itself. E.g. Midwakh in GCC</li> <li>c) Consider all lateral sides of packs, and of devices to be main display areas</li> <li>d) Member States applying plain packaging for tobacco products should apply the same for HTPs (devices &amp; tobacco heat stick, pods or plugs)</li> </ul>	
Article 12: Education, communication, training and public awareness	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> <li>OR</li> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions: <ul style="list-style-type: none"> <li>a) Comprehensively applying Article 12 as HTPs are tobacco products.</li> <li>b) Educate people that HTP are not vaping products</li> <li>c) HTPs should be integrated into public education programs, specifically to debunk myths about HTPs that are being promoted by manufacturers and sellers.</li> <li>d) If there is a substantial illegal promotion for HTPs such as via the internet, member states should include HTPs in educational programs to counter this promotion if a judgement is made that doing so will reduce rather than increase demand for these products.</li> </ul> </li> </ol>	
Article 13: Tobacco advertising, promotion and sponsorship	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> <li>OR</li> <li>2. Allowing the importation, sale, and distribution of HTPS with the following provisions: <ul style="list-style-type: none"> <li>a) Applying Article 13 comprehensively, by applying a comprehensive ban on all forms of TAPS: direct or indirect, as HTPSs are tobacco products.</li> <li>b) As in Article 13 the indirect bans should include free distribution of devices or tobacco heat sticks, pods or plugs in the mail or through other means; as well as promotional discounts and home delivery and online purchasing.<sup>2</sup></li> <li>c) Ban on all form of direct* and indirect** advertising <ul style="list-style-type: none"> <li>• National television and radio;</li> <li>• Local magazines and newspapers;</li> <li>• Billboards and outdoor advertising;</li> </ul> </li> </ul> </li> </ol>	<p>Banned like other smoked tobacco products:</p> <p>Austria; Belgium; Japan Lithuania; Netherlands; Norway; Poland; Republic of Korea; Spain Sweden; Switzerland; Ukraine; UK</p>

<sup>2</sup> Guidelines for implementation of the WHO FCTC Article 5.3 | Article 8 | Articles 9 and 10 | Article 11 | Article 12 | Article 13 | Article 14

	<ul style="list-style-type: none"> <li>• Point of sale</li> <li>• Internet, social media and mobile apps</li> <li>• free distribution of tobacco products in the mail or through other means;</li> <li>• Promotional discounts;</li> <li>• Non-tobacco products identified with tobacco brand names (brand stretching);</li> <li>• Brand names of non-tobacco products used for tobacco products (brand sharing);</li> </ul> <p>d) Ban should include medical society and medical events; social media and mobile apps; internet videos and streaming TV adverts.</p>	
<p>Article 14 Demand reduction measures concerning tobacco dependence and cessation</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs with the following provisions: <ol style="list-style-type: none"> <li>a) HTPs are not to be considered a cessation product.</li> <li>b) Comprehensive application of Article 14 as HTPs are tobacco products</li> </ol> </li> </ol>	
<p>Article 15: Illicit trade in tobacco products</p>	<p>Member States can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPs</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPs subject to the provisions of the Protocol of the Illicit Trade in Tobacco Products considering HTPs as tobacco products. This includes licensing, tracking and tracing and ban of duty-free sales. Member states are encouraged to become parties of the Protocol, but in the meantime can use the protocol documentation to inform national policy.</li> </ol>	

<p>Article 16: Sales to and by minors</p>	<p>Member states can consider regulatory options such as</p> <ol style="list-style-type: none"> <li>1. Banning the importation, sale, and distribution of HTPS</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. Allowing the importation, sale, and distribution of HTPS with the following provisions:             <ol style="list-style-type: none"> <li>a) Applying Article 16 comprehensively to HTPs as they are tobacco products.                 <ul style="list-style-type: none"> <li>• Clear and prominent indicator at the point of sale about the prohibition of tobacco sales to minors</li> <li>• Ban point of sale advertising and promotion</li> <li>• Prohibit the manufacture of any object in the form of tobacco products which appeals to minors</li> <li>• Ban tobacco vending machines.</li> <li>• Prohibit the distribution of free tobacco products to the public, especially minors.</li> <li>• Prohibit sale of HTP tobacco heat sticks, pods or plugs as single units as these increase the affordability of the products to minors.</li> </ul> </li> <li>b) Banning the sale or distribution of HTPs near/within educational facilities;</li> <li>c) Banning the sale and distribution of HTPs by minors;</li> <li>d) Regulating places, density and channels of sales.<sup>3</sup></li> <li>e) Set the age limit for HTPs use to 21.</li> <li>f) Establish an implementation and enforcement plan including penalties and confiscation of HTPs devices.</li> <li>g) Ban the sale of single units</li> <li>h) Ban internet sales and require age verification to access HTP manufacturer website</li> </ol> </li> </ol>	<p>Austria; Belgium; Canada; Czech Republic; France; Israel; Japan; Lithuania; Monaco; Netherlands Norway; Poland; Portugal; Republic of Korea; Spain Sweden; Ukraine</p>
<p>Article 20: Research, surveillance and exchange of information</p>	<p>HTPs are tobacco products and so Article 20 should be comprehensively applied. HTPs should be part of the tobacco use indicator and the tobacco reduction target.</p> <ol style="list-style-type: none"> <li>a) Integrate HTPs in ongoing national level surveys that cover all groups (adults and youth). National</li> </ol>	

<sup>3</sup> COP 7/11. Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS). Report by WHO

	<p>surveys should be at least every 5 years and be representative of the national population.<sup>4</sup></p> <p>b) It is suggested that Member States use or strengthen their existing tobacco surveillance and monitoring systems to monitor and report on scientific, regulatory, market and product use developments in HTPs use such as health effects, initiation, cessation, dual/poly-use, advertising and promotion by gender, age and socio-demographic groups.<sup>5</sup></p> <p>c) Ensure that the right questions are included to capture these products in order for the results to accurately reflect country situation</p>	
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<sup>4</sup> FCTC/COP/6/10 Rev.1 Electronic nicotine delivery systems Report by WHO

<sup>5</sup> DECISION: FCTC/COP7/9 Electronic nicotine delivery systems and electronic non-nicotine delivery systems