



# Divergence of Tobacco Control Regulation Facing the Achievement of Sustainable Development Goals in Indonesia

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**Abstract.** Indicators of a country's well-being can be seen from the level of health of its citizens. Uncontrolled tobacco consumption is one-factor causing declining health and is a Threat because tobacco use is beginning to touch various fields and has a chain effect this has prompted WHO and its member states to formulate a convention on the control of the tobacco problem (FCTC, Framework Convention on tobacco control). Indonesia is one of the 7 WHO member states that have not signed and acceded to the FCTC. The Government has not ratified the Convention due to concerns about the national economy, such as people's tobacco farming, small and medium-sized industries, and State finances. In addition, the Indonesian Government has implemented several tobacco consumption control regulations, ranging from increasing tobacco excise regularly, enforcing non-smoking areas in public places, and restrictions on cigarette advertising in media.

**Keywords:** FCTC · SDGs · Tobacco Control · Health

## 1 Introduction

The welfare of a country can be seen from the health indicators of its citizens, so efforts to improve public health need to be supported by implementing appropriate and anticipatory health policies on several factors that can affect it, one the factors that can affect health is consumption patterns in the community.

The pattern of consumption of an item in everyday life has a very crucial impact on individual human beings both positively and negatively in everyday life. The most controversial consumer goods over the past few decades have been cigarettes or tobacco, most countries legalizing them but at the same time campaigning for people to stop smoking. This is an important issue that must continue to be voiced both in terms of health, law, and economy, the world's first step in responding to this problem is carried out by the health sector voiced by the WHO (World Health Organization) institution whose task is to coordinate activities in terms of improving public health in various parts of the world WHO's goal is to achieve maximum health for all people in the world.

WHO's a mission in achieving maximum health for the community must be of particular concern, one of which is to mark cigarettes or tobacco consumption as things

that are very disturbing to the health of individual humans. The threat of tobacco consumption to the health of the world's population has prompted WHO and its member states to formulate a convention on the control of tobacco problems. After a drafting process that lasted about 4 years, finally, in 2003 at the 56th general assembly of world health an international treaty on tobacco control was agreed upon, called the FCTC, the Framework Convention on tobacco control).

The Framework Convention on Tobacco Control is one of the fastest ratified international treaties in the history of the United Nations., This agreement is a supranational treaty aimed at protecting current and future generations from the damaging effects of tobacco consumption on health, social, environmental, and economic and limiting its use in any form around the world. This agreement is binding on the regulation of tobacco production, sale, distribution, advertising, and taxation [1]. The Framework Convention on Tobacco Control came into force on February 27, 2005 According to WHO data, until 2015, there were 180 countries declared as FCTC states parties Meanwhile, there are still 7 WHO member states that did not sign and accede to the FCTC, namely: Andorra, Liechtenstein, and Monaco (Europe); Malawi, Somalia, and Eritrea (Africa) as well as Indonesia. Of the seven countries, Indonesia is the only country in the Southeast Asian region that has not yet legalized the Convention.

Indonesia's non-ratification of the FCTC is based on several reasons for fears that the ratification will have consequences for the national economy, such as people's tobacco farming, small and medium-sized industries, and state finances.

The problem that will arise and will be prolonged by the uncontrolled consumption of tobacco is the dilemma between income and financial expenditure of the State in terms of health costs for the individual community as well as at large. The government has a crucial role in terms of maintaining the health of its people, so governments in various countries have allocations of health expenditure costs to maintain, control, and overcome the environmental problems of their public health at large [2]. The qualitative relationship between health expenditures and health outcomes is clear and their significance quantitatively can become particularly relevant in a period characterized by government budgets that should be more stringent in the individual health of the public [3].

Based on this background, there are concerns that the optimization of tobacco control regulations in Indonesia will have implications for the national economy, which is the interest of researchers to analyze the relationship between the starting points of tobacco control regulations and their relation to the achievement of SDGs targets.

## 2 Discussion

### A. *Tobacco Control Regulation in Indonesia*

The issue of allegedly negative tobacco use in the form of processed products into cigarettes that are categorized as containing harmful substances opened up a big step by various countries by making an important convention carried out by various countries. [4], The framework of the Convention for the Control of Tobacco (FCTC) established today the most powerful tool for the implementation of tobacco control laws worldwide, the Network summarized and considered future directions for a human rights-based

approach to tobacco control. Some of the FCTC's findings emphasize the legal side to the issue of government regulation and control of addictive substances, this FCTC Framework has diverse impacts both successfully and unfruitfully, the legal side also voices about the impact of smokers disturbing a good and healthy living environment and the problem of using addictive zak.

Indonesia is one of the 7 countries that have not yet acceded to the FCTC but, several tobacco control measures by the Government of Indonesia have been implemented, in addition to applying excise tariffs on tobacco products, namely cigarettes, by providing 2% of State revenue from the excise tax which is handed over to tobacco excise producing areas which are used for several activities, one of which is for the development of the social environment, the latest is the enactment of the Ministry of Finance Regulation (PMK) No 192/PMK.010/2021 concerning Excise Tariffs on Tobacco Products in the Form of Cigarettes, Cigars, Leaf Cigarettes or Klobot, and Iris Tobacco and Minister of Finance Regulation No. 193/PMK.010/2021. About: Excise Rates on Tobacco Products in the Form of E-Cigarettes and Other Tobacco Processing Products.

In addition, the government also issued Government Regulation No.109 of 2012 concerning The Safety of Materials Containing Addictive Substances in the Form of Tobacco Products for Health and Regulation of the Minister of Health No.56 of 2017 concerning Amendments to the Regulation of the Minister of Health Number 28 of 2013 concerning the Inclusion of Health Warnings and Health Information on Tobacco Product Packaging, some of whose rules are in line with the objectives of the FCTC.

*B. Reasons why the Indonesian government has not ratified the Framework Convention on Tobacco Control/FCTC)*

Indonesia is the only country in the Asia Pacific that has not ratified the FCTC. Likewise, the United States is one of the countries that has not ratified the FCTC, historically Indonesia is a country that initiated the FCTC, this can be shown by Indonesia's active involvement in hosting the INB WHO FCTC in 2001 which resulted in the Jakarta Declaration.

Indonesia's involvement as one of the early drafting countries of the WHO FCTC along with other drafting member countries shows the existence of a shared interest in tobacco health and control which is the foundation of the WHO FCTC. However, after going through a series of hearing processes to the stage of discussing the academic text of laws and regulations at the domestic level, Indonesia ultimately chose to cancel its participation in the signing of the WHO FCTC in New York in 2003 [5].

If using the theory of the functioning of international regimes is based on several reasons. First, this theory can lay out the functional elements of international regimes that influence the behavior of states within or against international regimes. Second, Keohane's theory provides clear analytical tools to guide researchers in answering research questions. This is supported by theoretical characteristics that involve elements of rational choice, so that they can be used to see and explain the behavior of the state in international regimes.

Third, an analysis of the interpretation of the functioning of international regimes by states can help explain the reasons for countries to “comply” or “disobey” the international regime as well as the products or instruments of the international regime in question [6]. Which can be explained as follows:

1) *Indonesia’s Interpretation of the Legal Liability Function/Relevance of WHO FCTC*

In the context of the WHO FCTC, the state’s legal obligations are contained in the guiding principles that apply and are binding on each party who signs and ratifies them. These guiding principles are a manifestation of the “collective expectations” of countries that pay attention and concern to the issue of tobacco epidemics and efforts to control the tobacco products industry (WHO Framework Convention on Tobacco Control). However, the provisions contained in the guiding principles of whom FCTC contrast with the conditions of development in Indonesia.

Based on data collected from the Ministry of Industry of the Republic of Indonesia in 2018, the tobacco products industry is one of the vital industrial sectors for the national economy. In the labor sector, the tobacco products industry absorbs around 5.9 million workers, consisting of 4.28 million workers in the manufacturing and distribution realm while the rest (1.7 million people) work in the plantation realm [7].

Then, in the excise revenue sector, the tobacco products industry in 2018 recorded a contribution of Rp 153 trillion, an increase compared to the previous year of Rp 147 trillion [7]. This figure makes the tobacco products industry sector the largest contributor to Indonesia’s national excise revenue with a contribution value of 75–90 percent of the total national excise revenue every year.

The Indonesian tobacco products industry is also considered to have increased the added value of local raw materials from plantation products such as tobacco and cloves with the presence of kretek products. Products produced by the Indonesian tobacco industry are also seen as export-oriented commodities that contribute significantly.

In 2017, the export value of tobacco products recorded a figure of US\$ 904.7 million, and in the following year, it increased by 2.98 percent [7]. Based on the data presented above, it can be seen that the tobacco products industry is one of the strategic industrial sectors for the Indonesian national economy. On the other hand, the guiding principles of WHO FCTC are binding and reach aspects of regulating the production, sale, distribution, advertising, and taxation of tobacco.

This caused Indonesia during the reign of President Joko Widodo not to find the position of the WHO FCTC as a “quasi-agreement” that gave rise to collective expectations. Then because of its binding nature, there are concerns about an intervention in the Indonesian national economy if Indonesia signs and ratifies the WHO FCTC. The WHO FCTC’s “failure” to form a collective expectation is also reinforced by the narrative of disagreements arising from various domestic groups both from parliamentary circles.

The Indonesian Tobacco Farmers Association (APTI), the Association of Indonesian Cigarette Manufacturers Association (GAPRI), and various non-governmental organizations [7]. As a result, the “collective expectations” that the WHO FCTC seeks to build clash with the fact that the tobacco products industry has a significant contribution to Indonesia. Therefore, it can be said that the collective expectations constructed in the

WHO FCTC in reality in Indonesia are only partial (only found in tobacco control groups and not in a comprehensive scope).

## 2) *Indonesia's Interpretation of the WHO FCTC Reducing Cost Function*

In addition to having a legal liability function, the international regime according to Keohane also has the function of reducing costs. In the context of the Indonesian case, the government's interpretation of the WHO's FCTC reducing cost function has shifted along with the changing voluntarism of Indonesia's involvement in the convention. The shift in Indonesian voluntarism was shown through the differences in Indonesia's position at the beginning of the formulation of the WHO FCTC, and in the period after the cancellation of the signing of the WHO FCTC in 2003 to the present. This cannot be separated from the influence of the development of the WHO FCTC substance formulation from its inception until it was established in 2003. As explained in the previous section, when the WHO FCTC had reached the final formulation contained in 11 chapters and 38 articles, which was later agreed upon at the World Health Assembly session in 2003, Indonesia canceled its participation in the signing of the WHO FCTC and this decision has survived until now.

In 2003, the government had several reasons. First, Indonesia has a high level of consumption of tobacco products that support the national economy. Second, the government considers Indonesia's status as one of the largest tobacco industry producers in the world, which has an impact on the high level of excise receipts from the tobacco products industry sector. Third, there are reasons related to the absorption of labor in the tobacco industry sector.

It can be seen that the government's expression as mentioned above does not directly explain the reason for Indonesia's cancellation of the signing of the WHO FCTC. This is considering the condition of the Indonesian agricultural industry (growth rate, production rate of tobacco products, and consumption level) which is not much different between 1996 and 2003 [8].

Based on the study conducted on the final formulation of the WHO FCTC, it can be identified three agendas that are the main substance of the convention. The first is the application of high taxes on the tobacco products industry aimed at inhibiting the production and consumption of tobacco products. The second is the ban on the sale of tobacco products, especially to minors.

The third is the ban on the sale of cigarettes in bars or small quantities. These agendas, as also mentioned in previous discussions, raise concerns over the negative impact on Indonesia's national (economic) interests as well as over foreign intervention in Indonesia's development industry. Examples are some provisions that prohibit farmers from growing certain types of tobacco plants. These rules are summarized in the points governing the international standardization of tobacco products. If quoting Jeane Neltje Saly, there are at least two main reasons for the rejection of the Indonesian government, as well as other actors in the cigarette industry, to the final formulation of the WHO FCTC, namely related to the high excise policy (tax increasing) and the comprehensive ban on cigarette promotion (total ban promotion) [5].

Concerns such as those described above basically do not arise without foundation. As stated by Hikmahanto Juwana, "intervention" in a country's policy becomes a behavior

that can be justified by international law when the country concerned has “voluntarily” bound (ratified) to an international treaty [9]. If studied thoroughly, the shift in the voluntarism of Indonesia’s involvement in the WHO FCTC is linear with the shift in the interpretation of the WHO FCTC reducing cost function by the Indonesian government.

At the beginning of the formulation of the convention, the Indonesian government saw WHO FCTC as a solution to the losses suffered in the health, social, and economic fields caused by the consumption of tobacco products industry products by the Indonesian people. However, the who’s a final formulation of the FCTC, which predominantly contains provisions on tobacco control, has raised concerns at the domestic level in Indonesia. The Indonesian government does not see the function of reducing the cost of the WHO FCTC because the convention raises concerns about threats to national (economic) interests.

This is the reason behind the cancellation of Indonesia’s participation in the signing of the WHO FCTC. In addition, no significant consequences were found for Indonesia’s reputation when it decided not to sign the WHO FCTC. In the 16 years since 2003, the trend of cigarette production and the contribution of the tobacco products industry to state revenues (excise) and Indonesia’s GDP have experienced significant growth from year to year [10].

### 3) *Indonesia’s Interpretation of the Information Facilitation Function of WHO FCTC*

The information facilitation function in international cooperation became the most vital function of the international regime for Keohane. This is because mutually beneficial international cooperation has the potential to fail if there is an asymmetric information structure, there are moral barriers, and irresponsible actions of actors appear [11]. Keohane realizes that in international cooperation, one or several actors are better informed than other actors on a particular issue. This can give rise to asymmetrical information structures and can hinder cooperation between countries [12].

The same thing was also expressed by George Akerlof through the concept of “the market for lemons” and Stiglitz in describing the potential for the uncertainty of quality and failure of market mechanisms that can affect international cooperation [11]. In the Indonesian context, the asymmetrical structure of information occurs because the final substance of the WHO FCTC tends to be dominant in talking about tobacco control compared to the implementation of health protection. As a result, the information structure has caused an imbalance in position between countries that have tobacco control interests and countries that have economic interests in the tobacco products industry sector.

The imbalance in the information structure reflected in the dominance of the tobacco control agenda, in addition to the guiding principles, is also found in articles in the WHO FCTC, for example, articles 6 to 14 which regulate efforts to reduce tobacco demand and articles 15 to 17 which regulate the reduction of tobacco supply. The impact is that concerns have been raised that the ratification of the WHO FCTC will be used to encourage the fulfillment of tobacco control agendas of certain actors. This can threaten the national interests of countries that have economic interests in the development industry, one of which is Indonesia.

The final formulation of the WHO FCTC also creates asymmetrical information at the Indonesian domestic level. Responding to WHO FCTC, at the national domestic level, Indonesia formed two groups that have different points of view of arguments and narratives. The first is a community group that supports the ratification of the WHO FCTC and views it as urgent (tobacco control support group). For this community group, the ratification of WHO FCTC can be a manifestation of the Indonesian government's commitment to the protection of public health [13].

This is also considered important to build a positive image of Indonesia in the international world. The second group is a counter-argument to tobacco control groups rejecting the Indonesian government's ratification of the WHO FCTC. This community group builds a narrative of support for the national tobacco industry based on Indonesia's national interests in the economic field, protection of tobacco farmers and workers, as well as concerns about potential foreign interventions present through the WHO FCTC [5, 7].

In simple terms, the problem of asymmetrical information at the Indonesian domestic level lies in the narratives that come from tobacco control support groups, which are considered contrary to national preferences and interests. These narratives are also considered to corner tobacco commodities and actors related to tobacco product producers.

### 3 Conclusion

Based on the above, it can be concluded that tobacco consumption control is something that must be implemented by every country as an effort to protect public health, because one of the welfare indicators is the level of public health, and tobacco consumption is a potentially negative factor for public health.

One of the tobacco control efforts can be implemented by making and implementing tobacco consumption regulations, where there are differences in views of tobacco control regulations between the Indonesian government and WHO, and the framework Tobacco control work initiated until now has not been ratified by the Indonesian government for several reasons including reasons affecting the economy, state income through tax sector from the tobacco industry, as well as from the absorption of labor.

In addition, the Indonesian government has also implemented regulations aimed at tobacco control, most of which are in line with the tobacco control framework initiated by WHO.

However, on the other hand, the Government of Indonesia ratified the SDGs, one of the target goals of which is that all countries have implemented the FCTC as a reference for tobacco farming regulations. To improve the level of public health through tobacco consumption control, the right step is that the Indonesian government needs to ratify the FCTC as a reference for tobacco control regulations. And optimization of public health improvements aimed at improving well-being.

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