WORLD HEALTH ORGANIZATION

CONFERENCE OF THE PARTIES TO THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL
First session

(Draft) A/FCTC/COP/1/11
17 February 2006

Third report of Committee A

(Draft)

Agenda item 5 **Additional matters identified in the Convention for consideration by the Conference of the Parties**

Committee A recommends to the Conference of the Parties the adoption of the attached decision on Elaboration of guidelines for implementation of the Convention.

Elaboration of guidelines for implementation of the Convention

The Conference of the Parties,

Considering Articles 7 and 9 of the WHO Framework Convention on Tobacco Control (FCTC), which require the Conference of the Parties (COP) to propose guidelines on the implementation of the provisions of Articles 8 to 13 at the national level;

Recognizing the assistance that such guidelines may provide to Parties in the development and implementation of policies and programmes related to the non-price measures for tobacco control that are set out in Articles 8 to 13;

Recognizing also the need to address issues related to Article 5.3 and Article 14;

Desiring to promote the availability of information on best practices for tobacco control to all Parties for their use, as appropriate, in the context of elaboration and implementation of their national laws and in accordance with national circumstances;

Desiring to achieve maximum effectiveness and efficiency in the elaboration and development of guidelines, and recognizing the role that relevant intergovernmental and nongovernmental organizations could have in this task because of the broad areas of expertise they have in these issues;

DECIDES:

(1) to adopt the templates for the elaboration of guidelines on Articles 8 and 9, as they appear in the Annex to this decision;

(2) to take note of the templates for the elaboration of guidelines on Articles 9 phases 2 and 3, and Articles 10 to 13 as examples for the elaboration of guidelines for these articles;

(3) to accord the highest priority to guidelines on Article 8 and the first phase of Article 9, and to request the secretariat to initiate work on these guidelines, on the basis of the templates, and to present draft guidelines to the second Conference of the Parties, if possible, or progress reports;

(4) to adopt the following criteria for prioritization of the work related to the guidelines with respect to Articles 9 to13 which are mandated specifically by the Framework Convention and Articles 5.3 and 14, which have been requested by several Parties:

1. **Request from Parties:** there is an expressed need for the guidelines to assist Parties in implementing the FCTC.

2. **Existing work on the topic:** there is relevant existing work, e.g. Tobacco Free Initiative (TFI) guidelines, so guidelines can be developed more quickly and efficiently.

3. **International value added:** international guidelines may be of particular assistance to Parties to implement some obligations, while involving a number of Parties allows expertise and costs to be shared.

4. **Potential impact of the measure covered by the guidelines:** measures are known to be effective at reducing the impact of tobacco.

5. **Ease of implementation:** this includes cost of implementation.

6. **Willingness of Parties to lead:** Parties have volunteered as key facilitators, partners or reviewers.

7. **Outcome measurability:** this is relevant to reporting (Article 21) and the potential to measure and analyse data.

8. **Contribution to maintaining momentum in implementing the FCTC:** this is particularly important in the early stages of implementation.

9. **Cost of guidelines development:** guidelines should be developed efficiently.

10. **International cooperation and cost sharing** are essential to effectively implement the elements of the guidelines.

(5) to request the secretariat to utilize these criteria in preparing a workplan for the elaboration of guidelines on the relevant articles, for consideration by the COP at its second session.

(6) to invite the relevant intergovernmental and nongovernmental organizations with specific expertise in the guideline matters to actively participate and contribute to the further elaboration and development of the guidelines, as per request from the secretariat.

ANNEX 1: ARTICLE 8: PROTECTION FROM EXPOSURE TO TOBACCO SMOKE

Subject	**Article 8:** **Protection from exposure to tobacco smoke**
CONTENTS:	
Objectives and rationale	Rationale: Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability. Protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and other public places is required. From a public health perspective, no “safe” levels of second-hand smoke exist. And there is conclusive evidence that engineering approaches do not protect against exposure to tobacco smoke. Objective: To provide guidelines for protection from exposure to tobacco smoke.

Clear definition of elements of guidelines	1. Clarification and definition of the terms: "exposure to tobacco smoke", "indoor workplaces", "public transport", "indoor public places", "other public places" 2. Scope and coverage of policies for protection from exposure to tobacco smoke 3. Recommendations for implementation and enforcement of the legislative and administrative measures 4. Recommendations for monitoring and evaluation of legislative and administrative measures 5. Classification of second-hand smoke as a carcinogen
Needs/value-added	1. Provide uniformity in tobacco control measures and activities 2. International cooperation and information sharing of the best practices and lessons learnt 3. Having an international guideline from the COP of the WHO FCTC will facilitate the application/implementation
Existing work to build on	<u>Published by TFI:</u> 1. WHO TFI with the WHO collaborating centre on tobacco control (Johns Hopkins University) organized an expert consultation in this area in November 2005. WHO policy recommendations on second-hand smoke and smoke-free environments will be published based on this consultation. 2. The AMRO/PAHO TFI has a project entitled "Smoke free Americas". This initiative is dedicated to raising awareness of the harm caused by second-hand tobacco smoke, and supporting efforts to achieve more smoke-free environments in the Americas. 3. WHO TFI has published best practices in the area of second-hand tobacco smoke as part of its series "Success stories and lessons learnt". <u>Examples of legislation in certain countries</u> 1. Ireland: Act on banning smoking in public places 2. New Zealand: Smokefree Environments Act, 1990 3. Norway: Tobacco Act, 1973 (revision 2003) 4. Sweden: National Tobacco Law 5. Uruguay: Decree 268/05 on banning smoking in all public places 6. India: Legislation in 2003; rules modified in 2004

PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	Permanent secretariat, in consultation with TFI and with the assistance of the Parties willing to participate to ensure regional representation.
Parties who offer to act as key facilitators (either via resource mobilization or technical work)	Ireland, New Zealand, Finland
Other Parties who offer to partner in the development of guidelines	Sweden, France, Germany, Brazil, Fiji, Vanuatu, Djibouti, Uruguay, China, Jamaica, Mexico, Hungary, Panama, Mali, Peru
Parties who offer to act as reviewers (in addition to the usual peer experts)	Norway, Palau, Marshall Islands
Resource implications	If the implementing entity is TFI, then TFI would need an additional budget. If the secretariat is the implementing entity, then the COP would need to give the secretariat the necessary resources. In both cases, additional budget would be needed to ensure that developing country delegates are able to participate.
Time frame:	
for guideline development	One or two meetings necessary For the second COP draft guidelines or progress report, as appropriate, should be presented on the work undertaken so far.
for review	1 September 2006
for submission to the Bureau	60 days before COP2
for circulation to the Conference of the Parties	30 days before first day of COP2

ANNEX 2: ARTICLE 9: PRODUCT REGULATION

Subject	Guidelines for the implementation of Articles 9 and 10 on the regulation of the contents of tobacco products and of tobacco product disclosures
Introduction	The overall purpose of guidelines for the implementation of the provisions in Articles 9 and 10 is to assist Parties in strengthening the regulation of the content of tobacco products. The elaboration of these guidelines involves three phases: first phase – the development of a guideline for the testing and measuring of the contents and emissions of tobacco products; phases two and three – to address regulations and/or disclosure (Article 10). The order of the second and third phases shall be considered by COP2.
CONTENTS:	
Rationale	• The testing and measuring of the contents and emissions of tobacco products serve as the basis for the regulation
Objective	• To provide guidelines for testing and measuring the contents and emissions of tobacco products
Clear definition of elements of guidelines	• Address testing and measuring of tobacco contents and smoke emissions from a public health perspective • Start with cigarettes (because most commonly used tobacco product) • Focus on a selected set of especially harmful substances or smoke emissions • Include criteria to assess the toxicity, addictiveness and attractiveness of these substances and/or products • Study the design features of these products • A recommendation on further work in order to continue to inform Contracting Parties on how best to adopt new strategies of tobacco product regulation as new scientific evidence is obtained and as new or modified products are introduced into the market
Needs/value-added	• Guidelines assist national authorities in implementing this article and thus facilitate regulatory control over tobacco • Leads to the establishment of an independent set of data and testing and measurement methods on tobacco products and their emissions from a public health angle in the medium and long term • International cooperation in this area leads to sharing of costs and expertise (value added of international cooperation)

Existing work to build on	Base guidelines on the work already done by the WHO Study Group on Tobacco Product Regulation (TobReg) and TFI (WHO/TFI shall specify in a paper what they can already deliver and continue to work on this subject).
PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	Permanent secretariat to initiate its work with TFI/TobReg in consultation with competent international bodies, as necessary – under the guidance of Contracting Parties identified as key facilitator(s) and with the assistance of the Parties willing to ensure regional representation.
Parties who offer to act as key facilitators	Norway, Canada and the European Community
Other Parties who offer to partner in the development of guidelines	Brazil, Jordan, Netherlands, Denmark, Finland, China, Mexico, Hungary
Parties who offer to act as reviewers (in addition to the usual peer experts)	Jamaica, Australia, France
Resource implications	Permanent secretariat in consultation with WHO/TFI will consider the workplan and budget implications
Time frame:	
for guideline development	For the second COP a draft of guidelines or a progress report should be presented on the work undertaken so far.
for review	At least 60 days prior to submission to the Bureau
for submission to the Bureau	At least 90 days prior to the first day of the COP
for circulation to the Conference of the Parties	Minimum of 30 days prior to the first day of the COP

ANNEX 3: SAMPLE (AS IT HAS NOT BEEN DISCUSSED) WORKPLAN FOR THE DEVELOPMENT OF GUIDELINES ON PACKAGING AND LABELLING OF TOBACCO PRODUCTS

Subject	Article 11: Packaging and labelling of tobacco products
CONTENTS:	
Objectives and rationale	The tobacco industry thrives by disseminating misleading information regarding social acceptability and health effects of their product. In order to curb the epidemic of tobacco use, consumers need to be well informed of the consequences of product use. To provide consumers with better quality information based on human testing of tobacco products and avoid conveying the impression that the product provides a relative health benefit.
Clear definition of elements of guidelines	The tobacco product packaging and labels should bear information on: • health warnings • informative smoking cessation messages • statements about toxic emissions or constituents • adverse economic information • official language(s) of the country • size of the packaging label • use of graphic warnings
Needs/value-added	• Information sharing on international best practices • Strengthen measures and legislation
Existing work to build on	Existing resources include: • Papers and non-papers commissioned by WHO • Government, intergovernmental organizations, nongovernmental organizations and other publications including WHO papers and non-papers
PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	Option 1 – For the permanent secretariat to be mandated to take this role, working with TFI. Option 2 – For TFI to continue its work with TobReg for TobReg to develop the guidelines for review, approval and adoption by the COP. Option 3 – Establishment of an informal group of experts on tobacco product testing and research, design, addiction, harm reduction, and regulation.

Parties who offer to act as key facilitators (either via resource mobilization or technical work)	Canada, Brazil
Other Parties who offer to partner in the development of guidelines	Thailand, European Community, Australia, Singapore, Uruguay, Mexico, China, Hungary, Peru, Panama, Djibouti
Parties who offer to act as reviewers (in addition to the usual peer review by experts)	New Zealand
Resource implications	Option 1 – the COP would have to budget for this or mobilize funds through one or more facilitator Party (from above list). Option 2 – TFI could be positioned to assist countries to expand capacity, but TFI would require further funding from donor countries if more than one meeting were to be convened. Option 3 – the COP would have to budget for this or mobilize funds some other way. In all three cases, additional budget would be needed to ensure that developing country delegates are able to participate.
Time frame:	
for guideline development	One or two meetings necessary
for review	1 September 2006
for submission to the Bureau	60 days before the COP2
for circulation to the Conference of the Parties	30 days before first day of COP2

ANNEX 4: SAMPLE (AS IT HAS NOT BEEN DISCUSSED) WORKPLAN FOR THE DEVELOPMENT OF GUIDELINES ON REGULATING CROSS-BORDER ADVERTISING

Subject	**Article 13:** **Regulating cross-border advertising**
CONTENTS:	
Objectives and rationale	Objectives: • To assist Parties in curbing/regulating cross-border advertising. Rationale: • It has been well documented that tobacco advertising, including cross-border advertising, encourages non-smokers to begin smoking, and discourages smokers from quitting. o Under this template, the term "cross-border advertising" refers to cross-border advertising, promotion and sponsorship. • Therefore, any ban on cross-border advertising would likely have a measurable effect on reducing tobacco consumption, thus reducing morbidity and mortality and increasing quality of life. • Furthermore, bans on domestic advertising can well be undermined by the effects of cross-border advertising, eliminating cross-border advertising can thus strengthen domestic anti-ad measures. • States have a mandate to consider the elaboration of a cross-border advertising protocol as defined by Article 13(8) of the FCTC.
Clear definition of elements of guidelines	• Develop clear, agreed-upon definition of cross-border advertising, potentially based on existing best practices. o Definition should include not only traditional media-based forms of advertising (television, radio, print, sports sponsorship) but emergent vehicles as well (satellite-based media, film, Internet). Attention should also be paid to tobacco-labelled consumer goods, such as toys and clothing. • Collaborate in several capacities on several levels, including: o International cooperation on research into cross-border advertising methods and effects. Potential regulatory measures should be researched as well, as mandated by Article 13(6). • Collaborate on effective dissemination of above information. o Collaborate with global, regional and domestic organizations involved in trade, media, advertising and marketing. o Cooperation on the development of filtering technologies to regulate media-based advertising, including the Internet.

	• Describe elements comprehensively banning all forms of cross-border advertising for inclusion in a potential protocol. • Require Parties to act on extra-jurisdictional complaints regarding advertising activities emanating from their own jurisdictions. • Define which domestic entities could be identified as the potential subjects of cross-border advertising bans.
Needs/value-added	Needs: • Further research into cross-border advertising methods and effects, as well as potential regulatory measures. • Collaboration on above research and information sharing. • Consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, pursuant to Article 13(8). Value-added: • Bans on cross-border advertising will reduce tobacco uptake and use, thus reducing morbidity and mortality and increasing quality of life. • Bans on cross-border advertising will strengthen domestic anti-ad measures. • The transnational nature of the problem will encourage further cooperation between concerned States and organizations.
Existing work to build on	• Existing resources include: o Papers and non-papers commissioned by WHO. o Government, intergovernmental organizations, nongovernmental organizations and other publications, including WHO papers and non-papers. o 2003 European Community tobacco advertising directive[1]. o Existing laws or practices concerning cross-border regulation of other activities, such as pornography, of the Internet, and of movies. o Results of the 2000 WHO Conference on Global Tobacco Control Law, including the publication "Tobacco Advertising & Promotion: The Need for a Coordinated Global Response".

[1] The subject matter and scope of which relates to "the advertising of tobacco products and their promotion:

(a) in the press and other printed publications;

(b) in radio broadcasting;

(c) in information society services; and

(d) through tobacco related sponsorship, including the free distribution of tobacco products".

PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	Option 1 – For the permanent secretariat to be mandated to take this role. Option 2 – Acting in its capacity as a technical adviser, for TFI to expand upon this role and address cross-border advertising. Option 3 – Establishment of an informal group of experts on cross-border advertising.
Parties who offer to act as key facilitators (either via resource mobilization or technical work)	European Community (based on the 2003 tobacco advertising directive), India (regarding regulation of smoking in cinemas), Sweden (could provide assistance based on success in *Konsumentombudsmannen v Gourmet International Products*, ECJ 2001, arguing that cross-border advertising bans were justified on public health grounds).
Other Parties who offer to partner in the development of guidelines	Malaysia, Thailand, China, Mexico, Hungary
Parties who offer to act as reviewers (in addition to the usual peer experts)	European Community
Resource implications	These guidelines have the potential to be resource intensive (in terms of money, expertise, and responding to industry-engendered challenges) on a scale comparable to that demanded by the guidelines relating to Articles 8-12. Additional budget would be needed to ensure that developing country delegates are able to participate.
Time frame:	
for guideline development	Although TFI and the TobReg's work in this area could serve as the basis for guidelines development, it is still foreseen that any group mandated to develop the guideline would need to meet two to three times prior to COP2.
for review	At least 60 days prior to submission to the Bureau
for submission to the Bureau	At least 90 days prior to the first day of the COP
for circulation to the Conference of the Parties	Minimum of 30 days prior to the first day of the COP

ANNEX 5: SAMPLE (AS IT HAS NOT BEEN DISCUSSED) WORKPLAN FOR THE DEVELOPMENT OF GUIDELINES: EDUCATION, COMMUNICATION, TRAINING AND PUBLIC AWARENESS

Subject	**Article 12:** **Education, communication, training and public awareness**
CONTENTS:	
Objectives and rationale	Rationale: Parties recognize the need to promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Objective: Successful implementation of tobacco control measures requires public awareness/education on tobacco control issues. Therefore, Parties shall promote broad access to effective and comprehensive public awareness programmes on health risks of tobacco use and exposure to tobacco smoke; benefits of cessation of tobacco use, adverse consequences of tobacco production and consumption, and importance of legislative and other tobacco control measures. Similarly, professionals, volunteers and office bearers working in areas that are particularly relevant for tobacco control, such as health planners and health professionals, community workers, media professionals, legislators, customs and police officials, need appropriate training on tobacco control.
Clear definition of elements of guidelines	1. Specify essential components of and strategies for effective and comprehensive public awareness programmes on: (a) Health risks of tobacco use and exposure to tobacco smoke (b) Benefits of cessation of tobacco use (c) Adverse consequences of tobacco production and consumption (d) Importance of WHO FCTC provisions, to support implementation. 2. Recommendations on training and/or sensitization and awareness programmes on tobacco control, addressed to various professional groups, as enlisted in Article 12(d). 3. Recommendations for allocation of human resources and health systems planning to enable health professionals and other groups to promote education, communication and public awareness on tobacco control. 4. Specify strategies for providing public access to information on tobacco industry activities in the country.
Needs/value-added	1. Provide uniformity in tobacco control measures and activities 2. International cooperation and information sharing of the best practices and lessons learnt

Existing work to build on	WHO TFI: 1. Building Blocks for Tobacco Control: A Handbook (WHO, 2004). 2. Tools for advancing tobacco control in the 21st century: Success stories and lessons learned. 3. Glossary on WHO Collaborating Centres on Tobacco Control. WHO, 2005 (publications of WHO collaborating centres can be accessed through this glossary available online at http://www.who.int/tobacco/global_interaction/collab_centers/glossary_who_cc_tobacco_control/en/index.html. 4. Tobacco industry and corporate responsibility: An inherent contradiction. WHO, 2004. 5. Tobacco industry documents: What they are, what they tell us and how to search them. A practical manual (second edition). WHO, 2004. 6. The development of Phillip Morris' position on environmental tobacco smoke for its web site. WHO, 2004.
PROCESS:	
Implementing entity (mandated by the Conference of the Parties)	Option 1 – For the permanent secretariat to be mandated to take this role. Option 2 – Acting in its capacity as a technical adviser, for TFI to build upon this role. Option 3 – permanent secretariat and TFI to establish an informal group of experts to advise Parties.
Parties who offer to act as key facilitators (either via resource mobilization or technical work)	Ireland
Other Parties who offer to partner in the development of guidelines	Thailand, Egypt, India, Hungary, Estonia, Australia, China, Mexico, Peru, Chile, Armenia, Panama, Mali, Djibouti
Parties who offer to act as reviewers (in addition to the usual peer experts)	
Resource implications	If the permanent secretariat is the implementing entity, then the COP should give the secretariat the necessary resources If the implementing entity is TFI, then TFI would need an additional budget

Time frame:	
for guideline development	One meeting necessary
for review	At least 60 days prior to submission to the Bureau
for submission to the Bureau	At least 90 days prior to the first day of the COP
for circulation to the Conference of the Parties	Minimum of 30 days prior to the first day of the COP

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