



WORLD HEALTH ORGANIZATION

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

A/FCTC/COP/1/DIV/6

7 February 2006

First session
Agenda item 3

Report of the Open-ended Intergovernmental Working Group on the WHO Framework Convention on Tobacco Control

Report of the Chair

OPENING REMARKS

1. In May 2003, the Health Assembly unanimously adopted the WHO Framework Convention on Tobacco Control by resolution WHA56.1. It was a landmark in the history of global public health. At the same time, the Assembly recognized that significant preparatory work should be undertaken in order for the first session of the Conference of the Parties to be able to fulfil its mandate under the terms of the Convention. As such, the Open-ended Intergovernmental Working Group was established to consider and prepare proposals on matters identified in the Convention for adoption, as appropriate, by the Conference of the Parties. The working group's mandate included:

- (a) options for the designation of a permanent secretariat and arrangements for its functioning;
- (b) draft budget for the first financial period;
- (c) rules of procedure for the Conference of the Parties, including criteria for participation of observers at sessions of the Conference;
- (d) a review of existing and potential sources and mechanisms of assistance to Parties in meeting their obligations under the Convention; and
- (e) financial rules for the Conference of the Parties and its subsidiary bodies and financial provisions governing the functioning of the secretariat.

2. Furthermore, the working group was to oversee preparations for the first session and report directly to the Conference of the Parties.

3. As Chair of the working group, I am here to report the outcomes of the two sessions of the working group, held from 21 to 25 June 2004 and from 31 January to 4 February 2005, and the

ensuing Bureau meetings convened in preparation for the first session of the Conference of the Parties to the WHO Framework Convention.

4. During the whole process, I would like to acknowledge and thank, once again, for the support received from the Director-General and his team, particularly the Tobacco Free Initiative under the leadership of Dr Vera Luiza da Costa e Silva and Douglas Bettcher, two extraordinary human beings and hard-working international civil servants to whom I wish to pay a special tribute.

5. I would also like to thank the Vice-Chairpersons for their help and for acting on my behalf when I could not be present to coordinate the work of the working group, in particular to Ms Patricia Lambert, from South Africa, who chaired the second session of the working group with her customary skill and dedication.

INTERGOVERNMENTAL WORKING GROUP ACTIVITIES IN PREPARATION OF THE FIRST SESSION OF THE CONFERENCE OF THE PARTIES

Options for designation of the permanent secretariat and arrangements for its functioning

Designation of the permanent secretariat

6. During its first session from 21 to 25 June 2004, the working group considered options for the designation of the permanent secretariat and arrangements for its functioning, facilitated by document A/FCTC/IGWG/1/7 prepared by the interim secretariat. Over the course of that meeting, the working group made significant progress. We were able to narrow our focus and we requested the interim secretariat to prepare a document describing the secretariat arrangements most commonly employed by multilateral conventions for use at the next session of the working group.

7. As per this request, document A/FCTC/IGWG/2/2, describing three models of secretariat was released for discussion during the second session. As noted in the document, the primary difference between the common genres of secretariats was the level of integration in or autonomy from the parent institution. Increased autonomy correlated with increased budgetary requirements.

8. Given the complexity of the issues concerning the designation of the permanent secretariat, the working group at its second session convened an informal open-ended working group to elaborate on core principles and recommendations, whose suggestions were approved by the working group.

9. Essentially they are as follows:

(a) The permanent secretariat of the WHO Framework Convention on Tobacco Control should be located in Geneva within the World Health Organization.

(b) The head of the permanent secretariat should be proposed by the Conference of the Parties in consultation with the Director-General, and appointed by the Director-General, and should report to the Conference of the Parties on treaty issues and to the Director-General on technical and administrative issues.

(c) All staff of the permanent secretariat should be WHO staff, and should be recruited by the head of the permanent secretariat in terms of WHO recruitment procedures.

(d) The staff of the permanent secretariat should report to the head of the permanent secretariat.

(e) Concerning the administrative governance, WHO's rules and regulations should apply.

(f) Facilitation of the implementation of the Framework Convention, with respect to treaty support issues, should be performed by the staff of the permanent secretariat, with support from the Tobacco Free Initiative and other relevant departments of WHO.

The facilitation, on technical issues, should be provided cooperatively by the Tobacco Free Initiative, in consultation with the permanent secretariat.

The mechanisms for such coordination would be defined by the Director-General in consultation with the Conference of the Parties.

(g) The programmes and budgets should be adopted by the Conference of the Parties on treaty support issues, and approved by the Health Assembly on technical and administrative issues.

(h) The budget of the permanent secretariat has to be based directly on the functions defined by Article 24 of the Framework Convention.

(i) Transparency, efficiency, cost-effectiveness, and avoidance of duplication should be important guiding principles in deciding the structure and functioning of the permanent secretariat.

(j) The staffing of the permanent secretariat should take into account the criteria of equitable geographical balance, gender equity, and balanced representation between developed and developing countries.

(k) The functions of the permanent secretariat should cover the tasks mandated by Article 24 of the Framework Convention and performed progressively, as prioritized by the Conference of the Parties. These priorities may be periodically reviewed and reset by the Conference of the Parties.

(l) In order to enable a productive and collaborative synergy between the permanent secretariat and the Tobacco Free Initiative, the Health Assembly should consider strengthening the Tobacco Free Initiative.

10. According to the proposed model, the permanent secretariat would provide support for the treaty, WHO's Tobacco Free Initiative would facilitate implementation of the WHO Framework Convention with respect to technical matters in collaboration with the permanent secretariat, and WHO's Secretariat would provide administrative support. WHO's Tobacco Free Initiative and the permanent secretariat would cooperate on both technical issues and treaty support. The Initiative would continue to report to the Director-General through the relevant Assistant Director-General.

Arrangements for the functioning/funding of the permanent secretariat

11. Of particular concern to the Working Group was how the permanent secretariat – and the Conference of the Parties itself – would be funded. Noting that there was no obligation in the

Convention for Contracting Parties to contribute, the working group discussed the premise that all payments would be voluntary unless the Conference of the Parties decided otherwise.

12. Given this, the working group considered the idea that the Conference of the Parties could reflect the general practice in other similar agreements, particularly in the field of environment, by adopting a system of “voluntary assessed contributions”, which could be based on the WHO scale of assessments.

13. The working group noted that although contributions under the multilateral environmental agreement practice are expressly stated as “voluntary”, a specific amount is expected periodically from each Party in accordance with the agreed scale of assessments. Additionally, voluntary assessed contributions cannot be earmarked for a particular purpose or project.

14. Regardless of how contributions are obtained, the working group feels that the permanent secretariat should have a separate budget approved by the Conference of the Parties and be accountable to the Conference.

Draft budget for the first financial period

15. Aided by a document prepared by the interim secretariat summarizing the experience of WHO and examining the options used under other similar conventions, the working group considered during its first session the options for composing a budget for the first financial period and identified the required next steps. In the course of the discussions, the working group requested the interim secretariat to provide further financial information that might give some indication of the likely costs of implementing the Framework Convention and the possible level and structure of the budget.

16. As per that request, a document subtitled “Financial history of WHO’s Tobacco Free Initiative” was prepared for use at the second session. This document responded to two of the specific requests for financial information, namely, the request for a breakdown of the expenditure of WHO’s Tobacco Free Initiative over the previous five years and the request for the proposed budget allocations for the Initiative for the biennium 2006-2007.

17. As discussions during the second session continued, the working group determined that it would need additional information to continue its deliberations. As such, the interim secretariat produced a results-oriented projected proposed budget for the permanent secretariat totalling US\$ 8 010 000. After careful consideration, this budget was accepted by the working group for inclusion in its report to the Conference of the Parties and can be found as Annex 3 of the report of its second session.

18. Recognizing that even further detail was required for the Conference of the Parties to make fully informed decisions, the working group requested that the interim secretariat prepare a document for the Conference of the Parties indicating options for ensuring adequate coordination between the Health Assembly and the Conference of the Parties, between the Tobacco Free Initiative and the permanent secretariat and between the permanent secretariat and the regional offices of WHO. The interim secretariat was also asked to expand the proposed budget to include further detail as to activities and outcomes. In response, the interim secretariat has prepared document A/FCTC/COP/1/5 for the consideration of the Conference of the Parties.

Draft rules of procedure for the Conference of the Parties

19. The working group has prepared a set of draft rules of procedure for consideration by the Conference of the Parties, in accordance with its mandate. Negotiation of the draft rules began at the first session, facilitated by a draft prepared by the interim secretariat based on precedents from other similar conventions. The working group amended and altered the draft rules over the course of both sessions. Most of the wording has been agreed on by the working group. Only a relatively small number of rules are still in square brackets, thus requiring particular attention. These are:

(a) Rules 2.10, 2.11 and 2.12 (defining the terms “public”, “open” and “restricted” sessions or meetings) and Rules 61 to 64 (relating to production and distribution of records of meetings)

As concerns this group of draft rules, the Intergovernmental Working Group asked the interim secretariat to draft language on the basis of the Rules of Procedure of the Executive Board on the issues concerned. It should be noted that the language now appearing in square brackets has been drafted by the interim secretariat, and has not been seen by the working group.

(b) Rules 7 and 9 (relating to provisional agenda items for regular sessions of the Conference of the Parties)

Regarding Rule 7, new language was proposed during the Intergovernmental Working Group discussions, on which agreement could not be reached, and which was therefore placed in square brackets. As a consequence, the last sentence of Rule 9, which relates directly to Rule 7, was also placed in square brackets pending agreement on Rule 7.

(c) Rules 27.2 and 31 (relating to the identification of sessions or meetings as “public”, “open”, or “restricted”)

These rules have been placed in square brackets by the Intergovernmental Working Group in order to allow the Conference of the Parties to review their content in light of the outcome of the consideration of Rule 2, which will define these terms (based on the language provided by the interim secretariat, as explained under (a) above).

(d) Rule 28.2 (relating to the question of whether the Chair of a subsidiary body may exercise the right to vote)

This question has not been decided by the Intergovernmental Working Group.

(e) Rules 29 and 30 (relating to the invitation and attendance and participation of observers)

During the discussions of the Intergovernmental Working Group, there was a divergence of views on the content of these rules. They still require considerable work before they can be applied.

(f) Rule 49 (relating to modalities of decision-making)

In the discussion of this rule, there was divergence of views on the modalities of decision-making. More work will be needed in order to finalize this rule.

Study of potential sources and mechanisms of assistance

20. The working group approved terms of reference for the study on potential sources and mechanisms of assistance to be carried out by the interim secretariat according to Article 26.5(c) of the Framework Convention.

21. The working group indicated that the study should describe the need for assistance and the uses to which it would be put. It was agreed that the study would not seek to make recommendations. In addition, the working group suggested that the study should take into account governmental as well as multilateral and bilateral channels of assistance and consider potential contributions from nongovernmental sources provided they had no links with the tobacco industry.

22. The interim secretariat has published this study as document A/FCTC/COP/1/4.

Draft financial rules for the Conference of the Parties

23. In preparation for the working group's discussion of financial rules during its first session, the interim secretariat prepared a draft set of rules based on the precedent of other conferences of the parties. However, because the model for the permanent secretariat proposed by the working group suggests that the permanent secretariat be located within WHO, the working group questioned whether there is a need to adopt separate financial rules. With this in mind, the working group recommends that the Conference of the Parties adopt the Financial Regulations and Financial Rules of WHO. The financial accounts of the permanent secretariat could be audited based on existing mechanisms as per the Rules and practice of WHO.

24. On points of divergence, most saliently regarding the nature of contributions, the Conference would have to adopt resolutions specifying how its budget differs from that of WHO.

25. Let me close this section of my report by saying that when we adopted the report of the first working group, we corrected an inconsistency relating to the naming, in the report, of regional and nongovernmental organizations, representatives and countries. We decided not to attribute comments to particular Member States or observers. This is a common practice for reports of meetings throughout the United Nations system, perhaps with some exceptions. We therefore decided to use the same methodology for presenting the report of the second working group. However, we do not intend for this to set a precedent. The Conference of the Parties will be able to determine the style that it wishes to use for the presentation of its reports.

BUREAU ACTIVITIES IN PREPARATION OF THE FIRST SESSION OF THE CONFERENCE OF THE PARTIES

26. Pursuant to resolution WHA56.1, the Open-ended Intergovernmental Working Group was mandated to also oversee preparations for the first session of the Conference of the Parties. Accordingly, since the close of the second session of the working group, the Bureau has met twice, once in October 2005 and once in January 2006, in order to discuss what is needed by the Conference of the Parties and make recommendations on issues that are likely to arise, but that had not been addressed by the working group. With that purpose, the following issues were discussed:

- provisional rules of procedure for the Conference of the Parties for use until final rules of procedure are adopted;

- the status of observers and the modalities of their participation in the Conference of the Parties process;
- proposed method of work for the Conference of the Parties;
- election of officers; and
- logistical arrangements for the first session.

Proposed provisional rules of procedure for the Conference of the Parties and accompanying legal note

27. The Bureau noted that until permanent rules of procedure are adopted, the Conference should adopt provisional rules of procedure under which it can operate. The Bureau requested that the interim secretariat draft a note to this effect, including information on the options available to the Conference regarding provisional rules and detailing those rules that remain bracketed and so might require special attention.

28. The recommendations of the interim secretariat, made in consultation with the Bureau, concerning the provisional rules of procedure for use by the Conference until such time as final rules are adopted are reflected in the information note A/FCTC/COP/1/INF.DOC./4 Rev.1 and have been dealt with under agenda item 1.4.

Status of observers during the first session of the Conference of the Parties and proposed accompanying legal note

29. The Bureau also noted that there was need to clarify the modalities of observer participation in Conference of the Parties proceedings. Here also, the Bureau requested the interim secretariat to prepare an information note regarding this issue for the review of the Bureau.

30. In so far as the Bureau considered this a very important issue, it requested that the note be issued as a Conference of the Parties document. It is now available as A/FCTC/COP/1/INF.DOC./5.

Proposed organization of work for the Conference of the Parties

31. Having in mind the quantity of work to be undertaken by the first session of the Conference of the Parties, the Bureau and the interim secretariat recommend that the Conference adopt a method of work similar to that of the Health Assembly; that is, establishing two committees for the purpose of working through the agenda. At the end of the session, the Conference could then reconvene in plenary to discuss and adopt decisions based on the work of the committees and decide on a date and a venue for the second session of the Conference.

CLOSING REMARKS

32. Let me conclude by renewing my thanks to all those involved in the fight for tobacco control who helped me along the way. I would also like to thank WHO's Member States for having deposited their confidence in the process and in particular on the Chairmanship of Brazil.

33. This whole experience has been a major victory for global public health. We cannot, however, rest on our laurels. A new battle is now beginning with the inauguration of the Conference of the Parties. I am sure that we will be able to overcome any obstacle we might encounter on our way in order to control tobacco and curb the epidemic it causes. We have come a long way. Let us strengthen our determination and move ahead as fast and as firmly as we can.

34. It has been a privilege for me to serve you and, above all, to be able to associate the image of my country, Brazil, to the noble cause of tobacco control.

35. I wish you all the best in these next two weeks of very hard work. Good luck.

Thank you.

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