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

Second session

BANGKOK, 30 JUNE–6 JULY 2007

SUMMARY RECORDS OF COMMITTEES
REPORTS OF COMMITTEES

GENEVA
2008
PREFACE

This section of the proceedings of the Second session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control contains the summary records of the meetings of Committees A and B.

The text contains corrections received up to 7 December 2007, the cut-off date announced in the provisional version, and the records are thus regarded as final.
PART I

SUMMARY RECORDS
OF
COMMITTEE MEETINGS

COMMITTEE A

First meeting

1. Opening of the Committee

2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions
   - Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15))
     - Article 8: Protection from exposure to tobacco smoke
     - Article 9: Product regulation
   - Elaboration of protocols (decision FCTC/COP1(16))
     - Establishment of a study group on alternative crops (decision FCTC/COP1(17))

3. Additional matters identified in the decisions of the Conference of the Parties
   - Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15))
     - Article 11: Packaging and labelling of tobacco products
     - Article 12: Education, communication, training and public awareness
     - Article 13: Regulating cross-border advertising
Second meeting

1. Organization of work ............................................................................................................ 10
2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   Elaboration of protocols (decision FCTC/COP1(16)) (continued)
   Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship (continued) ................................................................. 11
   Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ........................................................................................................ 14
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
   Article 8: Protection from exposure to tobacco smoke (continued) ............................ 15

Third meeting

Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
   Article 8: Protection from exposure to tobacco smoke (continued) ........................... 19
   Elaboration of protocols (decision FCTC/COP1(16)) (continued)
   Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ......................................................................................... 21
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (resumed)
   Article 9: Product regulation (continued) ................................................................. 22

Fourth meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   Elaboration of protocols (decision FCTC/COP1/(16)) (continued)
   Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship (continued) ................................................................. 26
   Additional matters identified in the decisions of the Conference of the Parties (continued)
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
   Article 13: Regulating cross-border advertising (continued)....................................... 26
2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (resumed)
   Elaboration of protocols (decision FCTC/COP1(16)) (resumed)
   Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ........................................................................................................ 28
3. Additional matters identified in the decisions of the Conference of the Parties (resumed)
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (resumed)
   Article 11: Packaging and labelling of tobacco products .............................................. 30
   Article 12: Education, communication, training and public awareness .............. 30
4. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (resumed)
   Establishment of a study group on alternative crops (decision FCTC/COP1(17)) (continued) ................................................................. 32
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
      Article 9: Product regulation (continued) ................................................................. 33

Fifth meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   Elaboration of protocols (decision FCTC/COP1(16)) (continued)
      Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship (continued) .................................................. 35
   Additional matters identified in the decisions of the Conference of the Parties (continued)
      Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
      Article 13: Regulating cross-border advertising (continued) .............................. 35

2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (resumed)
   Elaboration of protocols (decision FCTC/COP1(16)) (resumed)
      Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ........................................................................... 37
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued)
      Article 9: Product regulation: (continued) ............................................................. 38

Sixth meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued) ................................................................. 40
   Additional matters identified in the decisions of the Conference of the Parties (continued)
      Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)) (continued) ................................................................. 40

2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (resumed)
   Elaboration of protocols (decision FCTC/COP1(16)) (continued)
      Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ........................................................................... 45
      Establishment of a study group on alternative crops (decision FCTC/COP1(17)) (continued) ........................................................................... 49

3. Second report of Committee A ............................................................................. 51
Seventh meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Elaboration of protocols (decision FCTC/COP1(16)) (continued)
     - Elaboration of a template for a protocol on illicit trade in tobacco products (continued) ................................................................. 52
   - Establishment of a study group on alternative crops
     (decision FCTC/COP1(17)) (continued) ............................................................. 56

2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Elaboration of guidelines for implementation of the Convention
     (decision FCTC/COP1(15)) .................................................................................. 58

3. Closure .................................................................................................................. 59

COMMITEE B

First meeting

1. Opening of the Committee .......................................................................................... 61
2. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions
   - Reporting and exchange of information (decision FCTC/COP1(14)) .................. 61
   - Financial resources and mechanisms of assistance (decision FCTC/COP1(13))... 64

Second meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Financial resources and mechanisms of assistance (decision FCTC/COP1(13)) (continued) ............................................................. 68

2. Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009 ......................................................... 72

Third meeting

Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009 (continued) ............................. 77

Fourth meeting

Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Reporting and exchange of information (decision FCTC/COP1(14)) (continued)..... 79
   - Financial resources and mechanisms of assistance (decision FCTC/COP1(15)) (continued) ............................................................. 80
Fifth meeting

Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
- Reporting and exchange of information (decision FCTC/COP1(14)) (continued) ................................................................. 81

Sixth meeting

1. Matters identified in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Reporting and exchange of information (decision FCTC/COP1(14)) (continued) ................................................................. 84
   - Financial resources and mechanisms of assistance (decision FCTC/COP1(13)) (continued) ............................................................. 84

2. Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009 (continued) ........................................................................................................ 86

Seventh meeting

1. Matters arising in decisions taken by the Conference of the Parties that call for action in the period between its first and second sessions (continued)
   - Financial resources and mechanisms of assistance (decision FCTC/COP1(13)) (continued) ............................................................. 99

2. Date and venue of the third session of the Conference of the Parties ......................................................... 99

3. Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009 (continued) ........................................................................................................ 100

4. Closure .................................................................................................................................................................................. 105

PART II

REPORTS OF COMMITTEES

Credentials ................................................................................................................................................................................. 109
Committee A ........................................................................................................................................................................... 110
Committee B ........................................................................................................................................................................... 111
PART I

SUMMARY RECORDS OF COMMITTEE MEETINGS
COMMITTEE A

FIRST MEETING

Monday, 2 July 2007, at 15:15

Acting Chair: Mr D. AITKEN (WHO Secretariat)
Chair: Dr F. NIGGEMEIER (Germany)

1. OPENING OF THE COMMITTEE

The ACTING CHAIR declared open the first meeting of Committee A.

Election of officers

The ACTING CHAIR announced that Dr F. Niggemeier (Germany) had been nominated for the post of Chair of Committee A.

Decision: Committee A elected Dr F. Niggemeier (Germany) as Chair.¹

The ACTING CHAIR announced that Dr M. Asqueta Sóñora (Uruguay) and Mr J.A. Al-Lawati (Oman) had been nominated for the two posts of Vice-Chair.

Decision: Committee A elected Dr M. Asqueta Sóñora (Uruguay) and Mr J.A. Al-Lawati (Oman) as Vice-Chairs.¹

Dr Niggemeier took the Chair.

The CHAIR stressed that the second session of the Conference of the Parties was expected to produce tangible results, and he encouraged all participants to that end. In view of time constraints, he suggested that representatives formulate their views through the regional coordination process during the session.

¹ Decision FCTC/COP2/(4).
2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)): Item 5.3 of the Agenda

Article 8: Protection from exposure to tobacco smoke: Item 5.3.1 of the Agenda (Document A/FCTC/COP/2/7)

The CHAIR observed that pre-sessional consultations had indicated considerable support for the draft guidelines on protection from exposure to tobacco smoke as contained in document A/FCTC/COP/2/7. Accordingly, the Committee should not prolong discussions on the text unless real value could be added.

Mr MENEZES (alternate to Mr Faria e Maya, Portugal), speaking on behalf of the Parties in the European Union, said that the Parties had differing approaches to that issue. Smoke-free measures would continue to vary across the European Union while evolving towards higher levels of protection. Protection from exposure to tobacco smoke should be the ultimate goal, and he commended the guidelines as drafted.

Dr BLOOMFIELD (New Zealand) said that the draft guidelines were based on the best available evidence and the experience of countries that had implemented legislation on smoke-free environments. His country, Finland and Ireland had been key facilitators in preparing the draft guidelines, which appeared to be widely supported. Concerns on wording in the introductory paragraphs could be discussed at the same time as the decision that would accompany the draft guidelines; further consideration should be deferred until such a decision had been drafted. The Parties to the Convention in the WHO Western Pacific Region had supported that suggestion in regional consultations.

Mr CORCORAN (Ireland) said that much work had been undertaken at a meeting in Dublin in November 2006, attended by most of the 19 countries involved in drafting the guidelines. The United Kingdom of Great Britain and Northern Ireland, one of the partner countries represented at the meeting, was to be congratulated on its recent legislation on smoke-free workplaces in England, which had come into force on 1 July 2007. The draft guidelines had been reviewed by Cape Verde, the Marshall Islands, Norway and Palau.

The draft guidelines, underpinned by the experience of countries with smoke-free policies, represented a “gold standard”, which was not immediately attainable by some countries. Ireland’s own legislation did not meet all the objectives, particularly with regard to smoking in prisons and psychiatric institutions. The Committee should not embark upon extensive redrafting, as the draft guidelines could be reviewed and revised at future sessions of the Conference of the Parties.

Mr NIIMI (Japan) said that it had been scientifically demonstrated that second-hand tobacco smoke was a health hazard, and guidelines on protection from exposure to tobacco smoke were a step towards precluding risk. The draft guidelines should be adopted by consensus; however, further elaboration of the text, in particular paragraphs 3 and 4, was still required to make them fully acceptable to all Parties.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the Group of Latin American and Caribbean Countries, said that protecting people from exposure to tobacco smoke, in accordance with Article 8 of the Convention, was a duty and a commitment to human rights, especially the right to life, and was effective in controlling tobacco
consumption and its health effects. The only effective way to protect people from exposure was a total ban on smoking in enclosed spaces. Regional agreements should be encouraged under Articles 2 and 20 of the Convention and regional integration bodies should prepare a joint plan of work in order to implement the Convention. The Group’s Contracting Parties supported adoption of the draft guidelines and the role of the Bureau of the Conference of the Parties in implementing the Framework Convention in the Latin American and Caribbean region.

The CHAIR said that the views expressed supported adoption of the draft guidelines with only minor editorial amendments, which delegations should submit in writing. Delegations with doubts about the draft guidelines should attend a presentation to be held the following day.

Mr CORCORAN (Ireland) suggested that the phrase “as well as the right to a healthy environment” be deleted from paragraph 4 of the draft guidelines, as no such right was set out in any of the instruments mentioned. Furthermore, a piece of Irish legislation was incorrectly referenced in Annex 2 of the document; he would submit a correction in writing.

Dr LAMBERT (consultant to Ms Matsau, South Africa), supported by Ms ALI-HIGO (Djibouti), said that the exemplary draft guidelines should be adopted without modification. However, such an approach must not set a precedent for the adoption of future guidelines, a point that should be made clear in the related decision.

(For continuation of the discussion, see summary record of the second meeting, section 2.)

**Article 9: Product regulation:** Item 5.3.2 of the Agenda (Document A/FCTC/COP/2/8)

The CHAIR invited the representatives of Norway, Canada and the European Community to give an illustrated presentation of document A/FCTC/COP/2/8.

Ms LINDBAK (alternate to Ms Wilson, Norway), reporting for the working group established to prepare guidelines pursuant to Articles 9 and 10 of the Convention, outlined the document. She said that Australia, France and Jamaica had participated as reviewers.

Mr CHOINIÈRE (Canada) said that the discussions had been very technical. Unlike the areas of second-hand smoke or product labelling, product regulation was one of which few countries had wide experience. Progress included provisional definitions of “contents”, “emissions”, “testing” and “measuring”. Specific questions had been addressed to the Conference of the Parties in paragraphs 44, 56 and 60 of the document.

Ms EMMERLING (European Community), referring to a question on standard setting in paragraph 68 of the document, said that if, rather than requesting WHO to work with the International Organization for Standardization (ISO), the Conference of the Parties decided to draw up its own standards, international recognition of those standards, albeit likely, could not be taken for granted. ISO was not primarily concerned with public health interests.

In sharing costs and expertise, the working group had a valuable contribution to make. Drawing up guidelines on product regulation would, however, be long and complex, and countries drafting legislation should not wait for the outcome of the group’s deliberations: they should also consider tobacco regulation within the spectrum of their tobacco control measures, as other actions could have a more immediate impact.

She suggested that the group begin its work with Article 10 of the Convention. It should consider the testing and measuring of contents and emissions at the same time as their rationale, as the objectives of the exercise could determine the methods chosen. The working group should continue its work in order to reach common understanding of tobacco product monitoring and regulation.
The CHAIR said that, in addition to the four questions posed in document A/FCTC/COP/2/8, the Conference should decide whether to extend the mandate of the working group and, if so, whether it should begin work on Article 10. He suggested regional consultations before the Committee’s detailed discussion of the questions. Representatives should seek clarification on any aspects of the presentation that were unclear.

Dr KRASOVSKYY (Ukraine) requested that contact details for the working group be included in future reports, to enable countries to seek clarification and submit information in advance. He stressed that Article 10 did not require quantitative information on contents and emissions: it required disclosure only of contents and emissions considered to be toxic. He would present a written submission to the working group.

Design features should be considered within regulatory measures, as the tobacco industry used every possible promotion feature. He cited the example of a brand of cigarettes recently marketed in Ukraine as the first to contain tobacco in the filter.

Professor NAFTI (Algeria) asked how countries that lacked human and financial resources for analysing and monitoring tobacco products, some of which had State-controlled tobacco industries, could gain access to existing government or nongovernment laboratories. He asked whether there were any plans to establish a network of WHO reference laboratories, similar to that in place for tuberculosis activities, and what measures could be taken to control or to prohibit the local production of traditional tobacco products in Africa.

Dr BETTCHER (WHO Secretariat) replied that the WHO Tobacco Laboratory Network, comprising more than 30 private, government and university laboratories, had been established two years previously in order to counter the domination of tobacco industry scientists and laboratories in the area of product regulation. The Network was also intended to provide the technical means of validating standards set by the Conference of the Parties. It joined with the WHO Study Group on Tobacco Product Regulation in working towards WHO’s aim of creating regulations for tobacco products.

The Network was guided by a steering group and an executive committee, with resources, equipment and technical capacity available at each laboratory. There was at least one laboratory in each WHO region; the African Region was represented by an environmental laboratory at the Institute for Health Sciences Research in Burkina Faso. The National Institute for Public Health and the Environment of the Netherlands had already trained 15 scientists from developing countries, and funding for further training was being sought.

It was the intention of the Network and the Study Group to make recommendations for all tobacco products, including those produced locally; to test products and validate standards for their testing as necessary for regulation; and to ensure the accuracy of tobacco companies’ tests. However, bulk testing had not been planned.

Dr DIARRA (Mali), taking up the question asked by the representative of Algeria, stressed the difficulties of monitoring and regulating locally made tobacco products on a nonindustrial scale, which were consumed in particular by young people in rural areas.

Dr AL-SIBAĪ (Sudan) asked whether the Convention aimed to regulate, or even ban, tobacco growing. The proposals of the working group, including those relating to ISO, would certainly have an effect on tobacco production: international tobacco companies might take commercial advantage, for example by labelling their products as conforming to WHO or ISO standards.

Dr JARAMILLO NAVARRETE (Mexico) asked whether a general recommendation could be issued on reducing the fire risks associated with cigarettes, as some countries had already done.
Ms EMMERLING (European Community) said that the key facilitators would take note of the questions asked. Answers would be provided at a briefing the following day.

(For continuation of the discussion, see summary record of the third meeting, section 2.)

**Elaboration of protocols (decision FCTC/COP1(16))**: Item 5.4 of the Agenda

**Elaboration of a template for a protocol on illicit trade in tobacco products**: Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9)

Mr ROWAN (alternate to Mr Rajala, European Community) and Mr OLIVER (alternate to Ms Sabiston, Canada), the Chair and Vice-Chair of the expert group on illicit trade in tobacco products, presented the template prepared by the expert group. They emphasized the need for a reliable, comprehensive system for tracking genuine tobacco products, in order to determine their origin and point of diversion in the event of a seizure of contraband tobacco products or for the purposes of auditing.

The CHAIR said that the template would be important in formulating tobacco control policy, but it also raised difficulties and had legal implications. The Committee should not enter into a thorough discussion of the subject at the current session but should focus instead on further work on the protocol. The matter should be discussed at regional coordination meetings before the Committee considered the item further.

_It was so agreed._

(For continuation of the discussion, see summary record of the second meeting, section 2.)

**Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship**: Item 5.4.2 of the Agenda (Document A/FCTC/COP/2/10)

The CHAIR suggested that the presentation of the draft template be deferred until the next meeting. Noting that some delegations and nongovernmental organizations favoured preparing guidelines on implementation of Article 13 of the Convention rather than immediate elaboration of a legally binding protocol, he urged delegates to discuss the matter at their regional coordination meetings.

Mr RAJALA (European Community) requested clarification of the link between the protocol and possible elaboration of guidelines regulating cross-border advertising under item 6.1.3 of the agenda. The European Community favoured preparation of guidelines. If most of the Parties agreed, discussion of elaboration of a protocol should be postponed.

The CHAIR said that, in discussing the matter in their regional coordination meetings, representatives should bear in mind that a budget and programme of work for the elaboration of guidelines on cross-border advertising were set out in document A/FCTC/COP/2/12.

(For continuation of the discussion, see summary record of the fourth meeting, section 1.)
Establishment of a study group on alternative crops (decision FCTC/COP1(17)): Item 5.5 of the Agenda (Document A/FCTC/COP/2/11)

Dr CAVALCANTE (Brazil), Chair of the ad hoc study group on alternative crops, summarized the report contained in document A/FCTC/COP/2/11. Copies of the case studies referred to in paragraphs 21 to 27 of the report and the general paper on crop substitution outlined in paragraph 13 were available on request.

The CHAIR noted that the Conference of the Parties should decide whether to extend the mandate and funding of the study group and, if so, whether to guide the group’s work. That matter should be discussed at the regional coordination meetings.

It was so agreed.

(For continuation of the discussion, see summary record of the fourth meeting, section 4.)


Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)): Item 6.1 of the Agenda (Document A/FCTC/COP/2/12)

Article 11: Packaging and labelling of tobacco products: Item 6.1.1 of the Agenda

Article 12: Education, communication, training and public awareness: Item 6.1.2 of the Agenda

Article 13: Regulating cross-border advertising: Item 6.1.3 of the Agenda

Dr BETTCHER (WHO Secretariat) gave a brief overview of the report contained in document A/FCTC/COP/2/12. The expert group on cross-border advertising had encountered difficulties, as Article 13 required Parties to undertake, in accordance with their constitutions or constitutional principles, a “comprehensive ban on cross-border advertising, promotion and sponsorship” within five years of the entry into force of the Convention, but did not provide a definition of such a ban. Future work would define the basic requirements and obligations of Parties with regard to Article 13, and an expert group must examine guidelines for implementation of the Article.

The first session of the Conference of the Parties had outlined work plans for drawing up guidelines on implementation of Articles 11, 12 and 13. It had identified three possible key facilitators for guidelines on Article 13, two for Article 11 (which required Parties to implement certain measures within three years of the entry into force of the Convention), but only one for Article 12; more facilitators were needed. He urged the Committee to decide which guidelines should be drawn up as a budgetary priority.

Dr REDDY (India) said that it would be difficult to proceed until the actions required at national level had been identified. The weaker the national interpretations of Article 13, the greater the risk for global cross-border advertising. Any future guidelines should not be limited to cross-border issues but must encompass domestic provisions.
Dr BETTCHER (WHO Secretariat) said that the Committee might wish to revise the proposed workplan for the elaboration of guidelines, as the expert group would be defining a “comprehensive ban”. Definitions were required, both for the application of guidelines and for reporting purposes, when the implementation of an article was a matter for international or domestic interpretation.

The CHAIR suggested that guidelines could be drawn up that covered the whole of Article 13, thereby addressing both domestic and cross-border issues, while a protocol, which would build on the guidelines, might deal solely with the cross-border measures referred to in Article 13.8.

Mr OTTO (Palau) asked whether the Committee should refrain from discussing elaboration of a protocol because guidelines had not yet been developed. If guidelines were a prerequisite to a protocol, the guidelines should be discussed first.

The CHAIR replied that guidelines were not necessarily a prerequisite to a protocol. The Conference of the Parties could decide which to develop first. Representatives should discuss their preferred approaches at the regional coordination meetings. They should also set priorities for future work on the various protocols and sets of guidelines proposed, and clearly indicate to the plenary what should be done and in what order. The priorities established would have a bearing on budget allocations.

(For continuation of the discussion, see summary record of the fourth meeting, section 3.)

The meeting rose at 17:55.
SECOND MEETING
Tuesday, 3 July 2007, at 10:15

Chair: Dr F. NIGGEMEIER (Germany)

1. ORGANIZATION OF WORK

The CHAIR summarized the questions that had arisen from comments in the Committee’s first meeting, on which decisions would have to be taken:

Article 8
- Did the Committee agree to adopt the guidelines as proposed?

Articles 9 and 10
- Did the Committee agree to mandate the working group on product regulation to continue its work?
- Did the Committee agree to extend the working group’s mandate to Article 10?
- Did the Committee agree that the working group’s first priority should be guidelines in analytical chemistry?
- Did the Committee agree in principle with the suggested template for guidelines?
- Did the Committee agree that “contents and emissions” should comprise the characteristics, including the design features, of the tobacco product itself?
- How should the Committee recommend that the Conference of the Parties should exercise its competence to adopt international tobacco testing standards? Should it act as a standardization body itself by requesting and funding the WHO Tobacco Laboratory Network to develop and validate tobacco emissions testing methods? Or should it back WHO in its work with the International Organization for Standardization (ISO) to develop and validate tobacco emissions testing methods?

Articles 11 and 12
- Did the Committee recommend the elaboration of guidelines for implementation of Articles 11 and/or 12, which would be presented at the third session of the Conference of the Parties?

Article 13
- Did the Committee recommend elaboration of guidelines on Article 13 (possibly on the basis of Annex 3 to document A/FCTC/COP/2/12) and/or directly mandating the drafting of a protocol on cross-border advertising?

Article 15
- Did the Committee agree to mandate further work on the protocol on illicit trade, taking the draft template as a basis, without prejudging the final contents of a protocol (implying that there was to be no detailed discussion of the draft template at the second session of the Conference of the Parties)?
- In what forum did the Committee recommend that the drafting of the protocol be done (e.g. by a working group or an open-ended subsidiary body)?

Article 17
- Did the Committee recommend extending and/or specifying the mandate of the study group on crop diversification, and, if so, what form should the specification take?
Priority setting

- Having regard to time and resource constraints, what priorities did the Committee recommend be set at the second session of the Conference of the Parties for further work on the above items before its third session?

2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of protocols (decision FCTC/COP1(16)): Item 5.4 of the Agenda (continued from the first meeting, section 2)

Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship: Item 5.4.2 of the Agenda (Document A/FCTC/COP/2/10) (continued from the first meeting, section 2)

Dr REDDY (India), Chair of the expert group preparing a template for a protocol on cross-border advertising, promotion and sponsorship, presented the work and composition of the group.

Mr LIBERMAN (Framework Convention Alliance on Tobacco Control), co-rapporteur of the expert group, speaking at the invitation of the CHAIR, reviewed the obligations on Parties stemming particularly from the provisions of Articles 13.2, 13.3, 13.6, 13.7 and 13.8. He stressed the number of unanswered questions (such as the nature of a "comprehensive ban"). Guidance was required on how the provisions should be implemented, particularly in view of the five-year deadline.

For that reason, and given that Parties needed a shared understanding of their substantive obligations, the expert group had concluded that the guidelines on implementing Article 13 should be drawn up before a protocol was drafted. If that process revealed that Parties had a clear understanding of the nature of a comprehensive ban, a protocol might not be necessary; however, a protocol could be useful if the text of Article 13 did not go far enough. The elements needed would be clearer after consideration of existing obligations and opportunities for collaboration, such as those arising from Articles 20, 21, 22 and 26 on general cooperative arrangements between Parties.

Mr ROGERS (Canada), Vice-Chair of the expert group, said that the group had identified the various media through which cross-border tobacco advertising, promotion and sponsorship occurred and the entities that were engaged or involved. Variations within all three categories had underlined the need for guidelines. Measures to address cross-border advertising, promotion and sponsorship, and mechanisms for their implementation, had also been examined, including domestic measures and those requiring international cooperation. The latter could form the basis of a protocol. He outlined the draft template for a protocol.

Dr REDDY (India), Chair of the expert group, said that, a protocol could achieve several objectives. The concern that, unlike a protocol, guidelines on implementation of Article 13 would not be legally binding was addressed in part by the obligatory provisions of the Article. International cooperation would be important but was also provided for by several provisions of the Framework Convention.

There were elements that were covered by Article 13 and could be elaborated through guidelines; elements that were partially covered by the Convention but could be strengthened in a protocol; and elements that were solely the domain of a protocol. The guidelines should be examined both as an end in themselves and as a tool to facilitate possible elaboration of a protocol. Guidelines
should identify the kinds of advertising, promotion and sponsorship for which measures were needed and the entities that should be controlled; offer guidance on how to cover different entities and how to implement controls; provide for sanctions; give guidance to Parties unable to implement a comprehensive ban because of constitutional considerations; provide for international cooperation; and identify the role of the Convention Secretariat. Guidelines should cover domestic control, an essential prerequisite for cross-border issues.

Bans on advertising, promotion and sponsorship were key tobacco control measures, and what one Party did or failed to do in that regard would have implications for other Parties. Consideration was needed of how to combine guidelines, a protocol and the implementation of existing cooperative arrangements. As a protocol would take time to draft, priority should be given to guidelines and to supporting Parties in fulfilling their obligations within five years.

Should guidelines on Article 13 be elaborated by a working group of Parties to the Convention, rather than by the expert group, some of the work of the two groups could be integrated. The working group could also examine the links between guidelines and a protocol.

The CHAIR said that, exceptionally, he would invite the representative of the Framework Convention Alliance on Tobacco Control to speak before the floor was opened for discussion, so that the Committee could have a fuller picture of the issues involved.

Ms GODFREY (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, supported the elaboration of guidelines, which should deal with all the elements of Article 13 and begin immediately. Every effort should be made to submit draft guidelines for adoption at the third session of the Conference of the Parties, and the group mandated to prepare them should meet as soon as possible after the second session.

Provision for the elaboration of guidelines on Article 13 had been made in the proposed budget, which indicated, in paragraph 28, that if either of the two expert groups already convened to elaborate protocols did not continue its work for the time being, funds would be available for elaboration of another guideline. If work on a protocol under Article 13 was deferred, the expert group would not be required, thereby releasing funds for the elaboration of another guideline, in addition to the capacity created if the draft guidelines on Article 8 were adopted at the second session of the Conference of the Parties.

The drafting of guidelines on Article 13 should allow for the participation of civil society, as had the work undertaken on Articles 8 and 9 in the period between the first and second sessions.

The CHAIR asked whether the Committee considered that work should begin immediately on a protocol or guidelines. The Conference of the Parties could establish a working group with key facilitators, perhaps involving the expert group, in order to prepare guidelines and identify elements for a future protocol.

Mr OGBONNA (Nigeria), speaking on behalf of the Parties to the Convention in the WHO African Region, agreed on the importance of domestic measures. Tobacco addiction, particularly in developing countries, required urgent action, including guidelines, to ensure prompt implementation of Article 13. Numerous Parties were obliged to implement Article 13 by February 2010, and adoption of guidelines at the third session of the Conference of the Parties would assist them. The elaboration of guidelines should be given priority.

1 Document A/FCTC/COP/2/13.
Mr RAJALA (European Community) said that elements of guidelines and a protocol were part of the same process, rather than two alternatives. He expressed support for elaborating guidelines as a first step.

Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, expressed support for developing guidelines first and reviewing the decision on a protocol later.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, agreed that work should begin on preparing guidelines, with possible future elaboration of a protocol.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China), speaking on behalf of the Parties to the Convention in the WHO Western Pacific Region, said that within the Region there was emerging consensus for making elaboration of guidelines a priority.

Dr HATAI CHITANONDH (alternate to Dr Mongkul Na Songkhla, Thailand) said that cross-border tobacco advertising, promotion and sponsorship were conducted on a huge scale and influenced millions of children worldwide. Research in Thailand had revealed that, over one year, a television channel had broadcast Formula One motor racing to 53 countries in Asia, reaching 300 million people. Cigarette logos had been shown 40,000 times, for a total of 80 hours. Such cross-border advertising could be eliminated only by international laws and cooperation between Parties to the Convention.

Mr AL-LAWATI (Oman), speaking on behalf of the Parties to the Convention in the WHO Eastern Mediterranean Region, expressed support for the proposal to elaborate guidelines, for adoption by the third session. Parties should consider a protocol based on those guidelines, which should cover the domestic aspects of implementation of Article 13.

Dr KRASOVSKYY (Ukraine), speaking also on behalf of Armenia and Georgia, supported the position of the European Community on guidelines, which should cover all the provisions of Article 13.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) expressed support for elaborating guidelines on Article 13 to cover both domestic and cross-border tobacco advertising, promotion and sponsorship, with a subsequent protocol if necessary.

The CHAIR suggested that the Secretariat, with the officers of the expert group, should draft a decision mandating a working group to elaborate guidelines for submission to the third session of the Conference of the Parties. The working group could have key facilitators and might include the officers of the expert group. The guidelines would be related to a future protocol, possibly initiated by the third session of the Conference of the Parties.

It was so agreed.

Mr RAJALA (European Community) said that the European Community supported an ambitious approach that would set a “gold standard”, as in the area of protection from exposure to tobacco smoke, and provide for a comprehensive ban on tobacco advertising, promotion and sponsorship.

(For continuation of the discussion, see summary record of the fourth meeting, section 1.)
Elaboration of a template for a protocol on illicit trade in tobacco products: Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the first meeting, section 2)

The CHAIR restated his questions to the Committee concerning a protocol on illicit trade in tobacco products under Article 15 of the Convention. The Committee should put questions to the Secretariat on working methods and financial implications.

Dr ZAIN (Malaysia) requested clarification as to the difference between a working group and an open-ended subsidiary body, which the Chair had suggested as two means of elaborating a protocol. She asked about the status of the future working group and whether it would be a distinct legal entity or simply an extension of the working group that had prepared the draft template of a protocol.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) emphasized the criterion of composition. Participation in a working group was limited and was usually directed by the Conference of the Parties, whereas the composition of a subsidiary body was usually open-ended. The rules of procedure would also differ: a working group’s rules would be based on the WHO regulations for expert advisory panels and committees, which were more flexible than those of a formal subsidiary body, and it would operate in accordance with the Rules of Procedure of the Conference of the Parties, with specified exceptions. A working group would make decisions on the basis of consensus and report irreconcilable differences of opinion, whereas the rules of procedure of a subsidiary body would provide for a voting mechanism. It would be subordinate to the plenary; a working group could be subordinate either directly to the plenary or to a body directed by the plenary, such as Committee A. The officers required for a subsidiary body would be specified in its rules of procedure, whereas a working group would be more flexible. A subsidiary body, unlike a typical working group, required summary records and documentation in all official languages, and accordingly would probably be more costly.

Mr RAJALA (European Community) asked whether an open-ended working group to elaborate a protocol could be established.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) replied that the composition of working groups was normally limited but could be open-ended.

Mr VALIZADEH (Islamic Republic of Iran) stressed the need to consider licensing the distribution of tobacco products at all levels, especially regional. Inspection and supervision were needed in order to control all distribution within a country.

Dr ELFITURI (Libyan Arab Jamahiriya) pointed out that, in some countries, such as his own, trade in certain commodities, including tobacco, was still a State monopoly. Illicit trade accounted for a significant market share. Supporters of liberalized trade argued that, with proper controls, liberalization would reduce the volume of illicit products, lead to higher prices and generate more tax revenue; detractors believed that inefficient government controls would lead to more illicit products on the market, increased and more aggressive marketing by tobacco companies, and increased tobacco use. He sought advice in that regard, and asked whether a recommendation on the subject should be included in a future protocol.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China), speaking on behalf of the Parties to the Convention in the WHO Western Pacific Region, said that they had not yet agreed their position but that there was support for making a protocol on illicit trade a priority.

Mr McGrady (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, said that the function of the body to be established should determine its form
and that that body should have the power to negotiate a protocol. Sufficient work had been done on the template for a protocol to enable concerns to be addressed during negotiations. The Conference should create a body that would meet at least once before the third session and draft a text, preferably for submission at the third session.

The CHAIR requested delegations to consider the matter in their regional coordination meetings, before further discussion at the Committee’s next meeting.

(For continuation of the discussion, see summary record of the third meeting, section 2.)

**Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):**

Item 5.3 of the Agenda (continued from the first meeting, section 2)

**Article 8: Protection from exposure to tobacco smoke:** Item 5.3.1 of the Agenda (Document A/FCTC/COP/2/7) (continued from the first meeting, section 2)

The CHAIR drew attention to a draft decision on the draft guidelines on protection from exposure to tobacco smoke, to which was appended an extract from the draft guidelines incorporating amendments proposed by the Committee. The text read:

1. The Conference of the Parties adopts the guidelines on protection from exposure to tobacco smoke, annexed to the present decision.

2. The Conference of the Parties, noting that these are the first guidelines it has adopted and that the Conference, in so doing, did not engage in substantive discussion of the draft guidelines produced by the working group, agrees that the absence of substantive discussion does not create a precedent for its future consideration of guidelines produced by its subsidiary bodies.

**APPENDIX**

Extract from document A/FCTC/COP/2/7, Annex 1

**Objectives of the guidelines**

3. These guidelines have two related objectives. The first is to elucidate Parties’ obligations to assist Parties in meeting their obligations [Japan] under Article 8 of the WHO Framework Convention, in a manner consistent with the scientific evidence regarding exposure to second-hand tobacco smoke and the best practice worldwide in the implementation of smoke-free measures, in order to establish a high standard of accountability for treaty compliance and to assist the Parties in promoting the highest attainable standard of health. The second objective is to identify the key elements of legislation necessary to effectively protect people from exposure to tobacco smoke, as required by Article 8.

**Underlying considerations**

4. The development of these guidelines has been influenced by the following fundamental considerations:

   (a) The duty to protect from tobacco smoke, embodied in the text of Article 8, is grounded in fundamental human rights and freedoms. [Japan] Given the dangers of breathing second-hand tobacco smoke, the duty to protect from tobacco smoke is implicit...
in, inter alia, the right to life and the right to the highest attainable standard of health, as well as the right to a healthy environment [Ireland] as recognized in many international legal instruments (including the Constitution of the World Health Organization, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights), as formally incorporated into the Preamble of the WHO Framework Convention and as recognized in the constitutions of many nations.

(b) The duty to protect individuals from tobacco smoke corresponds to an obligation by governments to adopt and implement effective measures under Article 8 [Japan] to protect individuals against threats to their fundamental rights and freedoms. This obligation extends to all persons, and not merely to certain populations.

(c) No changes.

Extract from document A/FCTC/COP/2/7, Annex 2


The CHAIR suggested that the guidelines be adopted as drafted, with only minor editorial amendments, and said that he took it that the Committee agreed to the correction of the reference to Irish legislation in section (f) of the list of links to sample legislation and resource documents contained in Annex 2 to document A/FCTC/COP/2/7.

It was so agreed.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, reiterated their view that the text of the draft guidelines should be adopted in its original form without further substantive discussion of the text. A drafting group could be formed for editorial changes, but changes of substance without proper debate could lead to confusion.

Mr CORCORAN (Ireland), supported by Dr BLOOMFIELD (New Zealand), said that deleting the words “as well as the right to a healthy environment” from paragraph 4(a) of the draft guidelines was proposed as no such right was explicitly recognized in any of the instruments mentioned. Deleting the phrase would correct an error of fact, rather than make a substantive change to the text.

Mr MENEZES (alternate to Mr Faria e Maya, Portugal), speaking on behalf of the European Community and its Member States, expressed support for all the proposed amendments suggested by the delegations of Japan and Ireland to paragraphs 3, 4(a) and 4(b) of the draft guidelines.

Mr OTTO (Palau), speaking on behalf of the Pacific Island States Parties, associated himself with the statement made by the representative of Chile on behalf of the Parties to the Convention in the WHO Region of the Americas. The draft guidelines should be adopted in their original form and there should be no discussion of the amendments proposed, even within a drafting group. If that proved impossible, he could accept the amendment to paragraph 3, as it was not substantive, and the deletion of the words “as well as the right to a healthy environment” from paragraph 4(a), as proposed by the representatives of Ireland and New Zealand. However, he could not accept the deletion of the first sentence of paragraph 4(a), since the duty to protect from tobacco smoke was the fundamental reason for elaborating guidelines; nor could he accept the amendment proposed to paragraph 4(b),
since the guidelines should assist States in enacting the strongest possible measures to protect populations from exposure to tobacco smoke, a purpose that would be defeated by the amendment.

Dr REDDY (India) said that the working group had intended to refer to the environment, which was appropriate to environmental concerns within the Framework Convention and the need to secure the greater involvement of environmental groups. He suggested that, if the words “as well as the right to a healthy environment” were deleted from paragraph 4(a), a sentence such as “Second-hand smoke is also an environmental health hazard” could be inserted.

Dr SAMARN FUTRAKUL (alternate to Dr Mongkol Na Songkhla, Thailand), affirming the high priority of Article 8 of the Convention, said that his country had introduced a regulatory framework for protecting nonsmokers. Successive regulations had gradually extended the prohibition of smoking in public places. Smoke-free indoor workplaces and public places should be established by legislation and regulation, compliance encouraged and the law enforced for the protection of workers and the public. He fully supported the guidelines.

The CHAIR urged delegations not to open a debate on the substance of the draft guidelines. If the key facilitators still wished to delete the reference to the environment from paragraph 4(a), perhaps the sentence suggested by the representative of India would be acceptable, providing that no other delegation objected.

Dr BLOOMFIELD (New Zealand) strongly endorsed the Chair’s call not to open a debate and stressed the proposal to correct an error of fact to which the representative of Canada had drawn his attention. He had no objection to the sentence suggested by the representative of India. An additional paragraph could be added to the draft decision, clarifying the intent of the draft guidelines.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, said that, in the light of the explanations given by the representatives of Ireland and New Zealand, he could accept deletion of the words “as well as the right to a healthy environment” from paragraph 4(a). However, the remainder of the text should not be amended. He reiterated his misgivings about the way in which the amendments had been introduced, which effectively reopened and confused the discussion. Such working methods should be avoided in the future.

The CHAIR said that he was concerned about the introduction of amendments at the current stage, especially given the Committee’s wish, expressed at its first meeting, to adopt the guidelines as drafted, as a political signal to the international community. Amendments that were editorial or intended to correct errors could be accepted; however, he urged the delegation of Japan to withdraw the amendments it had proposed, which were more substantive, in order to avoid a protracted debate on the text.

Mr OKUMA (alternate to Mr Kobayashi, Japan) said that the amendments proposed by his delegation were in essence editorial. There should be no debate on substantive issues, but further discussion was required before the draft guidelines could be adopted.

The CHAIR reiterated that the draft guidelines should be finalized at the present meeting. There appeared to be consensus among all other delegations, and he urged the delegation of Japan to reconsider its position.

Dr REDDY (India) said that he would not insist on the inclusion of the sentence he had suggested. Environmental concerns were adequately reflected elsewhere in the draft guidelines.
Mr OKUMA (alternate to Mr Kobayashi, Japan) requested time to consult his Government before expressing a final position.

The CHAIR, agreeing to his request, reiterated that the Japanese delegation was the only one not to have joined the consensus to adopt the guidelines as drafted, with the two amendments proposed by the key facilitators.

(For approval of the decision, see summary record of the third meeting.)

The meeting rose at 12:35.
THIRD MEETING
Tuesday, 3 July 2007, at 16:10

Chair: Dr F. NIGGEMEIER (Germany)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 5.3 of the Agenda (continued from the second meeting, section 2)

**Article 8: Protection from exposure to tobacco smoke:** Item 5.3.1 of the Agenda (Document A/FCTC/COP/2/7) (continued from the second meeting, section 2)

The CHAIR recalled that there had been a near-consensus at the Committee’s previous meeting on approving the text of the draft guidelines on protection from exposure to tobacco smoke. He called on the one delegation that had expressed reservations to explain its position.

Mr NIIMI (Japan) recalled that Japan had proposed three amendments, in paragraphs 3, 4(a) and 4(b). Paragraph 4(a), as currently worded, could mean that the duty to protect from tobacco smoke was well established in the constitution and laws of each Party. That was not the case in his country, and the paragraph should be amended consistent with paragraphs 19 and 20 of the Preamble to the Framework Convention. Japan had proposed deletion of the sentence “The duty to protect from tobacco smoke, embodied in the text of Article 8, is grounded in fundamental human rights and freedoms.”

In paragraph 4(b), Japan had proposed replacing the words “enact legislation” with “adopt and implement effective measures under Article 8”, because the measures required under Article 8 were legislative, executive and administrative. The language was based on that of paragraph 2 of Article 8 of the Framework Convention. In a spirit of consensus, Japan was prepared to withdraw those two proposals.

In paragraph 3, Japan had proposed, in the interests of consistency, replacing the words “clarify Parties’ obligations” with the more positive formulation “assist Parties in meeting their obligations”, the wording used in paragraph 1, which set forth the purpose of the guidelines. He requested other Parties to accept Japan’s proposal, as the language would be more constructive and would improve the text.

The CHAIR, noting that the Rules of Procedure required that every effort be made to reach agreement by consensus, asked whether delegations and regions could accept the amended wording of paragraph 3 proposed by Japan.

Mr MENEZES (alternate to Mr Faria e Maya, Portugal), speaking on behalf of the Parties to the Convention in the European Union, Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties in the WHO Region of the Americas, Ms LIU Guangyuan (alternate to Dr Li Yangzhe, China), speaking on behalf of the Parties in the WHO Western Pacific Region, Mr NDAO (Senegal), speaking on behalf of the Parties in the WHO African Region, Dr REDDY...
(India), speaking on behalf of the Parties in the WHO South-East Asia Region and Mr AL-LAWATI (Oman), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that they accepted the Japanese amendment.

The CHAIR said that he would take it that the amendment to paragraph 3 proposed by Japan could be adopted.

It was so agreed.

The text of the draft guidelines, as a whole, as amended, was approved.

The CHAIR invited the Committee to turn to the text of the draft decision and to consider it paragraph by paragraph.

Paragraph 1 was approved.

Dr BLOOMFIELD (New Zealand), referring to paragraph 2 of the draft decision, suggested that the words “need to” be inserted before “engage in substantive discussion”, in order to avoid any inference that the Conference had neglected its duty.

Mr NIIMI (Japan) expressed support for the New Zealand amendment. He said that the Conference of the Parties was the highest decision-making body, and every Party should have the right to make substantive remarks. As the guidelines were the first to be adopted by the Conference of the Parties, a transparent and democratic process should be established.

In response to a request for clarification from Ms SABISTON (Canada) as to whether it was clear that a working group was technically a subsidiary body, Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that, in the sense used in paragraph 2 of the draft decision, it was any body subsidiary to the Plenary. There were formal and informal subsidiary bodies, and working groups would fall into the latter category.

Paragraph 2, as amended, was approved.

The draft decision as a whole, as amended, was approved.¹

The CHAIR said that he would take it that the draft decision together with its annex, as amended, could be submitted to the Plenary for adoption.

It was so agreed.

Mr BLANKE (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR and on behalf of the Global Smokefree Partnership, congratulated all concerned on reaching an historic decision. More than 200 million people now enjoyed the benefits of smoke-free air, largely as a result of the Framework Convention. He called on all to pool their wisdom, experience and energy to clear the air worldwide.

¹ Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP2(7).
**Elaboration of protocols (decision FCTC/COP1(16)):** Item 5.4 of the Agenda (continued)

**Elaboration of a template for a protocol on illicit trade in tobacco products:** Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the second meeting, section 2)

The CHAIR invited continued consideration on the form of further work on the protocol on illicit trade, taking the draft template as a basis, and on the priorities to be set for that work.

Mr AL-LAWATI (Oman) said that the Parties in the WHO Eastern Mediterranean Region had not discussed further work on a protocol on illicit trade; a comparative table of the various forms of work would be useful.

Mr RAJALA (European Community) said the Parties in the WHO European Region had stressed the importance of further work on a protocol, and a negotiable text should be ready by the third Conference of the Parties. The drafting of text should involve many Parties. Written consultations might be considered. There should be provision for submitting any work on which early agreement had been reached for adoption. The matter was the area of highest priority and should be financed from the core budget of the Conference of the Parties.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that the Parties in the WHO Region of the Americas favoured further work on the protocol and supported the option involving an open-ended subsidiary body.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China), speaking on behalf of the Parties to the Convention in the WHO Western Pacific Region, said that the Conference of the Parties should, at its current session, set up a negotiating body to work on the protocol and report to the third session.

Mr SADI (Niger) said that the Parties to the Convention in the WHO African Region supported continued work based on the draft template. A subsidiary body should be established for early negotiations on the priority issue of illicit trade.

Dr PRASAD (India), speaking on behalf of the Parties in the WHO South-East Asia Region, said that those Parties attached high priority to the issue of illicit trade and supported the elaboration of a protocol based on the draft template. Intergovernmental working groups could draft text for discussion at the third Conference of the Parties.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel), responding to a request for clarification regarding intergovernmental working groups, explained that the name given to the body was less important than the criteria establishing the body. Those criteria included composition, limited or open-ended, and the degree of formality, which had implications for decision-making. Decision-making in an informal body, such as a working group, was based on consensus, with any dissent recorded; decision-making in formal subsidiary bodies as covered by Rules 25 to 28 of the Rules of Procedure could include voting. Formal subsidiary bodies were entitled to summary records and documentation in all official languages, which had cost implications. Regarding the question of legal status, a protocol was as legally binding as a convention, and the requirements for transparency, formality and inclusiveness were similar to those of the Convention itself.

Dr REDDY (India), clarifying the position of Parties in the WHO South-East Asia Region, said that financial and time constraints made a working group preferable to a large open-ended subsidiary body. The working group would transform the draft template into a full text, which should be circulated to the regional groups before the third Conference of the Parties for consideration and negotiation at that session.
Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) confirmed that the Conference of the Parties had the authority to design a subsidiary body as it saw fit.

Dr REDDY (India), responding to a request for clarification from Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China) on behalf of the Parties in the WHO Western Pacific Region, said that it was unlikely that the formal negotiation process could commence before the third session of the Conference of the Parties. The Conference of the Parties itself would consider the text and establish an intergovernmental negotiating body.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) confirmed that, under Article 33.1 of the Framework Convention, any Party could propose protocols, to be considered by the Conference of the Parties.

Dr REDDY (India) said that a faster mechanism for elaboration of a protocol was needed, as, under Article 33.3 of the Convention, the text of any proposed protocol should be communicated to the Parties at least six months before the session at which it was proposed for adoption.

The CHAIR pointed out that it was highly unlikely that a protocol would be ready for adoption by the Conference of the Parties at its third session.

Responding to a request for clarification from Dr ZAIN (Malaysia), Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the proposed protocol to which Article 33.3 of the Convention alluded was likely to be a polished product. It was for the Conference of the Parties to decide how to develop such a product. Typically, an open-ended, inclusive process providing a degree of formality and transparency, in the form of preparatory work, was followed. For ratification, parliaments might be more receptive if their official representatives had participated throughout the process.

Mr McGRADY (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, emphasized inclusiveness; each Party should be able to comment on the template and contribute to the draft text. The Conference of the Parties should reach a decision enabling formal negotiations to begin between its second and third sessions on the basis of a draft text.

The CHAIR suggested that consideration of the item should be deferred pending further consultations in regional coordination meetings.

It was so agreed.

(For continuation of the discussion, see summary record of the fourth meeting, section 2.)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 5.3 of the Agenda (resumed)

Article 9: Product regulation: Item 5.3.2 of the Agenda (Document A/FCTC/COP/2/8) (continued from the first meeting, section 2)

The CHAIR invited the Committee to continue its consideration of product regulation, whether the working group should continue, and whether it should be mandated to cover Article 10.
Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, and Dr REDDY (India), speaking on behalf of the Parties in the WHO South-East Asia Region, expressed support for continuation of the work of the working group and extension of its mandate to cover Article 10.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China) said that the Parties in the WHO Western Pacific Region agreed that the working group should continue its work on Article 9 and that its mandate be extended to Article 10 if resources were available. Its workplan and terms of reference should be clarified. That area of work had lower priority than some others.

The CHAIR, having noted the affirmative trend in replies to the first and second questions, invited comments on the third to sixth questions: whether to make guidelines in analytical chemistry a priority; whether the Committee agreed with the template for guidelines; whether it agreed that “contents and emissions” should comprise the characteristics, including the design features, of the tobacco product itself; and how the Conference of the Parties should exercise its competence to adopt international tobacco testing standards.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that the Parties in the WHO Region of the Americas were concerned that Article 9 of the Framework Convention referred only to “contents and emissions”, not to “characteristics, including … design features”. Did the Conference have the competence to address additional elements?

Dr KRASOVSKYY (Ukraine) said that he could reply in the affirmative to the fourth and fifth questions. Elaboration of guidelines on analytical chemistry should be reconsidered by the working group. Guidelines on toxicology should be made a priority and clarification of the public health rationale behind Articles 9 and 10 should be the working group’s first priority.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that a decision on competence was governed by Rule 43 of the Rules of Procedure of the Conference of the Parties. Article 23 of the Framework Convention listed the areas of competence of the Conference as a plenary, which included promoting, developing and refining comparable methods for research and collecting data.

Mr URAKAWA (alternate to Mr Kobayashi, Japan), on the third question, welcomed WHO’s efforts to standardize measurement methods. Japan had no objection to the elaboration of guidelines on contents and emissions before those regarding toxicology and dependency. However, trade secrets must be protected, consistent with existing national legislation. Japan had no objection to the proposed structure of the guidelines for measurement methods. Future guidelines for disclosure and regulation, by nature non-binding, would be a point of reference in consideration of further domestic measures relevant to Articles 9 and 10 of the Framework Convention. The guidelines should illustrate best practices worldwide and promote effective regulation. The question of “contents and emissions” was ultimately a matter of smoke constituents; Japan was concerned that an expanded definition might lead to increased regulation costs. The working group should clarify the benefits to public health. Development and validation of testing methods by the WHO Tobacco Laboratory Network would involve additional cost, which Japan would find difficult to accept. That task should be the responsibility of the International Organization for Standardization (ISO). In order to allay concerns that ISO lacked a public health perspective, WHO should cooperate positively with that body.

Dr REDDY (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said, with regard to the third question, that if the working group’s mandate was extended to include Article 10, analytical chemistry would no longer have the highest priority. On the fourth question, the Parties in the Region were in broad agreement with the suggested template, but the
guidelines should include the information set out in paragraph 54 of document A/FCTC/COP/2/8; the work of the WHO Study Group on Tobacco Product Regulation should also be taken into account in revising the template. The answer to the fifth question was affirmative: the consumer had a right to know the design features that were being used by the tobacco industry in delivering toxic and addictive substances in greater quantity. Although no specific mention of design features was made in Articles 9 and 10 of the Framework Convention, their inclusion was consistent with the Convention’s objective of reducing tobacco use and exposure to tobacco smoke. Regarding the sixth question, WHO could continue to liaise with ISO in order to counter the influence of the tobacco industry on that body, while working with its independent Tobacco Laboratory Network in order to provide the Conference of the Parties with adequate information. The latter could not commission or supervise the work without exceeding its mandate, and funding would have to be diverted from other deserving areas. Moreover, non-Parties to the Framework Convention would not be bound by any standard-setting mechanism adopted by the Conference of the Parties.

Mr RAJALA (European Community) said that the answer to the first five questions was in the affirmative. The sixth question was rather more complicated; the European Community would prefer the second option, but would consider a third way combining the two options. He reiterated that the matter was not a WHO regional priority.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that the Parties in the WHO Region of the Americas would answer the third and fourth questions in the affirmative. Under the sixth question, they favoured bodies commissioned and funded by WHO. The Parties in the Region had not yet considered the question of priorities.

Dr HATAI CHITANONDH (alternate to Dr Mongkul Na Songkhla, Thailand) said that his government’s answers to the third, fourth and fifth questions were in the affirmative. Under the sixth question, the working group should explore a third option of working with ISO while setting up the capacity for the Tobacco Laboratory Network to develop and validate methods for measuring and testing tobacco emissions and contents.

Ms ZHANG Yanyang (alternate to Dr Li Yangzhe, China) said that China supported the elaboration of guidelines in analytical chemistry. Its answers to the fourth and fifth questions were in the affirmative. Regarding the sixth question, she agreed with the comments of the previous speaker.

Ms ARNOTT (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, said that guidelines on Article 11 should be given higher priority than guidelines on Articles 9 and 10. The Alliance did not agree that the working group’s first priority should be guidelines in analytical chemistry; instead, Articles 9 and 10, on contents and disclosure, respectively, should be taken as a package. On the fourth question, she said that the suggested template might be appropriate for the first phase of implementation of Article 9. “Contents and emissions” should include the design features of the product, which could affect how it was used and the constituents absorbed by the smoker. Lastly, it would be completely inappropriate for WHO to work with ISO, whose technical committees were dominated by tobacco industry interests. It was too early to decide whether the Conference of the Parties itself wished to set up a standards development and validation process. That question would be decided at a subsequent Conference of the Parties.
Dr BETTCHER (WHO Secretariat), referring to the sixth question, said that the first option would maintain the governance and oversight of the public health community but would have resource implications, whereas the second option would result in cost savings but raise questions of governance. A third option would be to require ISO Technical Committee 126, which dealt with international standards for tobacco and tobacco products, to be guided by decisions of the Conference of the Parties, on validation, testing and standards.

(For continuation of the discussion, see summary record of the fourth meeting, section 4.)

The meeting rose at 18:15.
FOURTH MEETING

Wednesday, 4 July 2007, at 10:25

Chair: Dr F. NIGGEMEIER (Germany)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of protocols (decision FCTC/COP1/(16)): Item 5.4 of the Agenda (continued from the second meeting, section 2)

Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship: Item 5.4.2 of the Agenda (Document A/FCTC/COP/2/10) (continued from the second meeting, section 2)

ADDITIONAL MATTERS IDENTIFIED IN THE DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)): Item 6.1 of the Agenda (Document A/FCTC/COP/2/12) (continued from the first meeting, section 3)

Article 13: Regulating cross-border advertising: Item 6.1.3 of the Agenda (continued from the first meeting, section 3)

The CHAIR drew attention to a draft decision proposed by the Convention Secretariat, which read:

The Conference of the Parties,

DECIDES:
(1) to establish a working group mandated to:
(a) elaborate draft guidelines on the implementation of both the domestic and cross-border elements of Article 13 of the WHO Framework Convention on Tobacco Control;
(b) present recommendations on key elements of a protocol on cross-border advertising, promotion and sponsorship, which would be complementary to these guidelines, and on any other measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship for consideration by the Conference of the Parties at its third session;
(2) to request the working group to:
   (a) take into account the report of the expert group on cross-border advertising,
       promotion and sponsorship presented to the Conference of the Parties at its
       second session (A/FCTC/COP/2/10);
   (b) invite the officers of the expert group on cross-border advertising, promotion
       and sponsorship established pursuant to decision FCTC/COP1(16) and other
       experts, as necessary, to participate in the work of the working group;
(3) to invite the relevant intergovernmental and nongovernmental organizations with
    specific expertise in the matters to actively participate and contribute to the work of
    the working group, as per request from the Convention Secretariat;
(4) to request the Convention Secretariat to make the necessary arrangements,
    including budgetary arrangements, for the working group to complete its work and to
    ensure that Parties have access, for example, via a protected website, to the draft texts
    sent to the partners and can provide comments;
(5) to adopt the process and timelines set out in the Annex

Annex

<table>
<thead>
<tr>
<th>Process:</th>
<th>Convention Secretariat, in consultation with WHO’s Tobacco Free Initiative and the office holders of the expert group on cross-border advertising, promotion and sponsorship established pursuant to decision FCTC/COP1(16) (Elaboration of protocols), and with the assistance of Parties willing to participate to ensure regional representation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Implementing entity (mandated by the Conference of the Parties)</td>
<td>European Community, Finland, India</td>
</tr>
<tr>
<td>Parties who offer to act as key facilitators (either via resource mobilization or technical work)</td>
<td>Canada, Madagascar, Mauritania, Sweden</td>
</tr>
<tr>
<td>Other Parties who offer to partner in the development of guidelines</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Timeline:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To have the draft accessible by the Parties for their comments</td>
<td>At least six months prior to the first day of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>For submission to the Bureau</td>
<td>At least four months prior to the first day of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>For submission to the Secretariat for editing and translation</td>
<td>At least three months prior to the first day of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>For circulation to the Conference of the Parties</td>
<td>At least 60 days prior to the first day of the third session of the Conference of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)</td>
</tr>
</tbody>
</table>
The Chair said that the text should give guidance regarding priority among the matters identified. As work in the area of advertising was generally considered to have the highest priority, the words “with high priority” might be inserted before “the necessary arrangements” in paragraph (4), subject to regional consultations.

Dr ABDULLAYEV (Azerbaijan) suggested that “with utmost priority” should be inserted after “necessary arrangements”.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that some regions were still discussing their priorities. The language should remain neutral.

Mr TELLES RIBEIRO (Brazil) said that all the matters identified were important and interlinked.

The CHAIR, referring to the annex to the draft decision, urged more Parties to volunteer as partners before the composition of the working group was finalized during the current session.

Mr RAJALA (European Community) emphasized the need for guidance to the working group. Additional language might be desirable in paragraph 1(a).

The CHAIR suggested that consideration of the draft decision should be suspended pending further regional consultations.

It was so agreed.

(For approval of the draft decision, see summary record of the fifth meeting, section 1.)

2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (resumed)

Elaboration of protocols (decision FCTC/COP1(16)): Item 5.4 of the Agenda (resumed)

Elaboration of a template for a protocol on illicit trade in tobacco products: Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the third meeting, section 2)

The CHAIR said that it was his understanding that Parties attached high priority to the work on a protocol on illicit trade. He invited the WHO Secretariat to introduce possible ways to proceed with the work.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the document produced by the WHO Secretariat set out articles and rules of procedure dealing with subsidiary bodies. The options were either, a working group of limited composition that would draft a text or elements of a protocol for consideration by an open-ended subsidiary body, or, the template produced by the expert group (document A/FCTC/COP/2/9, Annex) would be considered directly by an intergovernmental negotiating body involving all the Parties. One issue was who should be accountable to the Conference of the Parties for preparation of the first draft of the text.
Dr BETTCHER (WHO Secretariat) outlined the process used for the WHO Framework Convention, which offered a model for elaboration of a protocol. An open-ended working group had drafted a set of elements; the Health Assembly had found those elements to be sound; negotiations by an intergovernmental negotiating body had been initiated. After its first session, a text of a framework convention had been drafted for discussion at its second session. The Framework Convention had been drafted in less than three years. The Conference had to decide whether the template on illicit trade represented a sound basis for initiating negotiations by a negotiating body, or whether a different model was preferable.

Mr AL-LAWATI (Oman) said that the Parties in the WHO Eastern Mediterranean Region were in favour of a working group that would draft a text for consideration by a negotiating body. Selection of the experts should be inclusive, non-discriminatory and transparent.

Dr BETTCHER (WHO Secretariat), outlining the expected timelines in response to a question by the CHAIR, said that, if the second option were chosen, the intergovernmental negotiating body should meet between the second and third sessions of the Conference of the Parties in order to elaborate a text that could be discussed at a second session of the negotiating body just before the third session of the Conference. A third session of the negotiating body could be held in 2008 or 2009, and a fourth (if necessary) before the session of the Conference scheduled for 2010. The final draft would be communicated to the Parties at least six months before the Conference at which it was to be adopted. If the negotiating process was more rapid, an extraordinary session of the Conference could be convened in order to adopt the protocol.

In the first option, a working group would be established, and the draft template discussed. A draft text would be submitted to the third session of the Conference. However, the legitimacy of the text might be called into question owing to the working group’s limited composition. Throughout the development of the WHO Framework Convention, open-ended participation in the negotiation process had been emphasized.

Dr PRASAD (India) said that the Parties in the WHO South-East Asia Region would support the second option for the reasons of transparency and inclusiveness.

Mr RAJALA (European Community) said that the WHO European Region favoured an inclusive, efficient and cost-effective process. It required more time for consideration of the options and a time frame for the Committee’s discussions.

The CHAIR said that the Committee should complete its consideration of the matter at its next meeting. The Secretariat would prepare a draft decision based on the Committee’s guidance.

Mr OTTO (Palau) said that he preferred the second option, which was perhaps less costly and more transparent. Who would elaborate the Chair’s text if the second option was chosen?

The CHAIR said that the text would be drafted, with the Convention Secretariat and experts, after the first session of the negotiating body, perhaps in early 2008. That text would be negotiated at subsequent sessions of the negotiating body, and the final draft text of the proposed protocol would be communicated to the Parties at least six months before the session at which it was proposed for adoption. The protocol might be adopted as early as the fourth session of the Conference.

Dr BETTCHER (WHO Secretariat) recalled that, in developing the Framework Convention, a timetable had maintained the momentum of the negotiations. The costs of the first option were more uncertain and depended on the draft’s perceived legitimacy.

(For continuation of the discussion, see summary record of the fifth meeting, section 2.)
3. ADDITIONAL MATTERS IDENTIFIED IN THE DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (resumed)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 6.1 of the Agenda (Document A/FCTC/COP/2/12) (resumed)

Article 11: Packaging and labelling of tobacco products: Item 6.1.1 of the Agenda (continued from the first meeting, section 3)

Article 12: Education, communication, training and public awareness: Item 6.1.2 of the Agenda

The CHAIR invited comments from the WHO regions on document A/FCTC/COP/2/12, in particular in reference to Articles 11 and 12, and requested Parties to indicate priorities.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, said that priority should be given to Article 11. The Region’s priorities were, first, Article 15 concerning illicit trade; second, Article 11 on packaging and labelling; third, Article 13 on tobacco advertising; fourth, Article 17 on support for viable alternative activities; and, lastly, Articles 9 and 10 on regulation of contents and disclosures, respectively.

He voiced concern regarding Article 5.3, the protection of public health policies from commercial and other vested interests of the tobacco industry, and Article 14, on measures concerning tobacco dependence and cessation. Those two articles should be Conference priorities for future discussion. Action on cross-border advertising should not detract from tackling advertising at the local level. Concerning guidelines, priority should be given to Article 11.

Mr URAKAWA (alternate to Mr Kobayashi, Japan) said that each Party’s compliance with the Framework Convention should be ascertained from country reports before the guidelines were discussed. Guidelines should promote control in accordance with each Party’s circumstances, rather than as uniform standards. With regard to the sample workplan in Annex 1 to document A/FCTC/COP/2/12 concerning Article 11, information on smoking cessation messages, adverse economic effects and graphic warnings on packaging was unnecessary, as it was not specified as a duty of the Parties under Article 11. Japan would support option 3 regarding the implementing entity and option 2 regarding resource implications, and offered to become a reviewer.

With regard to Article 13 on regulating cross-border advertising, Japan doubted the need for a protocol. Elaboration of guidelines should take precedence. The obligations listed in Article 13 should not be expanded. He favoured guidelines in the form of non-binding recommendations containing examples of worldwide best practices on specific measures.

Mr OTTO (Palau), speaking on behalf of the Pacific Island States Parties, endorsed the comments of the representative of Chile on the question of priorities. The Conference had, at its first session, taken a decision regarding the development of guidelines for implementation of Article 5.3 of the Convention. As industry interference could compromise compliance with the provisions of the Convention, Article 5.3 should be considered by the Conference at its present session.

The CHAIR confirmed that the Conference of the Parties had, at its first session, also referred to guidelines concerning Articles 5.3 and 14. It had provided 10 criteria for priorities for use by the Convention Secretariat.
Dr KRASOVSKYY (Ukraine) said that Ukraine had met the minimum requirements concerning Article 11, and required guidelines. In the interests of cost-effectiveness, one working group should deal with Articles 11, 10 and 9, in that order.

Dr PRASAD (India) said that the Parties in the WHO South-East Asia Region considered that country-specific priorities should be set. The priorities were Articles 11 and 13: investment that sustained impact, and interventions that had an impact on other measures, including those under Article 12 and Article 10; a protocol on illicit trade; and studies on further crop diversification.

Mr AL-LAWATI (Oman) said that the Parties in the WHO Eastern Mediterranean Region accorded equally high priority to a protocol on illicit trade in tobacco products and Article 13 on cross-border advertising; Article 11 on packaging and labelling; Article 5.3; Article 12 on education and training, which accounted for almost half the Region’s budget for tobacco control; Article 17 on crop diversification; and Articles 9 and 10, on regulation of contents and tobacco product disclosure, respectively.

Mr MOHÉE (Mauritius) said that the Parties in the WHO African Region had not yet decided on an order of priorities but attached importance to guidelines on education, training and public awareness. Concerted regional action, political will, capacity-building and resource mobilization were needed for that purpose.

Dr HATAI CHITANONDH (alternate to Dr Mongkol Na Songkhla, Thailand) said that Article 11 on packaging and labelling, Article 9 on regulation of contents and Article 10 on regulation of tobacco product disclosures should be considered together.

Mr RAJALA (European Community) said that the European Community could accept the development of guidelines on implementation of Article 11 on packaging and labelling if that view was strongly supported by the other Parties. Guidelines with respect to Article 12 on education, communication, training and public awareness should be accorded lower priority.

Mr CORCORAN (Ireland) stressed the volume of work involved for one working group to draft three sets of guidelines in the 12-month period between the second and third sessions of the Conference of the Parties.

Ms HART (Australia) said that Australia supported the development of guidelines on Article 11 on packaging and labelling, and volunteered to act as a key facilitator.

Mr LIBERMAN (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, gave priority to the protocol on illicit trade; Article 13, elaboration of guidelines and consideration of questions related to a possible protocol; and Article 11 on packaging and labelling.

Mr CUNNINGHAM (International Union against Cancer), speaking at the invitation of the CHAIR, endorsed the priorities of the previous speaker’s organization. Guidelines with respect to Article 11 would assist Parties in implementing their obligations and in responding to industry arguments and practices. The active participation of civil society in their development should be encouraged.
Ms MULVEY (Corporate Accountability International), speaking at the invitation of the CHAIR and on behalf of the Network for Accountability of Tobacco Transnationals, emphasized the priority of guidelines on Article 5.3, in view of the threat of interference posed by the tobacco industry and the relevance of Article 5.3 for implementation of Articles 8, 9 and 17.

The CHAIR urged those requesting guidelines on a particular article to consider acting as key facilitators. He suggested that the item should be taken up again at a subsequent meeting of the Committee following further regional consultations.

It was so agreed.

(For continuation of the discussion, see summary record of the fifth meeting, section 1.)

4. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (resumed)

Establishment of a study group on alternative crops (decision FCTC/COP1(17)): Item 5.5 of the Agenda (Documents A/FCTC/COP/2/11; A/FCTC/COP/2/INF.DOC./3) (continued from the first meeting, section 2)

The CHAIR invited the Committee to comment on whether the ad hoc study group on alternative crops should be asked to continue its work, with an extended mandate.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties to the Convention in the WHO Region of the Americas, said that crop diversification was important for several of those Parties. The study group’s mandate should be extended and its future funding considered.

Ms MATSAU (South Africa) said that the Parties in the WHO African Region wished the work of the study group to continue. The group should examine alternative crops and other employment options for persons dependent on tobacco growing.

Dr ZHAO Baidong (alternate to Mr Li Yangzhe, China) drew attention to document A/FCTC/COP/2/INF.DOC./3 on agricultural diversification and alternative crops to tobacco. The Conference should provide financial and technical support for the study group. Tobacco was often grown in less-developed regions where practical problems could slow down crop diversification.

Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said that the study group should continue its work. Speaking on behalf of his own country, he said that the group should focus on cost-effective and sustainable alternative crops.

Mr ETENSEL (Turkey) said that the issue was important for Turkey, a significant producer of tobacco. He supported the continuing work of the study group and drew attention to the US$ 200 000 allocated in the proposed budget set out in document A/FCTC/COP/2/13 Add.1 for two meetings of the study group before 2009.
Mr RAJALA (European Community) said that, in its future work, the study group should develop the scientific evidence base; identify challenges specific to tobacco farming; and focus on the timelines, as demand for tobacco was expected to increase for the next 15 years.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) said that the mandate of the study group was already set out in decision FCTC/COP1(17). It should specify policies that would assist small tobacco farming communities to find viable alternatives.

Dr DIARRA (Mali), speaking on behalf of the Parties in the WHO African Region, said that African countries faced specific problems, and countries such as Botswana, Mali and the United Republic of Tanzania should participate in the work of the study group.

Ms JOHNS (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, said that the Alliance supported the continuation of the group’s work.

Mr DORADO MAZORRA (Corporate Accountability International), speaking at the invitation of the CHAIR, said that the study group’s work countered industry’s efforts to hamper the Framework Convention and promoted economic alternatives under Article 17. Tobacco growing had done nothing to combat poverty, and third-world tobacco producers were among the world’s poorest countries, thanks partly to the low prices paid by the tobacco companies. The mandate of the study group should be extended and funding made available for its operation.

(For continuation of the discussion, see summary record of the sixth meeting, section 2.)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):

Article 9: Product regulation: Item 5.3 of the Agenda (continued from the third meeting)

The CHAIR invited further comments on the six questions concerning Articles 9 and 10 on regulation of the contents of tobacco products and regulation of tobacco product disclosures, respectively.1 He invited the WHO Secretariat to comment on the feasibility of combining work on Articles 9, 10 and 11, as proposed by the delegations of Thailand and Ukraine.

Ms VESTAL (WHO Secretariat) said that, although Articles 9, 10 and 11 together formed a package comprising the product regulation provisions of the Framework Convention, it would be technically counterproductive to elaborate guidelines for all three.

Mr CHOINIERE (Canada), referring to the fifth question, said that he would welcome clarification from WHO’s Legal Counsel as to the legitimacy of adopting guidelines on design features, as there was no reference to them in Article 9 of the Convention.

Following a further request from Mr CHOINIERE (Canada), the CHAIR confirmed that an informal working group would discuss options on the sixth question with the WHO Secretariat and report back to the Committee.

He drew attention to document A/FCTC/COP/2/13 Add.1, scheduled for consideration by Committee B under item 7 of the Agenda, in which a proposed budget for the Conference of the

---

1 See document A/FCTC/COP/2/A/SR/2.
Parties for the 2008–2009 biennium was annexed. An amount of US$ 600 000 had been earmarked for four meetings of the guidelines groups. Parties should be mindful of that constraint when discussing priority setting and elaboration of guidelines.

(For continuation of the discussion, see summary record of the fifth meeting, section 2.)

The meeting rose at 12:40.
FIFTH MEETING

Wednesday, 4 July 2007, at 15:30

Chair: Dr F. NIGGEMEIER (Germany)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of protocols (decision FCTC/COP1(16)): Item 5.4 of the Agenda (continued from the fourth meeting, section 1)

Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship: Item 5.4.2 of the Agenda (Document A/FCTC/COP/2/10) (continued from the fourth meeting, section 1)

ADDITIONAL MATTERS IDENTIFIED IN THE DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)): Item 6.1 of the Agenda (Document A/FCTC/COP/2/12) (continued from the fourth meeting, section 1)

Article 13: Regulating cross-border advertising: Item 6.1.3 of the Agenda (continued from the fourth meeting, section 1)

The CHAIR invited continued consideration of the draft decision on elaboration of draft guidelines on implementation of Article 13 and key elements of a protocol on cross-border tobacco advertising, promotion and sponsorship.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China) said that the Parties in the WHO Western Pacific Region supported the Chair’s suggestion that the words “with high priority” be added in paragraph (4). Australia, China, Malaysia, New Zealand and the Republic of Korea had volunteered to be partners in elaborating guidelines.

The CHAIR said that the time limit for offers to be a partner in the development of guidelines had been extended to 31 July 2007.

Mr DE CONINCK (Netherlands) said that the Netherlands offered to be a partner in the development of guidelines.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties in the WHO Region of the Americas, reiterated that paragraph (4) should remain unchanged, as it was preferable not to indicate priorities in the text. Paragraph (1)(b) might be more directly formulated as: “the Conference of the Parties at its third session should evaluate and adopt the guidelines, and the Conference of the Parties at its fourth session shall decide whether or not to proceed with the elaboration of a protocol”.

- 35 -
Ms MAYSHAR (Israel), speaking on behalf of the Parties to the Convention in the WHO European Region, suggested that the mandate of the working group be clarified. A preambular paragraph should be added, to read “Noting that Article 13.5 of the WHO Framework Convention on Tobacco Control encourages Parties to implement measures beyond the obligations set out in Article 13.4”. In paragraph (1)(a), the words “comprehensive and robust” should be added after “elaborate”. In paragraph (1)(b), the wording “which draw on the best available evidence and the experience of Parties that have successfully introduced measures to control cross-border tobacco advertising, promotion and sponsorship” should be inserted before “which would be complementary”.

Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said that since, under Article 13, Parties must undertake measures within five years of the entry into force of the Convention, guidelines were a priority. Accordingly the words “with priority,” should be inserted after “to make” in paragraph (4).

Following a comment by Mr PADILLA (Philippines), the CHAIR said that, in the absence of any objection, he would take it that the suggested preambular paragraph was acceptable.

It was so agreed.

In response to a comment from Ms ALI-HIGO (Djibouti) regarding the suggested amendment to paragraph (1)(a), Ms MAYSHAR (Israel) said that the Parties in the WHO European Region would have no objection to deletion of the words “and robust”.

Mr FARÍAS ALBURQUEQUE (Peru), referring to the proposed amendment to paragraph (1)(b), said that many Parties had introduced domestic measures to control tobacco advertising, promotion and sponsorship, to be reflected in guidelines, but no cross-border measures had been successfully introduced. Hence the need for a protocol, which could not be prepared in time for the third session of the Conference, as had been pointed out by the representative of Chile speaking on behalf of the Parties in the WHO Region of the Americas.

Following a discussion in which the CHAIR, Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China), Mr OTTO (Palau) and Ms MAYSHAR (Israel) took part, Ms MAYSHAR said that the Parties in the European Region were prepared to withdraw their proposed amendment concerning paragraph (1)(b).

Mr OKUMA (alternate to Mr Kobayashi, Japan) suggested that the word “possible” be inserted before “protocol” in paragraph (1)(b) since the Conference was not yet committed to a protocol.

Mr CORCORAN (Ireland) said that such an addition would be redundant, as the output of the working group would be considered by the Conference at its third session.

Mr OKUMA (alternate to Mr Kobayashi, Japan) said that he would be willing to withdraw his proposal.

Dr BLOOMFIELD (New Zealand), supported by Ms ALI-HIGO (Djibouti), referring to the new formulation proposed for paragraph (1)(b) by the Parties in the WHO Region of the Americas, said that he preferred the existing wording of the paragraph, as it was not the role of the Conference at its second session to pre-empt the decisions of future sessions.

Ms SABISTON (Canada), also supporting the comments by the representative of New Zealand, explained that the proposal by the Parties in the WHO Region of the Americas had been intended to
focus on guidelines that countries could implement at domestic level before proceeding to the cross-border issue.

The CHAIR said that the current formulation would address that concern since the Conference was free to decide at its third session whether to adopt the guidelines and whether to proceed with a protocol.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that, in the light of the discussion, the Parties in the WHO Region of the Americas would withdraw their proposal.

The CHAIR, recalling that amendments had been proposed in the course of the Committee’s deliberations with a view to giving an indication of priority in paragraph (4), suggested that the text be amended to read: “to request the Convention Secretariat to make, with priority, the necessary arrangements…”.

Mr DEL PICÓ (alternate to Dr Amarales, Chile) said that the Parties in the WHO Region of the Americas continued to prefer that the text remain as it stood.

The CHAIR, having noted that the annex to the draft decision indicated timelines, said that, in the absence of any objection, he would take it that the wording of paragraph (4) could remain as it stood.

**The draft decision, as amended, was approved.**¹

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

2. **MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS:** Item 5 of the Agenda (resumed)

**Elaboration of protocols (decision FCTC/COP1(16)):** Item 5.4 of the Agenda (resumed)

**Elaboration of a template for a protocol on illicit trade in tobacco products:** Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the fourth meeting, section 2)

The CHAIR invited the Committee to consider further the choice of subsidiary body to be responsible for drawing up a protocol on illicit trade: the first option was a working group of limited composition; the second option was an open-ended intergovernmental negotiating body.

Ms STEENBRUGGHE (Belgium), speaking on behalf of the Parties to the Convention in the WHO European Region, said that they preferred the second option, which was a proven method in the development of the WHO Framework Convention. The template presented a basis for discussion, without prejudice to the final content of the protocol. A timetable should be included. Improved efficiency and written procedures should be explored. Existing global agreements concerning illicit trade should help to avoid duplication.

¹ Transmitted to the Conference of the Parties in the Committee’s second report and adopted as decision FCTC/COP2(8).
Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China) said that the Parties in the WHO Western Pacific Region also favoured the second option.

Professor GONSU (Cameroon), speaking on behalf of the Parties to the Convention in the WHO African Region, said that they supported the second option in the interests of efficiency, transparency and consensus. A timetable should be drawn up and a draft submitted to the Conference at its third session. Information, education and communication would raise public awareness in Africa about issues relating to illicit trade in tobacco products.

Mr AL-LAWATI (Oman) said that the Parties in the WHO Eastern Mediterranean Region preferred the second option, a preference supported by Ms SABISTON (Canada) on behalf of the Parties in the WHO Region of the Americas.

The CHAIR said that a draft decision would be prepared, for discussion at a later meeting of the Committee.

Mr SALOOJEE (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, welcomed the decision to establish an open-ended intergovernmental negotiating body. Illicit trade undermined tobacco control and national tax revenues. The negotiating body should present a draft protocol to the Conference at its third session.

(For continuation of the discussion, see summary record of the sixth meeting, section 2.)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 5.3 of the Agenda (continued from the fourth meeting, section 4)

Article 9: Product regulation: Item 5.3.2 of the Agenda (Document A/FCTC/COP/2/8) (continued from the fourth meeting, section 4)

Mr CHOINIERE (Canada) reported that an informal working group had met to discuss the options regarding international tobacco testing standards. A draft text would be submitted to the Convention Secretariat shortly.

Mr BURCI (WHO Secretariat, Legal Counsel), responding to the request for clarification made by Canada at the previous meeting concerning the fifth question put to the Committee and whether the design features of tobacco products fell within the scope of Article 9 of the WHO Framework Convention, cited Article 31 of the Vienna Convention on the Law of Treaties (General rule of interpretation). The basic principle was that the provisions of a treaty should be interpreted in the light of the object and purpose of the treaty as a whole and not in isolation. Article 9 should therefore be seen against the backdrop of the WHO Framework Convention’s objective, set forth in its Article 3. The guidelines mandated under Article 9 should cover all elements with an immediate causal link with testing, measuring and regulating the contents and emissions of tobacco products. Therefore, if the design features had that link they would fall within the scope of Article 9. Conversely, those design features that had no immediate causal link with the emissions and contents of tobacco products but were, for instance, relevant only for marketing purposes, would not fall within the scope of Article 9. Where the line should be drawn was more a technical than a legal question for the Parties to consider.

Under paragraph 3(b) of Article 31 of the Vienna Convention, account should also be taken of any subsequent practice in application of the treaty, establishing agreement of the Parties regarding its interpretation.

In its decision FCTC/COP1(15) concerning elaboration of guidelines for implementation of the Convention, the Conference of the Parties at its first session had clearly included design features as an
element of the guidelines, thereby legitimizing their inclusion within the scope, pursuant to Article 31, paragraph 3(b) of the Vienna Convention.

The CHAIR said that, in the absence of any objection, he would take it that the Parties could agree to further work on design features if the relevant decision contained wording to the effect that such features affected the objectives of the Convention.

It was so agreed.

Mr MOHEE (Mauritius), speaking on behalf of the Parties to the Convention in the WHO African Region, said that the Region’s list of priorities for guidelines was, first, Article 15 on illicit trade, followed by Article 13 on advertising, promotion and sponsorship, Article 11 on packaging and labelling, Article 12 on education, communication, training and public awareness, Articles 9 and 10 on regulation of contents and disclosures, and Article 17 on support for economically viable alternative activities.

Dr PRASAD (India) said that the order of priorities for the Parties in the WHO South-East Asia Region was: Article 11, Article 13, Article 17, Articles 9 and 10, Article 12 and Article 5.3.

Ms LIU Guangyuan (alternate to Mr Li Yangzhe, China) said that the Parties in the WHO Western Pacific Region accorded equal priority to Articles 11, 13 and 15. Although Article 5.3 was not on the agenda of the current session, some preparatory work should be done on its provisions.

Mr AL-LAWATI (Oman) said that the order of priorities for the Parties in the WHO Eastern Mediterranean Region was: Articles 13 and 15, Article 11, Article 17, Article 5.3, Article 12, and Articles 9 and 10. He also sought clarification about the technical and financial commitments required from facilitators and partners.

Dr BETTCHER (WHO Secretariat) said that facilitators were involved in all stages of drafting, providing oversight, management and liaison services, technical input and review. Partners were Parties with a particular interest in the area of work; they provided opinions and input into the process and generally participated in at least one intergovernmental meeting. More commitment would be required from facilitators than from partners.

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

3. FIRST REPORT OF COMMITTEE A (Document A/FCTC/COP/2/17)

The CHAIR drew attention to the draft first report of Committee A, which contained a decision for recommendation to the Conference of the Parties on guidelines on protection from exposure to tobacco smoke.

The first report of Committee A was adopted.

The meeting rose at 16:55.
SIXTH MEETING
Thursday, 5 July 2007, at 10:30

Chair: Dr F. NIGGEMEIER (Germany)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 5.3 of the Agenda (Documents A/FCTC/COP/2/7, A/FCTC/COP/2/8) (continued from the fifth meeting, section 2)

ADDITIONAL MATTERS IDENTIFIED IN THE DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 6.1 of the Agenda (Document A/FCTC/COP/2/12) (continued from the fifth meeting, section 1)

The CHAIR said that, following the discussions of the previous day, three draft decisions had been prepared for the Committee’s consideration. He invited the Committee to consider the following draft decision on the elaboration of guidelines for implementation of Articles 5.3, 9 and 10, 11 and 12 of the Framework Convention:

The Conference of the Parties, regarding the following Articles of the WHO Framework Convention on Tobacco Control (Articles dealt with listed in numerical order),

DECIDES as follows:

(1) concerning Article 5.3, to establish a working group to develop guidelines for the implementation of this Article. The working group shall present a progress report to the Conference of the Parties at its third session;

Key facilitators:

Partners:

(2) concerning Articles 9 and 10, to request the working group established by decision FCTC/COP1(15) to continue its work, extending its mandate to Article 10 and including product characteristics, such as design features, to the extent that they affect the objectives of the Convention, and to provide a progress report to the Conference of the Parties at its third session. The Conference of the Parties regards the guidelines template presented in document A/FCTC/COP/2/8 as a sound basis for further work. Further, the Conference of the Parties encourages the WHO’s Tobacco Free Initiative to continue its work concerning product regulation, including information exchanges mediated by third parties, and requests that the Tobacco Free Initiative reports back through the Secretariat to the Conference of the Parties at
its third session about possible mechanisms for validation of methods for the testing and measuring of contents and emissions of tobacco products;

Key facilitators: Canada, European Community, Norway

Partners: Brazil, China, Denmark, Finland, Hungary, Jordan, Kenya, Mexico, Netherlands, Thailand, United Kingdom of Great Britain and Northern Ireland;

(3) concerning Article 11,
   (a) to establish a working group to elaborate guidelines on the implementation of Article 11 of the WHO Framework Convention. The working group shall present draft guidelines to the Conference of the Parties at its third session;
   (b) to request the working group to take into account existing resources and expertise from governmental, intergovernmental and nongovernmental organizations, as well as from scientific studies and best practices;
   (c) to invite the relevant intergovernmental and nongovernmental organizations with specific expertise in the matters to actively participate and contribute to the work of the working group, as per request from the Convention Secretariat;

Key facilitators: Australia, Brazil, Canada

Partners:

(4) concerning Article 12, to establish a working group to develop guidelines for the implementation of Article 12. The working group shall present a progress report to the Conference of the Parties at its third session;

Key facilitators: Germany

Partners:

(5) to request the Secretariat to make the necessary arrangements, including budgetary arrangements, for the above-mentioned working groups and to ensure that Parties have access, for example, via a protected web site, to draft texts sent to the partners and can provide comments;

(6) concerning all of these proposed guidelines, to adopt the timeline set out below:

<table>
<thead>
<tr>
<th>Timeline:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To have the progress report or draft guidelines, as requested, accessible by the Parties for their comments</strong></td>
<td>At least six months prior to the third session of the Conference of the Parties</td>
</tr>
<tr>
<td><strong>For submission to the Bureau</strong></td>
<td>At least four months prior to the third session of the Conference of the Parties</td>
</tr>
<tr>
<td><strong>For submission to the Secretariat for editing and translation</strong></td>
<td>At least three months prior to the third session of the Conference of the Parties</td>
</tr>
<tr>
<td><strong>For circulation to the Conference of the Parties</strong></td>
<td>At least 60 days prior to the third session of the Conference of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)</td>
</tr>
</tbody>
</table>
(7) to set 31 July 2007 as the deadline for Parties to announce to the Secretariat their participation as a partner in the development of any of these guidelines.

The CHAIR said that the draft decision reflected the priorities of the Contracting Parties, particularly their desire that the draft guidelines on Article 11 should be finalized so that they could be adopted by the Conference of the Parties at its third session. Key facilitators and partners were still required for several working groups.

In the first sentence, the word “listed” should be deleted, and, in paragraph 3, second line (concerning Article 11), the text should read: “the working group shall present draft guidelines”.

He announced that the following Parties had offered to act as key facilitators in the elaboration of guidelines on the implementation of the various articles: Article 5.3 – Brazil, Ecuador, Netherlands, Palau; Article 11 – Peru; Article 12 – Germany, Palau, Turkey (subject to Government confirmation).

Further, the following Parties had offered to act as partners in the elaboration of guidelines: Article 5.3 – Djibouti, Iran (Islamic Republic of), Jamaica, Malaysia, Philippines, Turkey, Uruguay, Viet Nam; Articles 9 and 10 – Ghana; Article 11 – Bahrain, Djibouti, European Community, France, Guatemala, Honduras, Iran (Islamic Republic of), Jamaica, Japan, Malaysia, Philippines, Republic of Korea, Sudan, Ukraine, United Kingdom of Great Britain and Northern Ireland (subject to Government confirmation), Uruguay, Viet Nam; Article 12 – Bahrain, Barbados, Djibouti, Estonia, Ireland (subject to Government confirmation), Malaysia, Sweden, Uruguay.

Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said that Thailand was willing to act as a key facilitator for the working group on Article 5.3. India and Thailand were willing to be partners in the working group on Article 11, and India, Sri Lanka and Thailand were willing to be partners in the working group on Article 12.

Speaking on behalf of the Parties to the Convention in the WHO African Region, Dr MAINA (Kenya) said that Benin, Kenya, Namibia and Nigeria were willing to act as partners in the elaboration of guidelines on Article 5.3; Professor NAFTI (Algeria) said that Algeria, Congo, Kenya and Mali were willing to act as partners in the elaboration of guidelines on Articles 9 and 10; and Mr MOHEE (Mauritius) said that Cape Verde, Mauritius and South Africa had offered to act as partners in the elaboration of guidelines on Article 11 and Algeria, Benin, Kenya, Mauritius, Namibia and Togo as partners in the elaboration of guidelines on Article 12.

Dr JARAMILLO NAVARRETE (Mexico) said that Mexico wished to serve as a facilitator in the work on Article 14.

The CHAIR noted that the Conference of the Parties had not yet decided to set up a working group on Article 14. It could do so, within the resources available. The Committee might wish to add text to the draft decision, asking the Convention Secretariat to prepare a report on smoking cessation (covered by Article 14) in consultation with interested Contracting Parties.

Dr ASQUETA SÓÑORA (Uruguay) said that his delegation would like to participate in any further work done on Article 14.

Mr RAJALA (European Community) suggested that delegations should be given more time to consider their participation in working groups. He was also concerned about the workload for the Contracting Parties and the Convention Secretariat. Comprehensive financial arrangements should be made for working groups, and the existing contribution system should be maintained.

The CHAIR noted that the draft decision requested the Convention Secretariat to make the necessary budgetary and other arrangements to support the working groups. Parties should propose their services as key facilitators before the end of the session, so that the working groups could start as
soon as possible. At least three key facilitators were needed for each working group; if too many volunteered, some might act as partners instead. Partners should volunteer their services by 31 July 2007.

Dr BETTCHER (WHO Secretariat), responding to a request for clarification of roles, said that key facilitators played a managerial and technical role in the working groups. After the session, the key facilitators and the Convention Secretariat would decide on a workplan and identify needs, such as the preparation of background papers by the Convention Secretariat, external experts or the key facilitators themselves. The facilitators coordinated the consultation process, which in future would include the posting of progress reports and draft guidelines on a secure web site for comment by all Contracting Parties. Key facilitators often hosted the working groups’ consultations and provided logistical support, such as visas and travel. Partners provided important technical input to the consultations and finalization of guidelines.

Dr ZAIN (Malaysia) enquired whether the number of partners was limited and how choices would be made. She sought information on the budget implications of participation by numerous partners and suggested that consultations by electronic media could reduce meeting costs.

The CHAIR supported extensive use of electronic media for consultations.

Mr AITKEN (WHO Secretariat) said that a budget had been allocated for the meetings listed in the draft decision under discussion. It included assistance for a limited number of low-income and middle-income countries, but if too many partners came from those groups, they could not all receive assistance. The budget for the working group on Article 11 was higher because it had to complete its work by the following year.

Dr BETTCHER (WHO Secretariat) said that assistance was available for a total of about 20 low-income and middle-income countries.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) suggested that the working group on Article 5.3 should work with WHO’s Tobacco Free Initiative, which had undertaken related work.

The CHAIR thanked the Contracting Parties for their willingness to participate in the work on the guidelines and invited comments on the text of the draft decision.

Dr AL-LAWATI (Oman) said that more detail was required in paragraph 1, dealing with the working group on Article 5.3. It might be advisable to repeat the wording of subparagraphs 3(b) and (c), relating to the involvement of governmental, intergovernmental and nongovernmental organizations. Additional meetings of the working group on Article 5.3 might be required, since many countries had shown an interest in participating.

The CHAIR suggested that the text should be reworded so that the recommendations in subparagraphs 3(b) and (c) would clearly apply to all the working groups. In the absence of any objection, he would take it that that suggestion was acceptable.

It was so agreed.

Dr BETTCHER (WHO Secretariat) noted that the current proposed budget provided for three meetings on the guidelines for Article 13, two meetings on Article 11, one on Article 12 and one on Article 5.3. The key facilitators and the Convention Secretariat would ensure the expeditious completion of work in order to save resources. Working groups that were unable to finalize their guidelines in time should submit a progress report to the next session of the Conference and request funding for further meetings.
Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, expressed support for the draft decision. A working group should be convened or a study conducted in respect of Article 14 and be discussed at the third session of the Conference.

The CHAIR proposed adding to the draft decision a request to the Convention Secretariat to prepare, in consultation with interested Parties, a report on the matters covered under Article 14.

It was so agreed.

Ms LIU Guangyuan (alternate to Mr LI Yangzhe, China) supported the suggestion regarding Article 14. Regional consultations in the Western Pacific Region had indicated that the highest priority should be accorded to Article 11, followed by Articles 5.3, 12, and 9 and 10. The draft decision should reflect that order of priority.

The CHAIR noted that the articles were listed in the draft decision in numerical rather than priority order. He believed that Article 11 generally enjoyed the highest priority.

Dr AL-LAWATI (Oman), speaking on behalf of the Parties to the Convention in the WHO Eastern Mediterranean Region, said that allocating only one meeting to Article 5.3 would mean that guidelines would not be adopted before the fourth session of the Conference, which would be unfortunate in view of the interest shown. Articles 9 and 10 did not have such priority.

Mr AITKEN (WHO Secretariat) said that, in the view of the Head of the Convention Secretariat, it would be feasible to adopt more than one set of guidelines at the third session of the Conference, but it was unlikely that more than one set would be ready for consideration. Priority had been given to the guidelines on Article 11, which Contracting Parties would need soon in order to comply with its three-year implementation deadline. Work on the guidelines on Article 9 was well under way, and, hence, two meetings on Articles 9 and 10 had been proposed. By contrast, work on the guidelines on Article 12 was just beginning and was unlikely to be finished by the third session. In all cases, the work must be completed within the agreed budget.

Dr BETTCHER (WHO Secretariat) said that WHO’s Tobacco Free Initiative was convening a group of experts to draw up policy recommendations on Article 5.3 (Measures to counter undue influence by the tobacco industry) by early 2008, usefully furthering work on the Article and relevant to the scheduling of the working group’s meeting.

The CHAIR suggested that paragraph 1 of the draft decision, dealing with Article 5.3, be amended to read: “The working group shall present a progress report, if possible draft guidelines, to the Conference of the Parties at its third session”.

It was so agreed.

Dr JÁCOME (Ecuador) noted that paragraph 1 contained the phrase “develop guidelines” while paragraph 3(a) read “elaborate guidelines”. The wording should be made consistent.

Mr OTTO (Palau) said that the draft decision should specifically emphasize the forthcoming WHO policy recommendations on Article 5.3.

The CHAIR pointed out that the draft decision called on all working groups to take into account existing resources and expertise; that would include WHO’s Tobacco Free Initiative.
Mr OKUMA (alternate to Mr Kobayashi, Japan) said that the Conference had not discussed the aims of the guidelines on Article 5.3 or the mandate of the working group. The phrase “if possible” in the Chair’s proposed amendment should therefore be retained in order to avoid prejudging the working group’s activities.

The CHAIR said that, as far as he was aware, the mandate of the working group would be to elaborate guidelines on Article 5.3 of the Framework Convention.

Ms LIU Guangyuan (alternate to Mr LI Yangzhe, China) noted the inconsistency of draft decisions before the Committee; some referred to decisions from the Conference at its first session, while others referred to articles of the WHO Framework Convention or had a simple preamble with no references at all. She recommended adoption of a standard format for decisions of the Conference of the Parties.

The CHAIR said that the format of decisions varied according to the content. Replying to a point raised by Dr ENNABLI (Tunisia), he said that States that had not yet acceded to the WHO Framework Convention could participate in the working groups as observers and contribute the services of their experts. The Committee should return to consideration of the draft decision at its next meeting, when a revised text would be available and Parties had consulted their governments, if necessary.

It was so agreed.

(For approval of the draft decision, see summary record of the seventh meeting, section 2.)

2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (resumed)

Elaboration of protocols (decision FCTC/COP1(16)): Item 5.4 of the Agenda (continued from the fifth meeting, section 2)

Elaboration of a template for a protocol on illicit trade in tobacco products: Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the fifth meeting, section 2)

The CHAIR asked for initial comments on, and amendments to, the following draft decision on the elaboration by an intergovernmental negotiating body of a protocol on illicit trade in tobacco products (Article 15 of the WHO Framework Convention).

The Conference of the Parties,
Reaffirming that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting;
Taking into account Article 15 of the WHO Framework Convention on Tobacco Control, in which Parties recognize inter alia that the elimination of all forms of illicit trade in tobacco

1 Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
products, including smuggling, illicit manufacturing and counterfeiting, are essential components of tobacco control;

Taking also into account Article 23.5(f) of the WHO Framework Convention on Tobacco Control, pursuant to which the Conference of the Parties may establish such subsidiary bodies as are necessary to achieve the objectives of the Convention,

1. DECIDES in accordance with Rule 25 of its Rules of Procedure, to establish an Intergovernmental Negotiating Body open to all Parties to draft and negotiate a protocol on illicit trade in tobacco products which will build upon and complement the provisions of Article 15 of the WHO Framework Convention on Tobacco Control;

2. RECOGNIZES that the template for a protocol on illicit trade, as proposed by the expert group convened in accordance with decision FCTC/COP/1(16) of the Conference of the Parties at its first session, contained in the annex to document A/FCTC/COP/2/9, establishes a sound basis for initiating the negotiations by the Intergovernmental Negotiating Body (INB);

3. DECIDES that the Intergovernmental Negotiating Body shall hold its first session in early 2008 and a second session immediately prior to the third session of the Conference of the Parties, and report to the third session of the Conference of the Parties on the progress of its work;

4. ALSO DECIDES that the Intergovernmental Negotiating Body shall hold a third session in the period between the third and fourth sessions of the Conference of the Parties and shall submit the text of a draft protocol on illicit trade in tobacco products to the fourth session of the Conference of the Parties for its consideration, in accordance with Article 33.3 of the WHO Framework Convention, unless this timeline is revised by the Conference of the Parties at its third session;

5. FURTHER DECIDES in accordance with Rule 27.1 of the Rules of Procedure of the Conference of the Parties, that the Intergovernmental Negotiating Body will hold its sessions in Geneva on dates to be decided by the Bureau of the Conference of the Parties;

6. REQUESTS the Intergovernmental Negotiating Body:
   (1) to proceed with its work on the basis of a chairperson’s text that will be elaborated after the first session of the Intergovernmental Negotiating Body by its chairperson with the support of the Secretariat and relevant experts, and submitted to the second session of the Intergovernmental Negotiating Body;
   (2) to explore all available procedures and mechanisms to increase the efficiency and effectiveness of its methods of work;
   (3) to take into account existing global agreements and arrangements related to illicit trade in tobacco products in order to maximize synergy and complementarity, and to avoid duplication, between the protocol and such agreements and arrangements;

7. REQUESTS the Secretariat:
   (1) to provide the Intergovernmental Negotiating Body with the necessary services and facilities for the performance of its work;
(2) to facilitate the participation of low and low-middle income Parties in the Intergovernmental Negotiating Body;

(3) to invite the observers referred to in Rules 29 to 31 of the Rules of Procedure of the Conference of the Parties to participate in the work of the Intergovernmental Negotiating Body in accordance with the above-mentioned Rules.

Ms LIU Guangyuan (alternate to Mr LI Yangzhe, China), speaking on behalf of the Parties to the Convention in the WHO Western Pacific Region, said that the phrase “third session” in paragraph 4 should be replaced by “at least one further session”, since it was not obvious that the draft protocol could be finalized in just two sessions of the negotiating body. If the draft protocol were finalized more quickly than expected, a special session of the Conference might be convened in order to adopt it. She had understood that the wording of paragraph 3 would allow for such a special session between the third and fourth regular sessions.

Mr RAJALA (European Community) said that he shared the optimism of the Chinese representative that the protocol might be finalized more quickly than expected. He proposed several amendments. First, the draft decision should specifically request the Convention Secretariat to make the study referred to in paragraph 6(2) available to Contracting Parties as soon as possible. Secondly, the Secretariat should solicit comments from States Parties on the study and the template for the draft protocol in time for an analysis thereof to be prepared for the first session of the negotiating body. Thirdly, in paragraph 2, the phrase “a sound basis for initiating the negotiations” should be replaced by “a basis for initiating the negotiations”. Fourthly, it might prove necessary to amend the draft decision once it had been adopted in order to address, for example, procedural issues arising from the work of the intergovernmental negotiating body. He suggested provision for a “virtual” session of the Conference to be convened for that purpose. Lastly, paragraph 5, dealing with the venue of sessions of the intergovernmental negotiating body, should be worded flexibly. For instance, a Contracting Party should be able to offer to host or finance a session without any assumptions being made about the choice of venue. He asked for more information about potential venues for the meetings of the intergovernmental negotiating body and what conference facilities were available in Geneva in 2008.

Mr AUSTIN (alternate to Mr Rajala, European Community) said that the European Anti-fraud Office would provide significant financial assistance for the third session of the intergovernmental negotiating body in 2009.

The CHAIR thanked the European Anti-fraud Office for its generous gesture.

Mr BURCI (WHO Secretariat, Legal Counsel) said that it would be difficult for a “virtual” session of the Conference of the Parties to take formal decisions, as a number of procedural requirements, such as the establishment of a quorum, would have to be demonstrably fulfilled. However, the Parties could hold informal consultations electronically and authorize the Bureau to take decisions. The Conference could change the timeline for the meetings of the intergovernmental negotiating body, as specified in paragraph 4 of the draft decision under discussion. There were other ways of ensuring flexibility: for instance, paragraph 3 could state that the second session of the body should take place “prior to”, rather than “immediately prior to”, the third session of the Conference. In addition, the Bureau was authorized to set the dates of the sessions of the intergovernmental negotiating body (pursuant to paragraph 5 of the draft decision), and that body had some scope to organize its own work as it saw fit.
Mr RAJALA (European Community) asked whether, with the present wording, it would be possible to hold the second session of the intergovernmental negotiating body immediately after the third session of the Conference.

Mr BURCI (WHO Secretariat, Legal Counsel) suggested the following wording for paragraph 3: “... second session prior or subsequent to the third session of the Conference of the Parties, as recommended by the first session of the intergovernmental negotiating body and subject to a decision by the Bureau of the Conference of the Parties”.

The CHAIR suggested that the Committee should consider most of the amendments proposed by the European Community at its next meeting, following regional consultations. However, as he saw no objection, he would take it that the Committee wished to change the phrase “sound basis” in paragraph 2 to “basis”.

It was so agreed.

Professor GONSU (Cameroon), speaking on behalf of the Parties to the Convention in the WHO African Region, suggested that paragraph 3 be further amended to state that the negotiating body should also submit a draft of the protocol to the third session.

The CHAIR drew attention to paragraph 6(1) of the draft decision, according to which the chair of the negotiating body would prepare a draft of the proposed protocol based on discussions at the first session, which would form the basis for discussion at the second session. Pursuant to Article 33(3) of the WHO Framework Convention, the final draft of the protocol would have to be submitted to the Contracting Parties at least six months before the session of the Conference at which it was proposed for adoption. The possibility of adopting the protocol at the third session of the Conference was thus remote.

Responding to a point raised by Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, he reiterated that the template prepared by the group of experts would form the basis for the discussions at the first session of the negotiating body, and the chair’s draft would form the basis for the discussions at the second session. There might be considerable differences between the two documents.

Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, suggested the addition of a phrase at the end of paragraph 7(2), calling for regional consultations before the sessions of the intergovernmental negotiating body. Such consultations would facilitate participation by lower-income countries, nongovernmental organizations, customs and law-enforcement officials and other stakeholders.

Mr AITKEN (WHO Secretariat) said that the budget of the Conference did make some provision for regional consultations, as had been done during negotiation of the WHO Framework Convention itself.

Responding to a point raised by Mr LOM (United States of America), the CHAIR confirmed that the Convention Secretariat would invite observers, as well as Contracting Parties, to submit comments on the template.

---

1 Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
Mr AITKEN (WHO Secretariat), replying to the query by the representative of the European Community about conference facilities in Geneva, said that one booking had been made for November 2008, should the Conference decide to hold its third session in Geneva. The Secretariat was investigating the availability of conference facilities for the first session of the intergovernmental negotiating body in the first quarter of 2008. Options should be clear by the end of July 2007.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) suggested that a reference to Article 5.3 of the WHO Framework Convention should be added to the preamble of the draft decision.

The CHAIR suggested that the Committee return to the draft decision at the next meeting, following regional consultations.

**It was so agreed.**

(For approval of the draft decision, see summary record of the seventh meeting, section 1.)

**Establishment of a study group on alternative crops (decision FCTC/COP1(17)):** Item 5.5 of the Agenda (Document A/FCTC/COP/2/11) (continued from the fourth meeting, section 4)

The CHAIR invited the Committee to consider the following draft decision on the study group on alternative crops:

The Conference of the Parties,
Recalling its decision FCTC/COP1(17) on the establishment of a study group on alternative crops,

**DECIDES:**
(1) to mandate the study group to continue its work and submit a report to the Conference of the Parties at its third session. This report should, in particular, address aspects of economic sustainability in crop diversification measures, as well as possibilities of alternative employment;
(2) to invite the relevant intergovernmental organizations accredited as observers to the Conference of the Parties under Rule 30 of the Rules of Procedure of the Conference of the Parties, in particular, the members of the United Nations Ad Hoc Interagency Task Force on Tobacco Control, such as the Food and Agriculture Organization of the United Nations and the World Bank, and the relevant nongovernmental organizations accredited as observers to the Conference of the Parties under Rule 31 of the Rules of Procedure of the Conference of the Parties with specific expertise in the matters to actively participate and contribute to the work of the study group, as per request from the Secretariat;
(3) to request the Secretariat to make the necessary arrangements, including budgetary arrangements, for the study group to continue its work.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), speaking on behalf of the Parties in the WHO Region of the Americas, suggested the following amendments. First, a phrase should be added at the end of the second preambular paragraph, reading: “and taking into account Articles 17 and 18 of the WHO Framework Convention”. Secondly, in paragraph (1), the phrase “alternative employment” should be replaced by “alternative livelihoods”. The word “employment” implied a formal, contractual arrangement which did not exist, or was uncommon, in many developing countries.
Dr PRASAD (India), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, suggested that the title and paragraph 1 of the draft decision should refer to “economically sustainable alternatives to tobacco growing” rather than “alternative crops”. A new paragraph 4 should be added, referring to the eighteenth preambular paragraph of the WHO Framework Convention and stating that the Conference Secretariat would protect the study group from undue influence of tobacco industry groups.

The CHAIR said that the title of the draft decision referred to a decision taken at the first session of the Conference and could not be changed. The wording of paragraph 1 could be modified as proposed; however, the word “sustainable” was preferable to “viable”, since many representatives had stressed that any proposed alternatives to tobacco growing must be sustainable in the long term.

Dr MAINA (Kenya), speaking on behalf of the Parties to the Convention in the WHO African Region, agreed that “livelihoods” was preferable to “employment”.

Mr RAJALA (European Community) asked for more time to consider the draft decision. A number of the European Community’s concerns had not been reflected. The study group needed to develop a scientific evidence base, to concentrate on tobacco growing and to specify a time-limit for its work.

Dr NZEYIMANA (Rwanda), speaking on behalf of the Parties to the Convention in the WHO African Region, supported all the amendments proposed by the representative of Chile.

Dr LEWIS-FULLER (Jamaica) suggested that the second sentence of paragraph 1 should be amended to read: “... crop diversification measures, as an alternative to tobacco crops, as well as possibilities of alternative livelihoods”.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) suggested that ILO should be added to the list of intergovernmental organizations in paragraph 2.

Dr VIRGOLINI (Argentina)\(^1\) said that the phrase “crop diversification” in paragraph 1, if not further qualified, might be understood to include the growing of tobacco. It should be amended to read “crop diversification and substitution”.

The CHAIR suggested that the Committee resume consideration of the draft decision at the next meeting.

**It was so agreed.**

(For approval of the draft decision, see summary record of the seventh meeting, section 1.)

---

\(^1\) Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
3. **SECOND REPORT OF COMMITTEE A** (Document A/FCTC/COP/2/18)

The CHAIR drew attention to the draft second report of Committee A, which contained a decision for recommendation to the Conference of the Parties on elaboration of guidelines for implementation of Article 13.

Mr ETENSEL (Turkey) asked that his country be included in the annex of the draft decision as a partner in the elaboration of the guidelines.

The second report of Committee A, as amended, was adopted.

The meeting rose at 12:55.
SEVENTH MEETING
Thursday, 5 July 2007, at 15:30

Chair: Dr F. NIGGEMEIER (Germany)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of protocols (decision FCTC/COP1(16)): Item 5.4 of the Agenda (continued from the sixth meeting, section 2)

Elaboration of a template for a protocol on illicit trade in tobacco products: Item 5.4.1 of the Agenda (Document A/FCTC/COP/2/9) (continued from the sixth meeting, section 2)

The CHAIR invited the Committee to resume its consideration of the draft decision. In view of representatives’ comments at the previous meeting, he suggested amending the final preambular paragraph to read: “Reaffirming the importance of Article 5.3 of the WHO Framework Convention on Tobacco Control, which requires the Parties to protect their health policies from commercial and other vested interests of the tobacco industry in accordance with national law”.

Mr RAJALA (European Community) asked whether the paragraph would have any implications for normal and necessary contacts between national customs authorities and the tobacco industry.

The CHAIR said that neither the amendment nor Article 5.3 from which it was derived was intended to jeopardize any responsible relationship between Contracting Parties and the tobacco industry; the intention was merely to encourage Parties to protect their public health policies.

Mr OKUMA (alternate to Mr Kobayashi, Japan) opposed the amendment. Article 5.3 was not directly related to illicit trade, and its inclusion, especially the reference to national law, would be confusing.

The CHAIR, supported by Mr CORCORAN (Ireland), noted that Article 5.3 was a general obligation that applied to the matter in hand, which might well involve the industry. It therefore seemed justified to refer to Article 5.3.

Dr ROMAGNOLI (Italy)\(^1\) said that he, too, found the proposed amendment confusing. The protocol dealt not only with health but also with protection of the financial and other interests of Contracting Parties, law and order, and criminal law.

---

\(^1\) Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
Mr OTTO (Palau) said that the Pacific island Parties supported the Chair’s interpretation of the proposed paragraph. Article 5.3 covered all vested interests, including commercial ones. The phrase “in accordance with national law” in Article 5.3 acknowledged the varying provisions of national legislation in some States Parties which might affect the way they sought to implement the article.

Mr RAJALA (European Community) said that, following the Chair’s explanation, the European Community accepted the proposed paragraph.

Mr DEL PICÓ (alternate to Dr Amarales, Chile), Dr PRASAD (India), speaking on behalf of the Parties in the WHO South-East Asia Region, and Dr AL-LAWATI (Oman) also supported the inclusion of the paragraph.

Mr OKUMA (alternate to Mr Kobayashi, Japan) said that his delegation would accept the consensus of the Committee.

Mr LOM (United States of America)1 pointed out that, for complete consistency with Article 5.3, the text should read: “... which requires the Parties to act to protect their public health policies ...”.

The CHAIR said that he took it that the Committee wished to approve the inclusion of the paragraph, as amended.

It was so agreed.

The CHAIR suggested the following wording for paragraph 3: “Decides that the intergovernmental negotiating body shall hold its first session in early 2008 and a second session preferably immediately prior to the third session of the Conference of the Parties or, if so required, before or after the third session. The Bureau shall decide on this matter in accordance with paragraph 5 below. The intergovernmental negotiating body shall report to the third session of the Conference of the Parties on the progress of its work.” From a financial perspective, it would be preferable to hold the second session of the negotiating body immediately before or after the third session of the Conference.

Responding to a point raised by Dr LEWIS-FULLER (Jamaica), he said that, because any draft protocol had to be submitted to Contracting Parties for their comments at least six months before the session of the Conference of the Parties at which it was to be adopted, it was extremely unlikely that the protocol would be adopted at the third session in late 2008.

Responding to a point raised by Mr RAJALA (European Community), he suggested that the first sentence read “... the intergovernmental negotiating body shall hold its first session in Geneva in early 2008 ...”.

Dr BLOOMFIELD (New Zealand) suggested the wording: “... and a second session preferably immediately prior to the third session of the Conference of the Parties, or at another time to be decided by the Bureau in accordance with paragraph 5 below”.

Paragraph 3, as amended, was approved.

1 Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
The CHAIR, referring to paragraph 4, recalled that it had been proposed that the phrase “a third session” should be replaced by “at least one further session”.

**Paragraph 4, as amended, was approved.**

The CHAIR suggested that the phrase in paragraph 5 “... hold its sessions in Geneva on dates ...” should be replaced by “... hold its sessions at venues and on dates ...”. Replying to a query from Mr RAJALA (European Community), he noted that, as specified in paragraph 3, the first session would definitely take place in Geneva. The Secretariat would inform Contracting Parties of the dates and venue of each session at least 60 days in advance, pursuant to Rule 5 of the Rules of Procedure of the Conference of the Parties.

**Paragraph 5, as amended, was approved.**

The CHAIR invited the Committee to consider the following revised version of the first three subparagraphs of paragraph 7:

“REQUESTS the Secretariat:
(1) to make the necessary arrangements, including budgetary arrangements, for the performance of the work of the intergovernmental negotiating body;
(2) to report to the first session of the intergovernmental negotiating body on existing global agreements and arrangements related to illicit trade in tobacco products;
(3) to invite Parties and the observers referred to in Rules 29 to 31 of the Rules of Procedure of the Conference of the Parties to provide, before the first session of the intergovernmental negotiating body, comments on the template referred to in paragraph 2 above and to ensure that Parties and observers have access, for example, via a protected web site, to those comments”.

Following comments by Mr OKUMA (alternate to Mr Kobayashi, Japan) and Mr OTTO (Palau), he suggested that, in order to avoid ambiguity, the phrase “the template referred to in paragraph 2 above” should be replaced by “the template for a protocol on illicit trade as set out in document A/FCTC/COP/2/9”.

Mr OLIVER (alternate to Ms Sabiston, Canada) suggested that, in paragraph 7(2), it should be made clear that the agreements and arrangements in question need not be concerned exclusively with illicit trade, but might include other instruments, such as the United Nations Convention against Transnational Organized Crime.

The CHAIR suggested the following wording: “... existing global agreements and arrangements relevant to the objective of the Intergovernmental Negotiating Body”.

Mr RAJALA (European Community) suggested the wording “... existing global and regional agreements and arrangements relevant ...”.

Mr LOM (United States of America)\(^1\) suggested the wording “... existing global, regional and bilateral agreements and arrangements relevant ...”.

\(^1\) Participating by virtue of Rule 29(2) of the Rules of Procedure of the Conference of the Parties.
Dr LAMBERT (adviser to Ms Matsau, South Africa) noted that bilateral agreements and arrangements had not been taken into account in the negotiation of the WHO Framework Convention, or in any subsequent negotiations or decisions. Reference should not be made to them without further discussion.

The CHAIR proposed that the Conference should ask the Convention Secretariat to report simply on “... existing agreements and arrangements relevant ...”.

Mr OKUMA (alternate to Mr Kobayashi, Japan) suggested the wording “... existing international agreements and arrangements ...”. The same wording should be used in paragraph 6(3).

Mr RAJALA (European Community) asked whether the term “international agreements and arrangements” covered an agreement between a group of States and a private company. Such agreements could be a valuable source of precedent and should be taken into account when drafting the protocol.

Mr BURCI (WHO Secretariat, Legal Counsel) said that an “international” agreement was one between subjects of international law, namely States or international organizations, not one involving private companies.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) said that the States Parties in the WHO Region of the Americas could not accept a reference to agreements involving private companies without further consultations.

The CHAIR noted that the subparagraph under discussion related to background information, not to the substantive work of the negotiating body. The Convention Secretariat should decide which information was most relevant and how much could be provided in the time available. He suggested, with the support of Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil), Mr RAJALA (European Community) and Dr BLOOMFIELD (New Zealand), that the Committee should use the more general wording “existing agreements and arrangements relevant to the objective of the intergovernmental negotiating body” in both paragraph 6(3) and paragraph 7(2).

It was so agreed.

Mr OKUMA (alternate to Mr Kobayashi, Japan) asked about the deadline for comments on the template. His delegation had serious reservations about it and would certainly comment.

The CHAIR said that the absolute deadline for comments was immediately before the first session of the negotiating body. The earlier comments were submitted, the more likely they were to be considered or commented on by other Parties.

Responding to a point raised by Dr AL-LAWATI (Oman), he suggested that an earlier deadline should be imposed for the submission of comments. Paragraph 7(3) would then read: “... provide, at the latest four months before the first session of the intergovernmental negotiating body ...”.

Dr AL-LAWATI (Oman) pointed out that, if the first session of the intergovernmental negotiating body was to take place in February or March 2008, comments would have to be submitted by early October 2007. He suggested that “four months” should be reduced to “three months”.

It was so agreed.
Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) asked how Rule 27(2) of the Rules of Procedure of the Conference of the Parties, which governed the holding of meetings in public and in private, would be interpreted for the meetings of the negotiating body. It was essential that Article 5.3 was respected.

Mr BURCI (WHO Secretariat, Legal Counsel) said that, unless the Conference of the Parties decided otherwise, the intergovernmental negotiating body itself would decide whether its meetings would be held in public or in private. Meetings would be held in public unless one or more Contracting Parties, or the chair of the negotiating body on the advice of regional groups, requested that they be held in private. The final decision, however, would be taken by the negotiating body as a whole.

Paragraphs 6 and 7, as amended, were approved.

The draft decision on the elaboration of a protocol on illicit trade in tobacco products as a whole, as amended, was approved.¹

Ms ARNOTT (Framework Convention Alliance for Tobacco Control), speaking at the invitation of the CHAIR, congratulated the Committee on the decision it had just approved. An effective protocol could considerably reduce world losses of tax revenue. Contracting Parties should consider earmarking a proportion of that recovered revenue for implementation of the WHO Framework Convention and for national tobacco control.

Establishment of a study group on alternative crops (decision FCTC/COP1(17)): Item 5.5 of the Agenda (Documents A/FCTC/COP/2/11 and A/FCTC/COP/2/INF.DOC./3) (continued from the sixth meeting, section 2)

The CHAIR invited the Committee to resume its consideration of the draft decision, retitled “Study group on economically sustainable alternatives to tobacco growing”. Because the new title did not make reference to decision FCTC/COP1(17), he took it that the change in the name of the study group was acceptable.

It was so agreed.

The CHAIR invited the Committee to consider the revised first two preambular paragraphs, which read:

“Taking into account Articles 17 and 18 of the WHO Framework Convention on Tobacco Control;  
Reaffirming preambular paragraph 18 of the Convention, which underlines the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts”.

In the absence of any objection, he took it that the preamble was acceptable.

It was so agreed.

¹ Transmitted to the Conference of the Parties in the Committee’s third report and adopted as decision FCTC/COP2(12).
In the light of comments from Mr RAJALA (European Community), the CHAIR suggested the following wording for paragraph 1: “... This report should address, in particular, scientific evidence, tobacco-growing-specific aspects, the time span in view of demand development, aspects of economically sustainable alternatives in crop diversification measures, as an alternative to tobacco crops, as well as possibilities of alternative livelihoods”.

Responding to queries from Dr PRASAD (India) and Ms MATSAU (South Africa), Mr RAJALA (European Community) explained that the term “demand development” referred to the rising global demand for tobacco. As that had implications for crop diversification, it should be taken into account by the study group.

Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) suggested that the phrase “demand development” be replaced by “demand trend”.

Paragraph 1, as amended, was approved.

The CHAIR noted that ILO had been added to the list of organizations in paragraph 2, pursuant to a suggestion made at the previous meeting.

Paragraph 2, as amended, was approved.

Mr RAJALA (European Community) suggested the addition of a reference to decision FCTC/COP1(17) in paragraph 3. The paragraph would thus read: “... to request the Secretariat, in accordance with decision FCTC/COP1(17), to make the necessary arrangements ...”.

In response to a concern raised by Ms REBUÁ SIMÕES (alternate to Mr Telles Ribeiro, Brazil) regarding financing for the work of the study group, Mr AITKEN (WHO Secretariat) noted that paragraphs 3 and 4 of decision FCTC/COP1(17) referred to past events and were therefore not relevant to the current decision.

The CHAIR suggested the following wording: “... to request the Secretariat, in accordance with the preamble and paragraphs 1 and 2 of decision FCTC/COP1(17), to make the necessary arrangements ...”.

Mr RAJALA (European Community) said that paragraph 3 included a useful reference to the possibility that Contracting Parties might host and finance meetings of the study group. However, he was willing to accept the wording proposed by the Chair.

Paragraph 3, as amended, was approved.

The draft decision on the study group on economically sustainable alternatives to tobacco growing as a whole, as amended, was approved.¹

¹ Transmitted to the Conference of the Parties in the Committee’s third report and adopted as decision FCTC/COP2(13).
2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 5.3 of the Agenda (Documents A/FCTC/COP/2/7 and A/FCTC/COP/2/8) (continued from the sixth meeting, section 1)

ADDITIONAL MATTERS IDENTIFIED IN THE DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15)):
Item 6.1 of the Agenda (Document A/FCTC/COP/2/12) (continued from the sixth meeting, section 1)

The CHAIR invited the Committee to resume its consideration of the draft decision on guidelines for implementation of the WHO Framework Convention, pursuant to decision FCTC/COP1(15). The phrase “develop guidelines” had been changed to “elaborate guidelines” throughout for consistency. Lists of key facilitators and partners for working groups had been updated. Additional partners should volunteer their services by the end of July 2007.

Paragraph 2 had been rearranged, but the content was unchanged. The text originally in paragraphs 3(b) and 3(c), calling on the working groups to use the expertise and invite participation of governmental, intergovernmental and nongovernmental organizations, now appeared in a new paragraph 5, which applied to all the working groups.

A new paragraph 6 had been added, reading as follows: “concerning Article 14, to request the Secretariat to elaborate, in consultation with Parties particularly interested in the issue, a first report on tobacco dependence and cessation, to be submitted to the Conference of the Parties at its third session”. Mexico and Uruguay had volunteered to be partners.

Mr ETENSEL (Turkey) confirmed that Turkey volunteered to act as a key facilitator for the working group on Article 12.

Dr SAMARN FUTRAKUL (alternate to Dr Mongkul Na Songkhla, Thailand) said that Thailand volunteered to be a key facilitator of the working group on Article 5.3.

Mr URAKAWA (alternate to Mr Kobayashi, Japan) proposed the addition of a phrase in paragraph 2, to read: “... information exchanges mediated by third parties, inter alia, the International Organization for Standardization (ISO) ...”.

Mr CHOINIÈRE (Canada) noted that the request in paragraph 2 was addressed to WHO’s Tobacco Free Initiative, rather than the Convention Secretariat, and should be kept flexible.

Ms VESTAL (WHO Secretariat) said that the Tobacco Free Initiative could promote the information exchanges called for in paragraph 2, but could not guarantee a positive result.

Dr AL-LAWATI (Oman), supported by Mr OTTO (Palau) speaking on behalf of the Pacific Island Parties, expressed doubts about the inclusion of a reference to ISO, which reportedly had links with the tobacco industry.

Ms MATSAU (South Africa) said that it was inadvisable to mention one organization by name, as the Tobacco Free Initiative was no doubt in contact with many others as well.
Paragraph 2 stated that the template guidelines presented in document A/FCTC/COP/2/8 were considered a “sound basis” for further work, whereas, in the draft decision on the elaboration of a protocol on illicit trade in tobacco products, the word “sound” had been deleted in a similar context.

Mr URAKAWA (alternate to Mr Kobayashi, Japan) withdrew his proposed amendment.

The CHAIR suggested that the phrase “a sound basis” should be replaced by “a basis”.

It was so agreed.

The draft decision on the elaboration of guidelines for implementation of the Convention as a whole, as amended, was approved.¹

3. CLOSURE

After an exchange of courtesies, the CHAIR declared the work of the Committee completed.

The meeting rose at 17:55.

¹ Transmitted to the Conference of the Parties in the Committee’s third report and adopted as decision FCTC/COP2(14).
1. OPENING OF THE COMMITTEE

The ACTING CHAIR declared open the first meeting of Committee B.

Election of officers

The ACTING CHAIR announced that Dr J.K. Amankwa (Ghana) had been nominated for the post of Chair of Committee B.

Decision: Committee B elected Dr Amankwa (Ghana) to serve as Chair.¹

Dr Amankwa (Ghana) took the Chair.

The CHAIR announced that Dr Ariffin bin Omar (Malaysia) and Mr V. Jnawali (Nepal) had been nominated for the two posts of Vice-Chair.

Decision: Committee B elected Dr Ariffin bin Omar (Malaysia) and Mr Jnawali (Nepal) as Vice-Chairs.

2. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda

Reporting and exchange of information (decision FCTC/COP1(14)): Item 5.2 of the Agenda (Documents A/FCTC/COP/2/6; A/FCTC/COP/2/INF.DOC./2)

Dr KUMMER (WHO Secretariat) gave an illustrated presentation of the material in document A/FCTC/COP/2/6, entitled “Synthesis of reports on implementation of the WHO Framework Convention on Tobacco Control received from Parties”.

Article 21 of the Convention required that each Party regularly report on its implementation of the Convention and submit its initial report within two years of the Convention’s entry into force. The current session of the Conference of the Parties had to decide on the frequency and format of the

¹ Decision FCTC/COP2(4).
The previous session had provisionally adopted the format for reporting as set out in the annex to decision FCTC/COP1(14), listing three groups of issues to be covered in national reports; it had established priorities and eased the reporting burden. Each Party had to report within two years of the Convention’s entry into force on the first group of issues, within five years on a second group and within eight years on the third group, and to use one of the six official languages of the United Nations. The reports submitted to the interim secretariat had been made available on the WHO website, and information on the status of reporting could also be found in document A/FCTC/COP2/6.

The previous Conference had designated Australia and Canada as facilitators to assist Parties in using the reporting instrument. A set of instructions, with the reporting instrument, were available on the web site. Demonstrations on use of the reporting instrument had been given at regional workshops, and a Word-based version could be filled in electronically. It was available in all six official languages and linked to a centralized database for ease of processing and analysis. A web-based format would allow Parties to complete reporting online.

Document A/FCTC/COP2/6 provided an analysis of national reports received and identified challenges related to use of the questionnaire, data collection, reporting and implementation, and technical aspects of reporting. The Committee could discuss those challenges and ease future reporting.

Overall, the reports submitted emphasized the commitment of Parties. The strongest areas of implementation included protection from exposure to tobacco smoke; sales to minors; packaging and labelling; and education, communication, training and public awareness. Weaker areas of implementation comprised civil and criminal liability, including compensation; the testing and measuring of emissions and regulation of the content of tobacco products; health warnings; cross-border advertising, promotion and sponsorship; and support to developing country Parties and Parties with economies in transition for reporting.

As the findings were based on reports from only 19% of all Parties to the Convention, their interpretation required caution, but they might be used by the Committee to consider several issues. Those included encouraging Parties to submit their reports on time; revising the questionnaire, standardizing the collection of data and ensuring its comparability; elaborating key terms and harmonizing the format with other initiatives related to tobacco. Those technical issues might require the establishment of a working group to revise the format for national reports with a view to adoption at the next Conference.

Experience had shown that updating and revising reporting tools and analysing reports could not be done during plenary meetings. The solution adopted under most environmental treaties was for a subsidiary body to work between conferences to apply decisions and prepare for the next conference. Such a body could deal with the reporting system and other tasks. A second approach would be to establish a subsidiary body solely for managing reporting.

Mr RAJALA (European Community) said that prudence was needed regarding the relationship between the Conference of the Parties and WHO. According to the annex to document A/FCTC/COP2/2/13 Add.1, reporting accounted for the largest share (130%) of financing of all the Conference’s activities. The European Community wished to see greater transparency in the work of WHO and how the budgetary allocations were related to the plans of the Conference before defining its position on the most important issues. As had been suggested, the Convention Secretariat’s analysis should include existing systems of data collection, including that of the European region.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran), speaking on behalf of the Parties to the Convention in the WHO Eastern Mediterranean Region, said that the report was comprehensive and focused, offering options for solving the problems identified. As only two of the nearly 20 Parties in his Region were represented on the Committee, participation in a working group would be difficult. The Secretariat had identified the problems and knew the reporting system; it should therefore prepare another outline of the system, identify problems in each area and propose
solutions. The Committee would decide whether it needed a working group. The Secretariat could also propose a draft decision about solving the problems identified.

Dr SORY (Ghana), speaking on behalf of the Parties to the Convention in the WHO African Region, said that they endorsed the report. Most African countries lacked legislation on tobacco control and had difficulty in reporting. The format needed further elaboration. It was unclear, for example, which age groups were covered, and data could not be compared. The reporting format should be more specific, and a subsidiary body should examine the instrument, as the Secretariat might not have the requisite expertise.

Mr ALCÁZAR (alternate to Mr Telles Ribeiro, Brazil) said that the reporting format should be corrected to improve the exchange of information. The Secretariat had put forward two options: a WHO subsidiary body could make the necessary changes, or they could be made by an ad hoc body. Both were excellent options. The Committee did not have time to work on the reporting format, given all the other issues to be considered. The Secretariat should therefore do the necessary work, either through an existing subsidiary body or through one to be established. Budgetary restrictions due to the penny-pinching attitude of delegations that refused to see reporting as central to the WHO Framework Convention might hamper the task of resolving the reporting format.

Mr MACPHEE (alternate to Ms Sabiston, Canada) observed that the Committee faced time and money constraints. The financial implications nevertheless had to be addressed. As the speaker for the European Community had pointed out, the Conference had a fixed budget, and reporting used up substantial funding.

He joined others in commending the secretariat on the lessons learnt, as shown in document A/FCTC/COP/2/6 and in the presentation. The questionnaire could be improved. Clarification was needed on harmonization of the reporting requirements of States, and those requirements should be spelled out. The Secretariat was in the best position to provide information, make suggestions and clarify definitions.

The CHAIR suggested that the issues raised by the European Community concerning budget reporting and transparency in WHO’s Tobacco Free Initiative be considered later under an item on financial matters.

Dr KUMMER (WHO Secretariat) said that she could not fully explain how the reporting system interrelated with other reporting systems, but that might be explored under a different agenda item. The Secretariat’s proposal to establish a small working group was based on the assumption that the group would not do the revision itself, and Secretariat resources and experience would have to be used; however, a mandate was needed for that purpose. The working group could draft a decision giving the Convention Secretariat such a mandate. In the course of that work, the concerns raised by the European Community on budget issues could be considered.

In reply to the Islamic Republic of Iran, she said that, at the previous Conference of the Parties, the approach used had been to choose key facilitators rather than to work in a group in which all Parties were represented. Australia and Canada had acted as key facilitators and consulted with other delegations. The Secretariat could draft a decision, as suggested, but that would be procedurally unusual. The Convention Secretariat could assist facilitators or a working group in drafting a decision and propose models or ideas for inclusion.

The establishment of a subsidiary body or another type of body should be considered in depth.

Mr RAJALA (European Community) agreed that financial concerns should be discussed under a different agenda item and requested clarification of the sequence of items on the agenda.
The CHAIR pointed out that the Committee B would first discuss reporting and exchange of information; financial matters would be discussed under item 7 of the Agenda. Two proposals had been made by the Secretariat: to establish a working group to make proposals before the close of the Conference, or to create a subsidiary body for long-term consideration of reporting issues.

Dr SORY (Ghana), speaking on behalf of the Parties to the Convention in the WHO African Region and supported by Mr ALCÁZAR (alternate to Mr Telles Ribeiro, Brazil), noted that past experience of a designated facilitator had been positive and proposed that the Committee adopt the same approach.

Mr RAJALA (European Community) said that he also favoured an alternative involving one or two volunteers to assist the Secretariat in advancing consideration of the issue, who would report back to the Committee.

Mr MOHAMED (Maldives), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said that all the countries in the Region had reported on time. The Secretariat’s presentation did not explain why some countries had reported late. There was no need to establish a subsidiary body to improve the reporting instrument, financial resources could be put to better use. If a working party was assigned to consultations, there should be a clear deadline for its results to reach the Committee.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) said that the proposal by Ghana on behalf of the African Region, supported by Brazil, was that the Committee should deal with a procedural issue without establishing a full working group but rather by using one or two countries as facilitators in order to draft a decision. The representative of the Maldives, speaking on behalf of the Parties in the WHO South-East Asia Region, had made substantive suggestions for what such a draft decision might contain. Once the facilitators had been chosen, consideration could be given on how to incorporate the substantive suggestion by Maldives. He supported the proposal by Ghana on behalf of the Parties in the WHO African Region.

Dr KUMMER (WHO Secretariat) said that she could not explain why some reports had been submitted late, since the Secretariat’s focus had been on evaluating the reports received. The evaluation did not always shed light on the reporting capacities of countries. A group of facilitators would elaborate reporting issues much better than a larger group such as the Committee.

The CHAIR, having asked for volunteers to serve as facilitators, announced that Germany, Maldives, the Democratic Republic of the Congo and India had come forward.

Dr SORY (Ghana), speaking on behalf of the African Group, said that Cape Verde would also like to volunteer.

The CHAIR said he took it that the Committee wished to establish a working group with the named facilitators, to work closely with the Convention Secretariat, to discuss reporting and exchange of information.

It was so agreed.

Financial resources and mechanisms of assistance (decision FCTC/COP1(13)): Item 5.1 of the Agenda (Document A/FCTC/COP/2/5)

Dr KUMMER (WHO Secretariat) gave an illustrated presentation based on document A/FCTC/COP/2/5, “Financial resources and mechanisms of assistance (decision
The subject had been discussed in detail at the first Conference of the Parties. The decision called on developing country Parties and Parties with economies in transition to assess their obligations under the Convention and to communicate their priorities to development partners. The Convention Secretariat would support them in assessing their needs.

A study (document A/FCTC/COP/1/4) of financial resources, including bilateral channels of assistance for tobacco control activities, had found that most bilateral development programmes were created through discussions between partner and donor countries. If tobacco control was made a priority, funding would probably be received. The study had highlighted the criteria used by many donors, which included a serious commitment to tobacco control by the recipient partners.

It had been decided that existing channels and funds should be used and the Secretariat had produced document A/FCTC/COP/2/5, outlining steps for successful needs assessment. The exercise should help Parties decide how to allocate resources, which was essential for compliance with the WHO Framework Convention. They should assess the extent to which the Convention was being implemented, identify immediate needs and outline strategies.

Resources must be matched to identified needs; in most cases, what was desirable was not matched by the resources available. Needs, focus areas and impacts should be measured against the investment required. For each priority plan of action, national targets should be defined and resource needs estimated. Information should be compiled and analysed and priorities identified for presentation to donors. In presenting their priorities to donors, countries could describe their tobacco control efforts, the methods used in needs assessment, selection criteria, the type of assistance requested and the projected use of the assistance. Discussions with donors should be specific: countries should state exactly what activities were to be undertaken, the projected completion date, costs, expected outcomes, evaluation and monitoring criteria and strategies for sustainability after the assistance ended.

Guidance tools had been developed, including a draft questionnaire (annexed to document A/FCTC/COP/2/5). The information already available included research and policy information compiled in the course of reporting under other tobacco control initiatives; an analysis of the measures taken; and a list of technical and financial assistance received for meeting Convention obligations.

The CHAIR said that countries must go beyond existing mechanisms of funding for tobacco control, they must assess their needs, by a specific method, and they must establish priorities for funding.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) pointed out two complementary issues: the actual availability of resources and how recipients should approach sources of financing. The presentation had detailed the latter, but said nothing of the former. The document should have identified the available bilateral, multilateral and international mechanisms and how donors could be encouraged to activate them. It evaded the issue of how to encourage donors to set such mechanisms in motion. Nothing was said about establishing a financial fund for the WHO Framework Convention into which donors could pay and that the Conference could decide how to use in meeting the expressed needs of countries.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that assessing needs presupposed that a country had the tools and capacity to acquire the necessary information. Yet countries, particularly in the African Region, were caught in a vicious circle: the securing of financial resources involved appraising the state of Convention implementation, which in itself had financial implications. For example, an on-line questionnaire needed resources for Internet access. Some countries had accomplished tasks that were within their reach, such as signing and ratifying the Convention. His own country, war-torn as it was, had been able to achieve those goals, even though tobacco control was not a priority. A start-up fund could help them build the capacity they needed to meet donors’ requirements. Otherwise, they would be singing the praises of the Framework
Convention in vain. The issue of prerequisite financing for implementation of the Convention, and how to acquire it, deserved consideration.

Ms KIPTUI (Kenya), speaking on behalf of the Parties to the Convention in the WHO African Region, said that the Convention’s success depended on the method used and the speed of Parties in responding to tobacco-related disease, disability and death. “Need” and “speed” should be the keywords of the Convention. The Convention Secretariat lacked the human and financial resources to meet the requirements, particularly of the developing countries and countries with economies in transition. The onus of extra work and resource mobilization therefore lay with the Parties. The obligations of the Parties must be clearly documented in order to ensure timely support; that called for needs assessment, which required regular information from Parties. That was the way to identify gaps and fill them.

The Parties of the African Region proposed that reports be submitted by Parties every year on technical and financial resource needs, based on assessments and that a working group should review issues relating to resources and mechanisms of assistance from all partners, and report thereon at each Conference.

Dr AMATSU (Togo) commented that much had been said about funding sources but no information was given on where to find them. Each source had its own criteria that had to be met when making requests for funding. The relevant information was needed so that countries could put forward their requests in a manner acceptable to the sources.

Ms EMMERLING (European Community) said that all tobacco control measures were eligible for funding under the European Union’s financial instruments. The priorities were fixed by dialogue with partners. So far, few countries had cited tobacco control as a priority. The European Union was trying to give priority to health sector programmes and to help countries to push for tobacco control within their own administrations, leading to outside funding.

In the past year, the European Commission, WHO and the European Observatory on Health Systems and Policies had held a seminar on “health in all policies” within countries covered by the European Neighbourhood Policy. For the European Union, implementing the WHO Framework Convention and the International Health Regulations (2005) were important, and partner countries should follow that lead. Some countries had already implemented those instruments. Under a new European Regional Development Fund programme on investment in health 2007–2013, both noncommunicable diseases and the Framework Convention were cited, thereby showing that the European Community was applying its own financial instruments to implement the WHO Framework Convention.

Dr NGABA (Central African Republic) reaffirmed the point made by the representative of the Democratic Republic of the Congo that support was needed for countries to analyse their level of tobacco control.

Ms MATSAU (South Africa), emphasizing needs assessment, identification of priorities and financial gaps, welcomed the information that the European Community provided funding bilaterally. She asked about the attitude of the Convention Secretariat and cooperating partners to assistance to developing countries that might be keen to implement the Convention but were discouraged by the prospect of expensive litigation.

Ms KONGSVIK (alternate to Ms Wilson, Norway) confirmed the statement by the Convention Secretariat about donor countries’ policies and that by the European Community about dialogue and developing countries’ ownership of priorities. Such considerations also guided her country’s support policies. Countries themselves should establish priorities, and poverty reduction strategies were significant.
In Norway’s experience, as a major contributor to WHO’s extrabudgetary funding, the WHO Secretariat was keen to devote resources to tobacco control. Funding for tobacco control had steeply increased in the Programme budget 2008–2009; however, it was unclear how far that priority had filtered down to country and regional offices. When it came to enabling countries to make the case for tobacco control, the first port of call would seem to be the WHO country office. She asked other Parties whether they had approached their WHO country offices for help in setting priorities and filling in questionnaires and what sort of reception they had received. The Secretariat could explain how the various levels of the Organization were dealing with such requests and helping to fulfil them.

Mr MACHEE (alternate to Ms Sabiston, Canada) said that, to implement the WHO Framework Convention, developing country Parties and Parties with economies in transition must make tobacco control a priority, and those efforts must be adequately resourced. Needs assessment was fundamental, however conducted. WHO had previously undertaken to draw up an inventory of donors, and that idea might be revived. He also asked whether the resources allocated to the Tobacco Free Initiative in the WHO Programme budget might be used in helping countries to make needs assessments, with or without the questionnaire.

Dr KUMMER (WHO Secretariat), responding to comments, said that locating funders or donors had been facilitated by a study conducted for the first Conference of the Parties (document A/FCTC/COP/1/4), which had identified donors and what could be expected of them. The method used had been to send questionnaires to many potential donors, most of whom had responded. Donors had been divided into various categories. Some 25 to 30 governments were listed, with their programmes and who could apply for them. The European Union was highlighted separately. Another list compromised intergovernmental organizations, including WHO, development banks, and nongovernmental organizations.

In decision A/FCTC/COP1(13), the Conference had requested the Convention Secretariat to provide assistance to Parties wishing to conduct a needs assessment. An alternative was to apply to a donor, which could be a demanding exercise.

The questions on the role of country offices and on the respective budgets of WHO and the Tobacco Free Initiative would be answered at another meeting.

The CHAIR said that the issues for further consideration included the proposal by Parties in the African Region for the establishment of a working group to assess periodically the needs of each country and how to obtain funding for needs assessment. Those matters would be addressed when the budget was discussed, at the Committee’s next meeting, with a third issue raised by the European Community.

The meeting rose at 17:50.
SECOND MEETING

Tuesday, 3 July 2007, at 10:35

Chair: Dr J.K. AMANKWA (Ghana)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Financial resources and mechanisms of assistance (decision FCTC/COP1(13)): Item 5.1 of the Agenda (Document A/FCTC/COP/2/5) (continued from the first meeting, section 2)

The CHAIR recalled the three issues carried over from the first meeting: the financial relationship between the Conference of the Parties and WHO’s Tobacco Free Initiative and the large quotient of the Conference’s financing allocated to reporting; general questions about the budget for work under the WHO Framework Convention; and a proposal to establish a working group to look into the mobilization of financial resources.

Dr BETTCHER (WHO Secretariat), in reply to Ms EMMERLING (European Community), said that the initial intention had been to consider needs assessment informally. Financial resources had been discussed at the first Conference of the Parties, and consideration given to establishing a financial mechanism. The Conference decision had encouraged greater use of existing mechanisms for mobilizing funds for developing country Parties. Their requests to donors had to be more specific and should highlight tobacco control as a priority.

At the end of the first Conference of the Parties, no information had been available on the needs and priorities of developing countries for implementing the Framework Convention. The Secretariat had since drafted a report on needs assessment (A/FCTC/COP/2/5). The Conference might consider supplementing the questions in the reporting instrument about receipt of funds and countries’ needs in implementing the Convention. To that end, the Secretariat had prepared a questionnaire, annexed to document A/FCTC/COP/2/5, on needs assessment, the responses to which might be reviewed by the Committee and used between the second and third Conferences. The Committee had discussed establishing an intersessional working group to consider needs assessment. Its terms of reference would have to be defined, but it might examine the draft questionnaire in the report, on which the Secretariat would appreciate feedback. The Committee could then decide whether it was an appropriate starting point for needs assessment or propose other issues for inclusion.

The interim secretariat had provided information to the first Conference of the Parties on precedents in multilateral environmental agreements of a financial mechanism, in document A/FCTC/COP/1/4.

Ms EMMERLING (European Community) said that, as she understood it, a working group would be established for the duration of the second Conference of the Parties, not for an intersessional period. It would consider document A/FCTC/COP/2/5 and the annexed questionnaire, which were possibly useful for needs assessment. It would also consider the role of the Convention Secretariat and WHO’s Tobacco Free Initiative in dealing with funding requests.
Mr MACPHEE (alternate to Ms Sabiston, Canada) said that document A/FCTC/COP/1/4, on the various donors and multilateral agencies available, could be regarded as part of a financial mechanism. In future, that listing should be kept up to date and posted on the WHO web site, together with addresses, details and any new sources of funding.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) agreed to the establishment of a working group but pointed out that, if it met simultaneously with the Committee, attendance would be difficult for small delegations like his own. The working group would apparently be focusing on document A/FCTC/COP/2/5, but that document merely touched on one part of the problem. It took for granted that countries in need of financial assistance had only to propose a properly prepared project for donors’ consideration; however, they might actually need financial assistance in order to reach that point. Needs assessment was only part of the overall problem and, should a working group be established, its agenda should cover financial mechanisms in general. The Convention should consider some financial mechanism of its own to support countries in need, such as a special fund into which donors could pay. The Convention Secretariat could then help countries prepare requests for financial assistance and allocate the fund’s resources, subject to the agreement of donors, for that and other purposes.

Mr TRIVEDI (India) fully supported those views. Practical achievement of the Convention’s objectives depended on the financial mechanisms put forward for those countries most in need. A dedicated fund was a good idea and merited more work. The activities of the Secretariat must be more measured and predictable, and, at the same time, the commitment of the Parties to the objectives must be demonstrated. Needs assessments should identify available funds, total requirements, potential achievements in the short term and longer-term priorities.

Mr MOURA GEORGE (Portugal), speaking on behalf of the Parties to the Convention in the European Union, said that the questionnaire on needs assessment seemed ineffectual. It looked like yet another reporting instrument; it failed to set priorities. In order to help potential donors, it must be used against the background of each individual country’s health policy. The role of WHO country offices must be clarified. He supported Canada’s comment about updating financial sources.

Ms KONGSVIK (alternate to Ms Wilson, Norway) said that the potential of existing mechanisms must be fully exploited. She had asked at the previous meeting for confirmation that WHO country offices had actually been approached by national authorities responsible for issues related to tobacco and if they had indeed provided assistance. WHO’s Tobacco Free Initiative received considerable financial support from countries, and, as for the whole of WHO, 70% of its resources were presumably earmarked for country-level purposes. The first step was to help countries formulate their needs and transmit that information to funding sources.

Dr BETTCHER (WHO Secretariat) reaffirmed the key role played by WHO’s regional and country offices in providing technical assistance to Parties for implementing the Convention. Under WHO’s Programme budget 2008–2009, funds for tobacco control were to increase by around 60%, almost all the increase going for regional and country-level technical assistance. As Norway had remarked, 70% of WHO’s budget already went for work outside headquarters. Every developing country had core funds, the use of which was negotiated by its minister of health with the country office. Some regions were earmarking more core funding for tobacco control measures, yet Article 26, paragraph 1, of the Convention made basic funding for tobacco control incumbent on Parties. The Convention emphasized that developing countries bore a burden of both communicable and noncommunicable diseases. Prevention and control of noncommunicable disease was a priority, and tobacco control significantly addressed the burden of such disease. The Secretariat was concerned that so few countries had identified tobacco control as an area for financial assistance from WHO’s regular budget. Another concern was that some countries allocated core funding for tobacco control and then,
halfway through the biennium, requested that funds be shifted to communicable diseases, maternal and child health, or other programmes. That was inconsistent with the Health Assembly’s emphasis on preventing and controlling noncommunicable diseases and the priority given by Member States to the WHO Framework Convention.

WHO had the necessary mechanisms for providing technical assistance in tobacco control. The countries themselves must set priorities and request core budget funds for such purposes. The WHO Framework Convention was too important to public health to be allowed to become a dead letter within 10 to 15 years, as had happened with a few other treaties. It was up to countries to make tobacco control a priority.

Dr OGWELL (Kenya) said that, at the previous meeting, Parties in the African Region had expressed their concern about access to resources for tobacco control. A dedicated budget for tobacco control was not necessarily appropriate. In Kenya, dedicated budgets and line items were disappearing and a sector-wide approach to budgeting was being introduced. The “basket funding” process was frequently used.

African Parties needed a clear system that would benefit those as yet unable to access current funding mechanisms. If donors required articulated needs, regular annual reporting would deal with the gaps between needs and available resources for Africa to fight tobacco. Support should not be made dependent on unattainable benchmarks. A working group was definitely necessary to examine simple accessible mechanisms and other issues.

Dr BETTCHER (WHO Secretariat) said that the Tobacco Free Initiative was ready to assist in drafting project proposals. In May and June 2007, it had conducted a pilot project in which WHO technical experts had been sent to eight African countries to help them prepare about 25 grant proposals for the Bloomberg Global Initiative. The Tobacco Free Initiative was also negotiating with a major donor for a multidisciplinary, multipartner tobacco initiative in Africa; those negotiations should be completed in late 2007. As funding for Africa from extrabudgetary sources was still relatively low, WHO's Tobacco Free Initiative had specifically addressed the needs of Africa in a continent-wide proposal. When requested by countries, its technical expertise would be made available for preparing donor proposals and any other assistance.

Mr TRIVEDI (India) agreed with Norway that working methods should be streamlined to build capacity at country level, and with Kenya that much had been promised that was yet to be delivered. He agreed with the Islamic Republic of Iran that a review of funding was needed. Every year, at the Health Assembly, Member States agreed that strengthened capacity was needed, but results took time. The issue of basic needs assessment recurred because it addressed the larger issue of capacity to meet collateral budget requirements. A working group and a dedicated fund would introduce more predictability. Donor funds, which were voluntary, could dry up if the donor considered the “performance” of a country to be inadequate, unless such funds formed part of a core budget. The solution lay on the supply side.

Mr MOURA GEORGE (Portugal), speaking on behalf of the Parties to the Convention in the European Union, welcomed the role of country offices in providing technical assistance for needs assessment in tobacco control. WHO’s regional offices and regional directors should not be overlooked, as they worked closely with WHO representatives in countries.

Ms KONGSVIK (alternate to Ms Wilson, Norway) said that the discussion on funding mechanisms raised the larger issue of whether donors or recipients should set priorities and how the two partners should cooperate. As a donor country, Norway was under conflicting pressures. An error in the past had been to dedicate funding to a specific problem that was not an overall priority for a country, such as supporting the fight against AIDS when malaria was a greater problem. Currently, assistance was aimed at creating sustainable ownership of programmes within countries.
WHO, too, had been perceived in the past as being supply-driven, telling countries that a certain amount of money must be used for a specific purpose. More recently, countries themselves were asked to set their priorities. If, as the Secretariat had said, countries were switching their priorities in mid-biennium, to the detriment of tobacco control, should donors go back to deciding for countries which funds would be used for what? Countries were giving donors mixed signals. Donors needed to know whether the 60% additional funding for tobacco control had been used fully or only partly by countries.

Ms MATSAU (South Africa) supported the remarks by Portugal on the role of the regional offices. The WHO Secretariat’s comments gave the impression that the funding process left regional offices with minimal involvement. African countries, for which travel to Geneva was expensive, should have close dealings with their regional offices.

Concerning the Bloomberg Global Initiative, the WHO Secretariat’s remarks had suggested that funding was provided to WHO, from which countries would access it. A recent briefing by the Initiative had suggested that countries should apply directly. Were there two sources of funds or one? Could or should countries approach the Bloomberg Global Initiative directly?

Dr BETTCHER (WHO Secretariat), clarifying the role of the regional offices, said that in the next biennium each level of the Organization would receive a certain part of the overall budget for tobacco control. Under Strategic Objective 6 of the Medium-term Strategic Plan, 2008–2013, relating to the reduction of risk factors for health conditions associated with tobacco use, the draft plan for the Regional Office for Africa and African country offices had been costed with a budget of US$ 3.9 million for 2008–2009. Under Strategic Objective 3, on prevention and reduction of diseases, disability or premature death from noncommunicable conditions, the corresponding figure was about US$ 1 million. The Regional Office for Africa and country offices cooperated in planning their work. The attribution of funds within country allocations was led by the health ministry in conjunction with the country offices and regional office where technical assistance was concerned. Headquarters had no role in that process; it simply set the overall targets under the workplan of the Health Assembly.

Five different partners were implementing projects throughout the world under the Bloomberg Global Initiative, which was run by a small staff: WHO; the Campaign for Tobacco-free Kids; the Centers for Disease Control and Prevention Foundation; the Johns Hopkins Bloomberg School of Public Health and the World Lung Foundation. Around US$ 40 million to US$ 50 million in grants, administered by the World Lung Foundation and the Campaign for Tobacco-free Kids, were to be provided over the next two years internationally. WHO gave countries technical assistance in drafting proposals. Very few grant applications from Africa had been successful so far, and priority would be given to helping the countries draft proposals that had been due on 13 June 2007. Discussions were progressing with another major donor on a detailed proposal for increases in funds for operations for Africa. It was a top priority for the Director-General.

Ms EMMERLING (European Community) supported Norway’s general remarks on financial assistance. Donor countries should not make decisions for recipients: the latter should set their own priorities. She was also sensitive to the problems encountered by recipient countries in accessing funds. In programming dialogue with donor countries, health ministries were often less adept than other ministries at expressing their needs and promoting their sector. A stronger role of regional and country offices in helping health ministries in programming was important. Investing time and effort in getting more funds from existing financial instruments was worthwhile; they were the mainstream for most of the assistance and provided a long-term perspective.
Dr CHAISRI SUPORN SILAPACHAI (alternate to Dr Mongkul Na Songkhla, Thailand) said that budgetary support and resource allocation for developing and middle-income countries needed perspective. Needs assessment did not provide enough information. Useful indicators might be the rate of growth of smoking prevalence and a country’s ability to implement protective measures.

The CHAIR said that, in the absence of further comment, consideration of the item had been completed. He said he took it that the Committee wished to form an open-ended working group to discuss needs assessment and, in addition, all the factors surrounding financial resource mobilization, including where funds could be found, mechanisms of access and issues to be addressed.

It was so agreed.


Dr NIKOGOSIAN (Head, Convention Secretariat) said that the documents presented an analysis of the budget situation for the current biennium and the draft budget for the next biennium, under which the core functions of the Convention Secretariat and the Conference were projected to remain unchanged. Because staff recruitment had been delayed, some savings could be expected in the current biennium. The Conference could consider some redistribution within the budget, depending on the priorities decided upon at the current session. The total budget should remain at about US$ 8 million. The work of the current biennium indicated areas in which WHO, through its Tobacco Free Initiative, could support the Conference’s work by technical assistance and building capacity, at no additional cost. That might free funds for emerging priorities such as negotiations on a protocol, which would be expensive.

The new budget proposal comprised the same five items as had the previous one: sessions of the Conference, reporting system, report of the Convention Secretariat, coordination with relevant bodies, and elaboration of guidelines and protocols. From discussions with delegations, the Convention Secretariat had concluded that the fifth item might require extra funding; it had proposed only a small shift of US$ 300 000 as against the current budget.

Decisions at the current session would indicate priorities to the Convention Secretariat, which would perhaps redistribute funding among the various items. It was proposed to keep the budget and workplan along the lines of the current biennium, thus stabilizing work. The Committee needed time to look at the achievements and challenges of the current biennium. As the new Head of the Convention Secretariat, he might present a slightly revised budget proposal to the next session of the Conference.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) asked whether the information in paragraph 10 of document A/FCTC/COP/2/13, on the financial relationship between the Convention Secretariat and WHO’s Tobacco Free Initiative, meant that funds available to the latter could be used by the former in establishing a working group to draw up guidelines or a protocol. In paragraph 15, the final sentence implied that any request by intergovernmental organizations for observer status at the Conference would have financial implications, which he queried. Paragraph 32 referred to a study group, but with no mention of any projected budget requirements. In Annex 2 to the document, his country’s contribution to the budget as of 31 March 2007 was listed as US$ 19 748. The table in Annex 4 indicated that its potential assessed contribution for the financial period 2008–2009 was smaller – at US$ 18 850 – yet the same table in the corrigendum to the document showed that contribution as having risen to US$ 20 400, which required explanation.
Dr BETTCHER (WHO Secretariat) said that the separate workplans of the Convention Secretariat and WHO’s Tobacco Free Initiative were designed to ensure synergy, complementarity and cost-saving. The Tobacco Free Initiative could provide technical assistance to the working group in drawing up guidelines. Without any exchange of funds the Tobacco Free Initiative had been providing technical input for the Conference, including preparing policy recommendations. It also gave assistance for implementation workshops, 70% of the cost of which had been borne by WHO budgets. US$ 2.5 million had been budgeted for reporting under the Convention; reporting, technical assistance, evaluation and monitoring had been mostly covered by the Tobacco Free Initiative’s budget. WHO was making comparable surveillance systems, data and trend analysis a priority so that countries could respond to their questionnaires on implementation. WHO was setting up a new surveillance unit and increasing staff at regional and country level.

Mr AITKEN (WHO Secretariat), replying to the question about the scale of assessments, said that there were three major variables: the budget level, the number of Parties to the Convention, and the current scale of assessment for the United Nations and hence for WHO. It was the latter that had changed between issuance of document A/FCTC/COP/2/13 and that of its corrigendum. The Health Assembly had approved assessments for 2008–2009 on the basis of the United Nations scale, in which the relative share of the Islamic Republic of Iran had apparently risen fractionally.

Dr BETTCHER (WHO Secretariat), responding to the question prompted by paragraph 15 of document A/FCTC/COP/2/13, said that the funding needed for coordination with intergovernmental organizations was for staff time. The question on paragraph 32 referred to the costs of the ad hoc study group on alternative crops. Brazil had hosted the group’s first meeting, at a cost of between US$ 90 000 and US$ 100 000. After consultations, around US$ 40 000 of the cost of preparatory work had been borne by the Convention Secretariat. It was for the Conference to address in its budget discussions, whether future generous hosts would finance study group meetings or whether the core budget of the Conference would have to.

Replying to a question from Mr BAKER (New Zealand) on savings carried over from the 2006–2007 biennium to the 2008–2009 biennium, he said that the US$ 3 million obligated through 31 March 2007 reflected one year and one month of the life of the interim secretariat. It included some preparatory work, editing and translation for the second session of the Conference. The total budget for the remaining portion of the second session, to be funded by the Convention Secretariat was put at US$ 1.8 million. That totalled nearly US$ 5 million. The savings made could not be quantified until late 2007. When the existing and expected staff costs of the Convention Secretariat were included, total spending might amount to US$ 6.5 million.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the figure of US$ 8 million budgeted for the 2006–2007 biennium, as shown in Annex 1 to document A/FCTC/COP/2/13, included the standard 13% attributed in WHO for administrative and programme support costs. The operational budget of the Convention Secretariat for the 2006–2007 biennium was about US$ 7 million. Ways of maximizing savings in the budget for the current and next biennium would be discussed.

Ms EMMERLING (European Community), speaking on behalf of the European Community and the 27 Member States of the European Union, said that at the previous meeting they had maintained that the budget priorities should be set at the second Conference of the Parties. They needed to know the budget structure and how much of the Tobacco Free Initiative’s budget would be used to help implement the Convention. An update on estimated savings for 2007, a more structured programming document and a workplan for the next two years would also be welcome.
Dr NIKOGOSIAN (Head, Convention Secretariat) said that WHO’s Tobacco Free Initiative could contribute to the Convention Secretariat, broadly fulfilling the tasks and objectives of the Conference of the Parties under budget items II and V – reporting system and elaboration of guidelines. Reporting had two components: first, support for national surveillance capacity and harmonization, standardization and collection of data; and second, to incorporate indicators specific to treaties into the reporting mechanism, with detailed analysis for the Conference. The second component should remain with the Convention Secretariat, since it was a core function of the Conference, but the first could be taken on by the Tobacco Free Initiative. Understanding with WHO on that point had not been reflected in the documentation before the Committee because the discussions had taken place after the preparation of the budget and his own appointment. On rough calculations, the Tobacco Free Initiative could provide about US$ 1.3 million in support costs, for example for improving the reporting mechanism, building capacity in countries and priorities to be decided on by the Conference at its current session. The core portion of the Convention Secretariat’s work on reporting would thus be US$ 1.2 million when the standard programme support costs of 13% had been deducted.

Under item V, the contribution from the Tobacco Free Initiative would be in technical assistance for drafting guidelines. Such a redistribution of labour would hardly reduce the projected costs shown in the annex to document A/FCTC/COP/2/13. The probable savings from all assistance that the Tobacco Free Initiative might provide were put at around US$ 200 000. With the US$ 1.3 million already cited, the overall total came to US$ 1.5 million that could be redistributed according to Conference priorities. That was the best present estimate of savings.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties to the Convention in the WHO African Region, emphasized capacity for reporting and training; facilities and equipment for reporting; elaboration of policies and guidelines on reporting; funding for reporting; and involvement of governments and of regional offices in reporting. Developing countries and countries with economies in transition needed such skills and knowledge in order to report effectively and facilitate assessments. He requested clarification on the budget cycle for the Convention Secretariat and whether guidelines and updates would be provided for Parties on budget matters, as in Annex 1 to document A/FCTC/COP/2/13. Referring to the 2006–2007 biennium, he asked how unexpended balances would be used. The Parties in the African Region asked whether the cost of budget reporting could be reduced to less than US$ 1 million and whether the resulting savings could be distributed to areas that needed more support, particularly for the drafting of guidelines and protocols, and for strengthening the Convention Secretariat.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the budget cycle of the Convention Secretariat was currently identical to WHO’s two-year period, and that parity should be maintained. Possible savings in the 2006–2007 biennium were estimated at US$ 1.5 million. The allocation would be decided by the Conference. The Convention Secretariat would appreciate authority to carry over the balance to the next biennium and use it according to Conference priorities. Funding for reporting under item II of the budget could be reduced and redistributed. Since the budget of the Tobacco Free Initiative had been confirmed by the Health Assembly, some work under item II could be done through the Initiative. The corresponding funding was about US$ 1.3 million. The budget for Item II could be revised downwards and the funds thus released redistributed. He agreed that funds should go to item V, guidance and protocols, including partial coverage of negotiations on a protocol, if such negotiations were opened.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) said that Convention Secretariat staff were supposed to be recruited from within WHO. Would that have any implications for the budget presented in document A/FCTC/COP/2/13 or would salaries be paid from the WHO budget? How many staff were planned for?
Dr NIKOGOSIAN (Head, Convention Secretariat) said that staff costs were included in the budget presented, not in the WHO budget. No separate item was listed because staffing needs were incorporated in the five substantive items. There could be about 10 core Secretariat staff members with permanent duties – at least two P.5, two P.4 and two or three administrative support staff, as decided at the first session of the Conference. Short-term staff could be recruited for specific tasks. As Head of the Convention Secretariat, he could recruit staff as he saw fit, from WHO or elsewhere, as long as recruitment followed WHO’s procedures and rules. Some Convention Secretariat staff had already been drawn from the interim secretariat, in the interests of continuity.

Dr OKAMOTO (Japan) said that his country had contributed nearly 22% of the total budget of the WHO Framework Convention, and appreciated efforts to reduce expenditure during the final portion of the biennium and to base calculations for the next biennium on zero nominal growth, as shown in the annex to document A/FCTC/COP/2/13. He asked the Convention Secretariat for particulars of how the budget had been used in each year of the current biennium and asked that the report be distributed to all Parties. On that basis, the Secretariat should recalculate the budget for 2009 at the 2008 session of the Conference. Savings from the current biennium should not be spent on such low-priority tasks as organizing subsidiary body meetings or working groups to draft guidelines.

Ms KONGSVIK (alternate to Ms Wilson, Norway) expressed satisfaction that the Tobacco Free Initiative and the Convention Secretariat were working well together and avoiding duplication. She welcomed the additional budget information; the categories were in line with WHO budgeting, with comparability across the work of the Convention Secretariat and the Tobacco Free Initiative. The format of the WHO performance assessment should be used in reporting on implementation so as to indicate the difficulties encountered and whether funding was adequate. Referring to the addendum to document A/FCTC/COP/2/13, she requested clarification of item 4.3 on the cost of bureau meetings: the allocation of about US$ 400 000 seemed high.

Dr BETTCHER (WHO Secretariat) agreed that the figure given for the cost of bureau meetings was too high. It had perhaps been extrapolated from the previous year’s expenditures, when the head of the Secretariat was being recruited. Most bureau meetings were held either between diplomats located in Geneva or by videoconference. Travel of bureau members to attend sessions of the Conference held outside Geneva also had to be considered.

Mr MACPHEE (alternate to Ms Sabiston, Canada) requested a revised version of document A/FCTC/COP/2/13 to incorporate the clarifications that had been made, which he welcomed. Revision of the budget figures would clarify what funds were available and where they might be deployed, in accordance with Conference decisions on the establishment of working groups or a subsidiary body. Cost estimates of such decisions would be useful. A substantial increase in the budget for the Tobacco Free Initiative had been approved at the most recent Health Assembly. Although a figure of US$ 39 million had been mentioned, only a seemingly meagre US$ 1.3 million of that would be earmarked for technical assistance to the Conference.

Dr BETTCHER (WHO Secretariat) said that the budget of the Tobacco Free Initiative in the next biennium was US$ 50 million, the bulk of which would support Parties in implementing the Framework Convention. The US$ 1.5 million in savings would be used by the Tobacco Free Initiative for building capacity for surveillance systems, data management and collection, policy recommendations, economics, and other areas. The aim was to dovetail the budgets of the Convention Secretariat and the Tobacco Free Initiative.
Dr NIKOGOSIAN (Head, Convention Secretariat), responding to the request by Canada to redraft the budget document, said that, following the budget discussions in both Committees, a revised budget document would be submitted on the penultimate day of the Conference. The comments by Japan would be taken into account in the new draft.

The meeting rose at 13:00.
THIRD MEETING
Tuesday, 3 July 2007, at 16:20

Chairperson: Dr J.K. AMANKWA (Ghana)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009: Item 7 of the Agenda (Documents A/FCTC/COP/2/13, A/FCTC/COP/2/13 Corr.1 and A/FCTC/COP/2/13 Add.1) (continued from the second meeting, section 2)

Ms EMMERLING (European Community) said that document A/FCTC/COP/2/13 Add.1 suggested some duplication in reporting. Under the third expected result for 2008–2009 (COPER 3), two reports were to be submitted by expert groups and three by guidelines groups. Under the fifth expected result (COPER 5), five meetings of expert groups would be convened, with reporting to the Conference. She asked why reporting featured in two separate items, how the Convention Secretariat would handle outstanding voluntary assessed contributions, and whether the extrabudgetary funds in the budget proposal would come from non-Parties or would represent additional funding from Parties. She asked whether the Secretariat viewed extrabudgetary funding as appropriate in general and, if so, for which activities. At the previous meeting, she had requested more information on the budget of the Tobacco Free Initiative. Although some figures had been provided, she still sought a full written breakdown of the budget and which part of it was earmarked for Convention work.

Mr AITKEN (WHO Secretariat) said that the smaller budget figures under COPER 3 corresponded to the editing and translation of documentation for submission to the Conference. The larger figure covered substantive work as well as documentation. The action under COPER 5 corresponded to meetings of Parties and expert groups and to drafting of the report to the third Conference of the Parties. Collecting outstanding contributions was the responsibility of the WHO treasury, with standard reminder procedures.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that extrabudgetary funds were contributions from non-Parties as well as funds from Parties that exceeded their assessed contributions. Extrabudgetary funds could be channelled, as could any savings made, to priorities not initially covered in the workplan. For example, the workplan might give a particular activity low priority, whereas the Conference decided otherwise.

The Tobacco Free Initiative contributed more to the Convention’s achievements than had been visible from the cost-sharing exercise. Real technical contributions were one thing, and what could be attributed to the existing Conference budget was another. He would detail later the technical rather than the financial contributions of the Tobacco Free Initiative to the objectives of the Conference.

Mr TRIVEDI (India) welcomed the division of labour between the Tobacco Free Initiative and the Convention Secretariat and the synergetic and symbiotic relationship between the two. That
Mr AITKEN (WHO Secretariat) said that a component of the programme budget for the Tobacco Free Initiative, as approved by the Health Assembly, was quasi-annual reporting of data on tobacco. The Tobacco Free Initiative would help countries with such reporting. WHO programmes were assisting countries in gathering health statistics across the board, including on tobacco. Thus, WHO was assisting countries by both streamlining activities and reducing their cost.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) said that the previous meeting on the functioning of the Convention Secretariat had left the impression that holding the Conference elsewhere than in Geneva had serious budgetary implications. A meeting in Bangkok or Geneva had financial implications, but the cost of living in Bangkok was lower. Geneva was not a smoke-free city, it was an expensive venue and it was crowded with other major conferences, which frustrated the objective of publicizing the WHO Framework Convention. The Secretariat should issue a comparative paper on the costs of sessions in Geneva and Bangkok, thus enabling the Conference to reach an informed decision.

Mr ALI (Corporate Accountability International), speaking at the invitation of the CHAIR, said that the Conference must align its pace and priorities on implementation and saving lives. It must determine the resources needed, and Parties must meet their funding obligations. The budget must match the priorities set by Committee A. The Conference should consider holding its fourth session in 2009, as the proposed budget allowed for only one session during the 2008–2009 biennium. The timing and frequency of sessions should be based on needs. The Secretariat should raise funds to support the Convention’s implementation in developing countries.

Mr MOURA GEORGE (Portugal) said that, given the budgetary implications, the reporting system should emphasize lean, user-friendly and existing data collection mechanisms and maximize their utility. Large databases might not facilitate shared learning, especially if the data were of limited comparability and came with no translation. Gender issues should be taken into account in the data provided. Reporting and information exchange were related to the division of responsibilities between the Convention Secretariat and the Tobacco Free Initiative. In order to avoid duplication, reporting on the Convention could be brought into line with the monitoring and surveillance of other tobacco control activities. The Convention Secretariat should provide an overview of existing mechanisms for data collection on tobacco control within WHO. The Conference should give the Convention Secretariat and the Tobacco Free Initiative a clear mandate to elaborate questionnaires for eliciting answers to groups 2 and 3 questions, as defined in decision FCTC/COP1(14), before the next session, with experts if necessary.

The CHAIR suggested that the issues just raised by Portugal should be transmitted to the group that was to consider reporting.

The meeting rose at 16:45.
MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

The CHAIR invited the chairs of the two working groups to report on their proceedings.

Reporting and exchange of information (decision FCTC/COP1(14)): Item 5.2 of the Agenda (continued from the first meeting, section 2)

Mr MOHAMED (Maldives), speaking as chair of the working group on reporting and exchange of information, said that the group had met three times and had prepared the following preliminary draft decision:

The Conference of the Parties,
Recalling its decision FCTC/COP1(14), by which it provisionally approved the format for submission of national reports, pending further consideration at its next session;
Considering the synthesis of reports on implementation of the WHO Framework Convention on Tobacco Control provided in document A/FCTC/COP/2/6, in particular, the challenges relating to reporting identified therein;
Considering also that in order to fulfil its objectives, the reporting process should ensure that data provided are relevant, comprehensive and internationally comparable;

DECIDES:
(1) to mandate the Secretariat, with technical support from WHO’s Tobacco Free Initiative, and under the guidance of the Bureau, to revise the format of the questionnaire for Group 1 questions while maintaining the content; this may include, inter alia, resolving technical problems related to the completion of the questionnaire, creating additional data-entry boxes where necessary, standardizing the reporting format throughout the questionnaire and providing the instructions to assist Parties in a separate document;
(2) to request the Secretariat to complete this work as soon as possible after the second session of the Conference of the Parties;
(3) to request the Bureau to review the revised questionnaire for Group 1 questions, and, as appropriate, to decide on its provisional use by Parties, pending a decision of the Conference of the Parties at its third session;
(4) to mandate the Secretariat, under the guidance of the Bureau and with the assistance of competent entities within WHO, in particular, WHO’s Tobacco Free Initiative, and, as appropriate, experts in the relevant fields, to elaborate a draft of the Group 2 questions, and to revise the format of the questionnaire; in particular, the following issues should be addressed:
(a) standardized provision of data;
(b) standardized definitions;
(c) level of detail and comprehensiveness of documentation to be provided;
(d) data entry formats (for example, replacement of textual answers with quantitative/multiple choice/yes-no questions, supported by documentation);
(e) harmonization, synergies and avoidance of duplication with other data collection initiatives (for example, prevalence or demographics);
(5) to request the Secretariat to complete this work prior to the third session of the Conference of the Parties;
(6) to consider the draft Group 2 questions and the revised format of the questionnaire at its third session.

Mr MOURA GEORGE (Portugal) welcomed the preliminary draft decision.

(For continuation of the discussion, see summary record of the fifth meeting.)

Financial resources and mechanisms of assistance (decision FCTC/COP1(15)): Item 5.1 of the Agenda (continued from the second meeting, section 1)

Dr HARVEY (Australia), speaking as chair of the working group on financial resources and mechanisms of assistance, said that three proposals had been discussed. Nongovernmental organizations had proposed the establishment of a subsidiary body or working group. It would coordinate and mobilize resources, oversee the Convention Secretariat’s work in the area, be regionally representative, include donors and recipients, and meet once or twice a year before the third session of the Conference. The Islamic Republic of Iran had proposed a special fund within the Convention Secretariat: it would receive and accumulate Executive Board funds in order to assist Parties to assess and elaborate proposals for financial assistance in tobacco control activities; that proposal had received support. Australia, Canada, the European countries and New Zealand had seen no need for a subsidiary body or specific fund. They considered that existing mechanisms and resources should achieve sustainability, be used to identify barriers to funding and set tobacco control as a priority. A small informal working group using e-mail could be cost-effective and could report back to the third Conference of the Parties.

Ms EMMERLING (European Community) said that the working group on financing mechanisms should discuss the respective tasks and roles of the Convention Secretariat and those of the Tobacco Free Initiative.

Dr MAKINO (alternate to Mr Kobayashi, Japan) endorsed those comments and stressed that the budget should be divided adequately among activities.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties to the Convention in the WHO African Region, encouraged the working groups to consider inputs from other regions.

Ms MATSAU (South Africa) expressed support for the Iranian proposal to establish a special fund within the Secretariat and emphasized sustainability, enhanced by a dedicated budget line and capacity building.

The meeting rose at 10:55.
FIFTH MEETING

Wednesday, 4 July 2007, at 15:45

Chair: Dr J.K. AMANKWA (Ghana)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Reporting and exchange of information (decision FCTC/COP1(14)): Item 5.2 of the Agenda (Documents A/FCTC/COP/2/DIV/1, A/FCTC/COP/2/6 and A/FCTC/COP/2/INF.DOC./2) (continued from the fourth meeting)

The CHAIR drew the Committee’s attention to a revised draft decision prepared by the working group on reporting and exchange of information.

Mr MOHAMED (Maldives), chair of the working group, said that the working group had taken note of the suggestions made by Parties and had tried to accommodate all concerns in preparing the draft decision, which read as follows:

The Conference of the Parties,
Recalling its decision FCTC/COP1(14), by which it provisionally approved the format for submission of national reports, pending further consideration at its next session;
Considering the synthesis of reports on implementation of the WHO Framework Convention on Tobacco Control provided in document A/FCTC/COP/2/6, in particular, the challenges relating to reporting identified therein;
Considering also that in order to fulfil its objectives, the reporting process should ensure that data provided are relevant, comprehensive and internationally comparable;
Considering that gender-related issues should be taken into account when gathering and providing data;
Taking into account that protocols and guidelines are currently under development, which may make it difficult to consider Group 3 questions at the third session of the Conference of the Parties,

DECIDES:
(1) to mandate the Secretariat, with technical support from WHO’s Tobacco Free Initiative, and under the guidance of the Bureau, to revise the format of the questionnaire for Group 1 questions while maintaining the content; this may include, inter alia, resolving technical problems related to the completion of the questionnaire, creating additional data-entry boxes where necessary, standardizing the reporting format throughout the questionnaire and providing the instructions to assist Parties in a separate document;
(2) to request the Secretariat to complete this work as soon as possible after the second session of the Conference of the Parties;
(3) to request the Bureau to review the revised questionnaire for Group 1 questions, and, as appropriate, to decide on its provisional use by Parties, pending a decision of the Conference of the Parties at its third session;

(4) to mandate the Secretariat, under the guidance of the Bureau and with the assistance of competent entities within WHO, in particular, WHO’s Tobacco Free Initiative, and, as appropriate, experts in the relevant fields, to elaborate a draft of the Group 2 questions, and to revise the format of the questionnaire; in particular, the following issues should be addressed:

(a) increasing comparability of national data over time;
(b) provision of data in a standardized way;
(c) clear definitions and standards;
(d) level of detail and comprehensiveness of documentation to be provided;
(e) data entry formats (for example, replacement of textual answers with quantitative/multiple choice/yes-no questions, supported by documentation);
(f) harmonization, synergies and avoidance of duplication with other data collection initiatives (for example, prevalence or demographics);
(g) development of indicators to measure gender-sensitive policies.

(5) to request the Secretariat to complete this work prior to the third session of the Conference of the Parties;

(6) to consider the draft Group 2 questions and the revised format of the questionnaire at its third session;

(7) to consider Group 3 questions at the fourth session of the Conference of the Parties.

The working group had concluded that there should be no limitation to data provision and that the questionnaire should accommodate as much information as a country might provide.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) asked why consideration of Group 3 questions had been postponed to the fourth session of the Conference.

Mr MOHAMED (Maldives) said that, as mentioned in the preamble to the draft decision, the preparation of various protocols and guidelines might mean that enough information did not reach those working on the Group 3 questionnaires, who would not be able to produce a comprehensive document by the third session of the Conference. The matter should therefore be considered at the fourth Conference of the Parties.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) said that the draft decision appeared to assume that the Conference would be unable to examine the matter at its third session. The results of work on protocols and guidelines could be available by then. He suggested amending paragraph (7) of the draft decision to the effect that Group 3 questions would be considered, if not at the third session, at the fourth session of the Conference.

Mr MOHAMED (Maldives) explained that it was proposed that Group 2 questions would be considered at the third session of the Conference and the Group 3 questions at the fourth session.

Dr LI Xinhua (alternate to Mr Li Yangzhe, China) asked whether his country’s first report should be submitted in the existing format.

Mr MALOBOKA (Namibia) requested further explanation of why consideration of Group 3 questions was to be deferred to the fourth session of the Conference. With regard to the working group’s view that the questionnaire should accommodate additional data, he suggested inclusion of a
provision to the effect that additional information might be required and should be supplied by the applicant, individual or group completing the report.

Mr ESCOBAR RODRÍGUEZ (alternate to Mr Padrón Paredes, Bolivarian Republic of Venezuela) asked why Group 1 questions were covered by two paragraphs, (1) and (3), of the draft decision, which seemed repetitive.

Mr MOHAMED (Maldives) explained that there was no overlap between the provisions of those two paragraphs. With regard to postponing consideration of Group 3 questions, final decisions on various guidelines and protocols were likely to be made only at the Conference’s third session. The consensus was that it would be premature to finalize the Group 3 questionnaire until the outcome of those decisions. Since decisions on the questionnaires could be taken only by the Conference of the Parties, consideration of the Group 3 questionnaire would have to be deferred until its fourth session.

Dr KUMMER (WHO Secretariat) said that elaborating the Group 2 and Group 3 questions should be adapted to the schedule for reporting and the schedule for sessions of the Conference. Reporting on those questions would be an expansion of reporting on the Group 1 questions. The draft decision therefore aimed to resolve the problems, including technical difficulties, experienced with the Group 1 questionnaire before its next use. In accordance with decision FCTC/COP1(14), the first reports on the Group 2 questions would be due in February 2010 and the first reports on the Group 3 questions in February 2013. The Group 2 questions would be elaborated in time for consideration by the third session of the Conference of the Parties in 2008, which would then consider the questions in time for the reports to be submitted in 2010. However, work was under way on guidelines and protocols, which might make it difficult to consider the Group 3 questions at the third session. It had therefore been considered prudent to postpone consideration of the Group 3 questions to the fourth session to take account of reporting. Since the Group 3 questions might well require Parties to report on the use of guidelines and implementation of protocols, it would be sensible to wait until work on them was much more advanced before finalizing the Group 3 questions. Drawing up the Group 3 questions in 2008 when they would not be required until 2013 seemed premature.

Mr MALOBOKA (Namibia) and Dr LI Xinhua (alternate to Mr Li Yangzhe, China) said that they accepted that explanation. He reiterated his suggestion that a requirement on additional information be introduced.

The CHAIR took note of his suggestion.

(For approval of the draft decision, see summary record of the sixth meeting, section 1.)

The meeting rose at 16:10.
SIXTH MEETING

Thursday, 5 July 2007, at 10:35

Chair: Dr J. K. AMANKWA (Ghana)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS: Item 5 of the Agenda (continued)

Reporting and exchange of information (decision FCTC/COP1(14)): Item 5.2 of the Agenda (Documents A/FCTC/COP/2/DIV/1, A/FCTC/COP/2/6 and A/FCTC/COP/2/INF.DOC./2) (continued from the fifth meeting)

The CHAIR asked for further comments on the draft decision on reporting and exchange of information.

Mr MOURA GEORGE (Portugal), Mr MALOBOKA (Namibia), speaking on behalf of the Contracting Parties to the Convention in the WHO African Region, and Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran), speaking on behalf of the Parties to the Convention in the WHO Eastern Mediterranean Region, expressed support for the draft decision.

Mr MOHAMED (Maldives) said that his initial concerns about a possible decrease in the current funding allocation were answered by the draft decision, for which he expressed support.

The CHAIR took it that the Committee agreed to approve the draft decision.

The draft decision was approved.

Financial resources and mechanisms of assistance (decision FCTC/COP1(13)): Item 5.1 of the Agenda (Document A/FCTC/COP/2/5) (continued from the fourth meeting)

Dr HARVEY (Australia), chair of the informal working group established to prepare a draft decision on financial resources and mechanisms of assistance, expressed gratitude to the participants of the group for their hard work. The issue required urgent action during the coming year, and further discussions would take place at the third session of the Conference of the Parties. The draft decision read as follows:

The Conference of the Parties,
Recalling its decision FCTC/COP1(13) on Financial resources and mechanisms of assistance;

1 Transmitted to the Conference of the Parties in the Committee’s first report, and adopted as decision FCTC/COP2(9).
Noting the information provided in document A/FCTC/COP/2/5 and the additional information provided by the interim secretariat on its activities since the first session of the Conference of the Parties;

Reaffirming that mainstreaming tobacco control into such mechanisms as country strategies is a medium-term to long-term objective and that there is a need to use all appropriate mechanisms to meet immediate objectives and needs;

Noting that some Parties require support to undertake needs assessments and develop their project and programme proposals for seeking financial assistance from available bilateral and multilateral funding sources;

Aware of the difficulties that Parties encounter in accessing such financial assistance and the resulting impact on their capacity to meet their obligations under the WHO Framework Convention on Tobacco Control;

Further recognizing the need for taking immediate action to provide all necessary assistance to Parties to ensure sustained and predictable availability of funds;

Noting with satisfaction the increase in funding in support of tobacco control in WHO’s Programme budget 2008–2009 and the proposed increase for the following years contained in the WHO Medium-term strategic plan 2008–2013;¹

Aware of the need for synergy, complementarity and cooperation between the WHO Tobacco Free Initiative and the Secretariat,

DECIDES:

(1) to ask the Convention Secretariat to actively seek extrabudgetary contributions from Parties and other international donors, including intergovernmental organizations, specifically for the purpose of helping Parties in need to carry out needs assessments and develop project and programme proposals for financial assistance from available bilateral and multilateral funding sources;

(2) to invite the Director-General of the World Health Organization to support the Convention Secretariat in assisting Parties in need to develop project and programme proposals for financial assistance from available bilateral and multilateral funding sources, including, inter alia, through bringing this aspect of the work of the Convention Secretariat to the attention of potential donors during funding negotiations and actively encouraging contributions from these donors towards this work;

(3) to urge donor Parties to provide extrabudgetary contributions, specifically for the purpose identified in paragraphs 1 and 2;

(4) to request the Secretariat to prepare and present, at every session of the Conference of the Parties, an implementation report on activities undertaken to implement decisions FCTC/COP1(13) and FCTC/COP2 (to insert decision number), including an update of the financial mechanisms for assistance to Parties in need;

(5) to invite the WHO Tobacco Free Initiative to present a report on its activities undertaken specifically on the implementation of the WHO Framework Convention on Tobacco Control.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties to the Convention in the WHO African Region, said that the draft decision addressed most of the Region’s concerns.

Dr MAKINO (alternate to Mr Kobayashi, Japan) observed, with regard to paragraph 3, that extrabudgetary contributions would be voluntary.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran), responding to a suggestion by Mr BAKER (New Zealand) that the words “through the Convention Secretariat” be inserted in paragraph 5 after “to invite the WHO Tobacco Free Initiative to present a report”, said that the working group had been advised by the WHO Secretariat, that the words “through the Convention Secretariat” need be included only if the Conference of the Parties wished to request, rather than invite, action by a third party. Mr BAKER (New Zealand) accepted that explanation.

Dr HETLAND (Norway) expressed support for the well-balanced draft decision.

(For approval of the draft decision, see summary record of the seventh meeting, section 1.)


The CHAIR drew attention to a draft decision on a budget and programme of work, which read as follows:

The Conference of the Parties,
Recalling decision FCTC/COP1(11) of the Conference of the Parties to the WHO Framework Convention on Tobacco Control on its budget and workplan for 2006–2007,

DECIDES:
(1) to adopt the total budget of US$ 8 010 000 for the financial period 2008–2009 as follows:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount (US$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Third session of the Conference of the Parties (Article 24.3(a))</td>
<td>1 800 000</td>
</tr>
<tr>
<td>II. Reporting system under the Convention and support to Parties in fulfilling this obligation (Article 24.3(b) and (c))</td>
<td>1 200 000</td>
</tr>
<tr>
<td>III. Report of the Convention Secretariat (Article 24.3(d))</td>
<td>665 000</td>
</tr>
<tr>
<td>IV. Coordination with other relevant bodies and administrative arrangements (Article 24.3(e) and (f))</td>
<td>980 000</td>
</tr>
<tr>
<td>V. Elaboration of guidelines and protocols and other activities (Article 24.3(g))</td>
<td>3 365 000</td>
</tr>
<tr>
<td>Total</td>
<td>8 010 000</td>
</tr>
</tbody>
</table>
(2) to adopt the workplan for the financial period 2008–2009 as indicated at Annex 1 taking into account the decisions taken by the Conference of the Parties at its second session;

(3) to adopt the budget for the intergovernmental negotiating body on the protocol on illicit trade in tobacco products contained in Annex 2;

(4) to adopt the table showing the distribution of voluntary assessed contributions for financial period 2008–2009 as indicated in Annex 3 to this decision;

(5) to request the Head of the Convention Secretariat to implement the Conference of the Parties budget and submit an interim performance report on the budget to the third session of the Conference of the Parties in line with the model used by the World Health Organization in its performance reports to Member States, and a final report to the fourth session of the Conference of the Parties in 2010;

(6) to authorize the Secretariat to receive voluntary extrabudgetary contributions for activities in line with the workplan.
<table>
<thead>
<tr>
<th>COPER 1</th>
<th>INDICATORS</th>
<th>TARGETS TO BE ACHIEVED BY 2009</th>
<th>Budget (US$)</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sessions of the Conference of the Parties (Article 24.3(a))</td>
<td>1.1 Third Conference of the Parties</td>
<td>Convening the third session of COP in 2008</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 800 000</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COPER 2</th>
<th>INDICATORS</th>
<th>TARGETS TO BE ACHIEVED BY 2009</th>
<th>Budget (US$)</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting system under the Convention and support to Parties in fulfilling this obligation (Article 24.3(b) and (c))</td>
<td>2.1 Revising the reporting instrument and developing Group 2 questions</td>
<td>Revised reporting instrument, including Group 2 questions submitted to the third session of the Conference of the Parties</td>
<td>500 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.2 Number of Parties, in particular developing country Parties and Parties with economies in transition, substantially assisted in reporting on treaty-specific tobacco control measures</td>
<td>Technical assistance provided to 25 Parties requiring substantial assistance</td>
<td>500 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.3 Summary of Party reports in accordance with Article 21 submitted 60 days in advance of the relevant session of the Conference of the Parties</td>
<td>Two summary reports issued on time</td>
<td>200 000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1 200 000</td>
<td></td>
</tr>
</tbody>
</table>
### COMMITTEE B: SIXTH MEETING

#### COPER 3  INDICATORS

<table>
<thead>
<tr>
<th>Report of the Convention Secretariat (Article 24.3(d))</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Report on the activities of the Convention Secretariat submitted 60 days in advance of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>3.2 Report on the work for the elaboration of guidelines on Articles 9 and 10, 12 and 5.3 submitted 60 days in advance of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>3.3 Report on the work for the elaboration of guidelines on Articles 11 and 13 submitted 60 days in advance of the third session of the Conference of the Parties</td>
</tr>
<tr>
<td>3.4 Report on the work of the study group on alternative crops submitted 60 days in advance of the third session of the Conference of the Parties</td>
</tr>
</tbody>
</table>

#### TARGETS TO BE ACHIEVED BY 2009

| One report to be submitted on time |
| Three progress reports to be submitted on time |
| Two reports including a set of guidelines to be submitted on time |
| One report to be submitted on time |

#### Budget (US$)

<table>
<thead>
<tr>
<th>335 000</th>
<th>165 000</th>
<th>110 000</th>
<th>55 000</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>665 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### COPER 4  INDICATORS

<table>
<thead>
<tr>
<th>Coordination with other relevant bodies and administrative arrangements (Article 24.3(e) and (f))</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1 Process established to identify and initiate cooperation with relevant bodies and competent organizations to coordinate with the Conference of the Parties</td>
</tr>
<tr>
<td>4.2 Number of agreements concluded with relevant bodies and established competent organizations</td>
</tr>
<tr>
<td>4.3 Bureau meetings convened to address intersessional issues</td>
</tr>
<tr>
<td>4.4 Number of developing country Parties or Parties with economies in transition provided with assistance regarding sources of funding to assist in implementation of the Convention (for example, needs assessment and supporting development and submissions of proposals for funding)</td>
</tr>
</tbody>
</table>

#### TARGETS TO BE ACHIEVED BY 2009

| Written process established and implemented |
| Three agreements concluded with relevant bodies and established competent organizations |
| Intersessional Bureau meetings convened, on average, quarterly |
| 18 Parties assisted |

#### Budget (US$)

<table>
<thead>
<tr>
<th>130 000</th>
<th>250 000</th>
<th>200 000</th>
<th>400 000</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>980 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COP 5</td>
<td>Elaboration of guidelines and protocols and other activities (Article 24.3(g))</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>--------------------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>INDICATORS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.1 Meetings of protocol expert groups on [illicit trade] [cross-border advertising, promotion and sponsorship]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.2 Meetings of Parties convened for the elaboration of guidelines for Article 9 for consideration by the COP at its third session</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.3 Meetings of Parties convened for the elaboration of guidelines for other Articles</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.4 Meetings of the ad hoc study group on alternative crops convened</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.5 Technical assistance provided to Parties, for example, in regional and sub-regional workshops for the implementation of the WHO FCTC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th><strong>TARGETS TO BE ACHIEVED BY 2009</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Two meetings of each expert group convened with reports back to the COP</td>
<td>Three meetings convened with a report back to the COP</td>
</tr>
<tr>
<td>Four meetings of the guidelines groups convened with reports back to the COP</td>
<td>Two meetings of the study group convened with a report back to the COP</td>
</tr>
<tr>
<td>Assistance and participation in eight workshops</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Budget (US$)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>300 000</td>
<td>300 000</td>
</tr>
<tr>
<td>600 000</td>
<td>200 000</td>
</tr>
<tr>
<td></td>
<td>465 000</td>
</tr>
<tr>
<td></td>
<td><strong>1 865 000</strong></td>
</tr>
</tbody>
</table>

Total budget for financial period 2008–2009 8 010 000
ANNEX 2

**Proposed budget for the intergovernmental negotiating body on the protocol on illicit trade in tobacco products for biennium 2008–2009**

<table>
<thead>
<tr>
<th>Description</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>First session of the intergovernmental negotiating body</td>
<td>1 800 000</td>
</tr>
<tr>
<td>Third session of the Conference of the Parties to the WHO Framework convention on Tobacco Control and second session of the intergovernmental negotiating body</td>
<td>2 700 000</td>
</tr>
<tr>
<td>Third session of the intergovernmental negotiating body</td>
<td>1 800 000</td>
</tr>
<tr>
<td>Additional staff support (2 years)</td>
<td>1 100 000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7 400 000</strong></td>
</tr>
</tbody>
</table>

Expected available resources:

<table>
<thead>
<tr>
<th>Description</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>From line item 1 of the budget</td>
<td>1 800 000</td>
</tr>
<tr>
<td>From line item 5 of the budget</td>
<td>1 550 000</td>
</tr>
<tr>
<td>Expected savings from 2006–2007 budget</td>
<td>1 500 000</td>
</tr>
<tr>
<td>Expected voluntary assessed contribution from New Parties (net of programme support costs)</td>
<td>175 000</td>
</tr>
<tr>
<td>Expected extrabudgetary contribution from Australia (net of programme support costs)</td>
<td>175 000</td>
</tr>
<tr>
<td><strong>Total Available</strong></td>
<td><strong>5 200 000</strong></td>
</tr>
<tr>
<td>Net required for three sessions of the intergovernmental negotiating body</td>
<td><strong>2 200 000</strong>¹</td>
</tr>
</tbody>
</table>

¹ In the case that the second session of the intergovernmental negotiating body is not held back-to-back with the third session of the Conference of the Parties, an additional US$ 900 000 will be required for the convening of the former.
ANNEX 3

Potential assessed contributions to the WHO Framework Convention on Tobacco Control for the financial period 2008–2009

<table>
<thead>
<tr>
<th>Parties to the WHO Framework Convention (as of 4 July 2007)</th>
<th>%</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>0.00849</td>
<td>680</td>
</tr>
<tr>
<td>Algeria</td>
<td>0.12026</td>
<td>9 633</td>
</tr>
<tr>
<td>Antigua and Barbuda</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Armenia</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Australia</td>
<td>2.52852</td>
<td>202 534</td>
</tr>
<tr>
<td>Austria</td>
<td>1.25513</td>
<td>100 536</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>0.00707</td>
<td>567</td>
</tr>
<tr>
<td>Bahrain</td>
<td>0.04669</td>
<td>3 740</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>0.01415</td>
<td>1 133</td>
</tr>
<tr>
<td>Barbados</td>
<td>0.01273</td>
<td>1 020</td>
</tr>
<tr>
<td>Belarus</td>
<td>0.0283</td>
<td>2 267</td>
</tr>
<tr>
<td>Belgium</td>
<td>1.55933</td>
<td>124 903</td>
</tr>
<tr>
<td>Belize</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Benin</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Bhutan</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Bolivia</td>
<td>0.00849</td>
<td>680</td>
</tr>
<tr>
<td>Botswana</td>
<td>0.01981</td>
<td>1 587</td>
</tr>
<tr>
<td>Brazil</td>
<td>1.23957</td>
<td>99 290</td>
</tr>
<tr>
<td>Brunei Darussalam</td>
<td>0.03679</td>
<td>2 947</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0.0283</td>
<td>2 267</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Burundi</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Cambodia</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Cameroon</td>
<td>0.01273</td>
<td>1 020</td>
</tr>
<tr>
<td>Canada</td>
<td>4.21236</td>
<td>337 410</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Central African Republic</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Chad</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Chile</td>
<td>0.22779</td>
<td>18 246</td>
</tr>
<tr>
<td>China</td>
<td>3.77375</td>
<td>302 277</td>
</tr>
<tr>
<td>Congo</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Cook Islands</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Comoros</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Cyprus</td>
<td>0.06225</td>
<td>4 987</td>
</tr>
<tr>
<td>Democratic People’s Republic of Korea</td>
<td>0.00999</td>
<td>793</td>
</tr>
<tr>
<td>Democratic Republic of the Congo</td>
<td>0.00424</td>
<td>340</td>
</tr>
<tr>
<td>Denmark</td>
<td>1.04573</td>
<td>83 763</td>
</tr>
<tr>
<td>Djibouti</td>
<td>0.00141</td>
<td>113</td>
</tr>
</tbody>
</table>

1 The distribution of voluntary assessed contribution is based on WHO’s scale of assessments for 2008–2009 and is adjusted to accommodate the number of Parties to the Convention as of 20 June 2007.
<table>
<thead>
<tr>
<th>Parties to the WHO Framework Convention (as of 4 July 2007)</th>
<th>%</th>
<th>US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dominica</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Ecuador</td>
<td>0.02971</td>
<td>2 380</td>
</tr>
<tr>
<td>Egypt</td>
<td>0.12451</td>
<td>9 973</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Estonia</td>
<td>0.02264</td>
<td>1 813</td>
</tr>
<tr>
<td>European Community</td>
<td>3.53718</td>
<td>283 328</td>
</tr>
<tr>
<td>Fiji</td>
<td>0.00424</td>
<td>340</td>
</tr>
<tr>
<td>Finland</td>
<td>0.79799</td>
<td>63 919</td>
</tr>
<tr>
<td>France</td>
<td>8.91583</td>
<td>714 158</td>
</tr>
<tr>
<td>Georgia</td>
<td>0.00424</td>
<td>340</td>
</tr>
<tr>
<td>Germany</td>
<td>12.13636</td>
<td>972 123</td>
</tr>
<tr>
<td>Ghana</td>
<td>0.00566</td>
<td>453</td>
</tr>
<tr>
<td>Greece</td>
<td>0.04528</td>
<td>3 627</td>
</tr>
<tr>
<td>Guatemala</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Guyana</td>
<td>0.00707</td>
<td>567</td>
</tr>
<tr>
<td>Hungary</td>
<td>0.34523</td>
<td>27 653</td>
</tr>
<tr>
<td>Iceland</td>
<td>0.05235</td>
<td>4 193</td>
</tr>
<tr>
<td>India</td>
<td>0.63669</td>
<td>50 999</td>
</tr>
<tr>
<td>Iran (Islamic Republic of)</td>
<td>0.25468</td>
<td>20 400</td>
</tr>
<tr>
<td>Ireland</td>
<td>0.62962</td>
<td>50 432</td>
</tr>
<tr>
<td>Israel</td>
<td>0.59283</td>
<td>47 486</td>
</tr>
<tr>
<td>Jamaica</td>
<td>0.01415</td>
<td>1 133</td>
</tr>
<tr>
<td>Japan</td>
<td>22.00000</td>
<td>1 762 200</td>
</tr>
<tr>
<td>Jordan</td>
<td>0.01698</td>
<td>1 360</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>0.04103</td>
<td>3 287</td>
</tr>
<tr>
<td>Kenya</td>
<td>0.01415</td>
<td>1 133</td>
</tr>
<tr>
<td>Kiribati</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Kuwait</td>
<td>0.25751</td>
<td>20 626</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Lao People’s Democratic Republic</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Latvia</td>
<td>0.02547</td>
<td>2 040</td>
</tr>
<tr>
<td>Lebanon</td>
<td>0.04811</td>
<td>3 853</td>
</tr>
<tr>
<td>Lesotho</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Libyan Arab Jamahiriya</td>
<td>0.08772</td>
<td>7 027</td>
</tr>
<tr>
<td>Lithuania</td>
<td>0.04386</td>
<td>3 513</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>0.12026</td>
<td>9 633</td>
</tr>
<tr>
<td>Madagascar</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Malaysia</td>
<td>0.26883</td>
<td>21 533</td>
</tr>
<tr>
<td>Maldives</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Mali</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Malta</td>
<td>0.02405</td>
<td>1 927</td>
</tr>
<tr>
<td>Marshall Islands</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Mauritania</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Mauritius</td>
<td>0.01556</td>
<td>1 247</td>
</tr>
<tr>
<td>Mexico</td>
<td>3.19365</td>
<td>255 812</td>
</tr>
<tr>
<td>Micronesia</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Mongolia</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Parties to the WHO Framework Convention (as of 4 July 2007)</td>
<td>%</td>
<td>US$</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
<td>---------</td>
<td>--------</td>
</tr>
<tr>
<td>Montenegro</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Myanmar</td>
<td>0.00707</td>
<td>567</td>
</tr>
<tr>
<td>Namibia</td>
<td>0.00849</td>
<td>680</td>
</tr>
<tr>
<td>Nauru</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Nepal</td>
<td>0.00424</td>
<td>340</td>
</tr>
<tr>
<td>Netherlands</td>
<td>2.6502</td>
<td>212 281</td>
</tr>
<tr>
<td>New Zealand</td>
<td>0.36221</td>
<td>29 013</td>
</tr>
<tr>
<td>Niger</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Nigeria</td>
<td>0.06791</td>
<td>5 440</td>
</tr>
<tr>
<td>Niue</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Norway</td>
<td>1.10657</td>
<td>88 636</td>
</tr>
<tr>
<td>Oman</td>
<td>0.10329</td>
<td>8 273</td>
</tr>
<tr>
<td>Pakistan</td>
<td>0.08348</td>
<td>6 687</td>
</tr>
<tr>
<td>Palau</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Panama</td>
<td>0.03254</td>
<td>2 607</td>
</tr>
<tr>
<td>Papua New Guinea</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Paraguay</td>
<td>0.00707</td>
<td>567</td>
</tr>
<tr>
<td>Peru</td>
<td>0.11036</td>
<td>8 840</td>
</tr>
<tr>
<td>Philippines</td>
<td>0.11036</td>
<td>8 840</td>
</tr>
<tr>
<td>Poland</td>
<td>0.70885</td>
<td>56 779</td>
</tr>
<tr>
<td>Portugal</td>
<td>0.74564</td>
<td>59 726</td>
</tr>
<tr>
<td>Qatar</td>
<td>0.12026</td>
<td>9 633</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>3.0748</td>
<td>246 292</td>
</tr>
<tr>
<td>Romania</td>
<td>0.09904</td>
<td>7 933</td>
</tr>
<tr>
<td>Rwanda</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Saint Lucia</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Samoa</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>San Marino</td>
<td>0.00424</td>
<td>340</td>
</tr>
<tr>
<td>Sao Tome and Principe</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>1.05847</td>
<td>84 783</td>
</tr>
<tr>
<td>Senegal</td>
<td>0.00566</td>
<td>453</td>
</tr>
<tr>
<td>Serbia</td>
<td>0.02971</td>
<td>2 380</td>
</tr>
<tr>
<td>Seychelles</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Singapore</td>
<td>0.49096</td>
<td>39 326</td>
</tr>
<tr>
<td>Slovakia</td>
<td>0.08914</td>
<td>7 140</td>
</tr>
<tr>
<td>Slovenia</td>
<td>0.13583</td>
<td>10 880</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>0.00141</td>
<td>113</td>
</tr>
<tr>
<td>South Africa</td>
<td>0.41031</td>
<td>32 866</td>
</tr>
<tr>
<td>Spain</td>
<td>4.19963</td>
<td>336 390</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>0.02264</td>
<td>1 813</td>
</tr>
<tr>
<td>Sudan</td>
<td>0.01415</td>
<td>1 133</td>
</tr>
<tr>
<td>Swaziland</td>
<td>0.00283</td>
<td>227</td>
</tr>
<tr>
<td>Sweden</td>
<td>1.51547</td>
<td>121 389</td>
</tr>
<tr>
<td>Syrian Arab Republic</td>
<td>0.02264</td>
<td>1 813</td>
</tr>
<tr>
<td>Thailand</td>
<td>0.26317</td>
<td>21 080</td>
</tr>
<tr>
<td>The former Yugoslav Republic of Macedonia</td>
<td>0.00707</td>
<td>567</td>
</tr>
<tr>
<td>Timor-Leste</td>
<td>0.00141</td>
<td>113</td>
</tr>
</tbody>
</table>
Mr MALOBOKA (Namibia), speaking on behalf of the Parties to the Convention in the WHO African Region, observed that the total proposed budget was almost unchanged, despite the extra commitments assumed by, for example Australia and WHO’s Tobacco Free Initiative, and asked whether it would increase overall.

Dr NIKOGOSIAN (Head, Convention Secretariat) confirmed that the overall proposed budget of US$ 8 million remained the same, but that expected funds had been transferred between items to reflect the decisions of Committee A on the programme of work, with the elaboration of five sets of guidelines and one protocol. The budget allowed for nine meetings to elaborate guidelines. US$ 1.3 million had been reallocated from item II to item V, as various reporting costs could be reduced. The Tobacco Free Initiative would assist with tobacco control surveillance, reporting at country level, and improved reports to the Conference of the Parties. The extra funds for item V would contribute to funding guidelines and the intergovernmental negotiating body on the protocol on illicit trade.

Dr OGWELL (Kenya) requested confirmation that the increased allocation to reporting, from around US$ 600 000 for the 2006–2007 biennium to US$ 2.5 million, was attributable to the larger number of Parties due to report in the 2008–2009 biennium. He asked whether those funds would be used to support only the current reporting instrument, and whether modifying that instrument was included in item V of the budget. Would any surplus be used for other activities, such as strengthening the Convention Secretariat?

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that reporting had been allocated US$ 2.5 million in a previous version of the proposed budget but that amount had been reduced to US$ 1.2 million.

Dr OGWELL (Kenya) said that, as he understood it, US$ 1.3 million would be contributed by WHO’s Tobacco Free Initiative, making a total of US$ 2.5 million. He reiterated his request for clarification as to how the resources would be used.
Dr NIKOGOSIAN (Head, Convention Secretariat) drew attention to the resource allocations contained in Annex 1 to the draft decision and the difficulty of quantifying the Tobacco Free Initiative’s contribution. It might be more than the US$ 1.3 million envisaged.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties to the Convention in the WHO African Region, expressed the view that the US$ 400 000 allocated to achievement of expected result 4.4 was insufficient for helping 18 Parties to implement the Convention. He asked how those Parties would be selected and whether support would be available for other developing country Parties or Parties with economies in transition, of which there were more than 18 in Africa alone.

Dr NIKOGOSIAN (Head, Convention Secretariat), acknowledging that more funds were required for that purpose, explained that the decision on financial resources and mechanisms of assistance, to be approved by the Committee under item 5.1 of the agenda, might provide additional resources for more than 18 countries.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) pointed out that Parties that received assistance were required to submit certain information, notably on current tobacco control and the prevalence of tobacco use. However, many developing country Parties or Parties with economies in transition lacked the resources to collect and process such information, and would never be eligible to receive assistance; that problem did not seem to be covered under expected result 4.4. All Parties should be dealt with on an equal footing. He asked about support for collecting and processing the information required.

Ms EMMERLING (European Community) asked why the entry for expected result 2.3 in Annex 1 to the draft decision referred to two summary reports. With regard to expected results 3.2 and 5.2, the final decisions taken by Committee A on setting priorities for guidelines would presumably be reflected in the draft decision of Committee B. Under expected result 4.3, US$ 400 000 was allocated to bureau meetings. Given that such meetings would be attended by some six people, most of whom were already in Geneva, an average of US$ 25 000 per meeting seemed high, and she requested further explanation on use of funds.

Turning to expected result 5.3, she recalled that the first session of the Conference of the Parties had decided not to finance the ad hoc study group on alternative crops from the Convention’s budget. Unless Committee B decided otherwise, she would reserve her position that the Convention’s budget should not be used to finance the study group. Regarding expected result 5.4, she questioned the overlap of technical assistance with the WHO Tobacco Free Initiative and asked how the expected result corresponded to work on guidelines and protocols. Expected result 5.5 allowed for one session of the negotiating body, but how would other sessions be funded?

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that certain expenses, such as salary and programme support costs, were distributed evenly among the budget items, which made it difficult to cost one meeting of the bureau, for instance. Salary costs accounted for around one third of each item, rising for activities requiring large numbers of staff.

Those expected results that dealt with matters still under discussion by Committee A, such as 5.1 and 5.2, could still be amended following recommendations.

One meeting of the ad hoc study group on alternative crops in the 2008–2009 biennium had been included in the proposed budget. Such meetings in the previous biennium had been funded by Brazil. If a donor could be found again, the funds would be reallocated. The study group needed to discuss the recommendation of its first meeting, to commission research, and report to the third session of the Conference.

With regard to expected result 5.4, the last phrase distinguished technical assistance with definite deadlines from the technical assistance provided by WHO’s Tobacco Free Initiative, which followed different schedules. It should cover technical assistance solely on issues specific to treaties.
Such formulations addressed distinctions between the work of the Secretariat and support for general tobacco control.

Regarding the proposed budget for the intergovernmental negotiating body on the protocol on illicit trade in tobacco products contained in Annex 2 to the draft decision, three sessions of the negotiating body were planned. Combining the second with the third Conference of the Parties would reduce costs. The three negotiating body sessions would require US$ 7.4 million, of which US$ 5.2 million would come from internal reserves.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) queried an apparent discrepancy between the cost of the first session of the negotiating body, given in Annex 2 of the draft decision as US$ 1.8 million, and the US$ 1.55 million allocated in expected result 5.5. The second session of the negotiating body and the third Conference of the Parties should be shown separately in the proposed budget, for clarity. He asked why the proposed budget showed a contribution of US$ 1.8 million from item I of the overall budget. As extrabudgetary funds might be required in order to convene the negotiating body, a section on such funds should be included in its budget.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that the first session of the negotiating body was predicted to cost US$ 1.8 million, of which US$ 1.55 million would come from the overall budget. The words “contribution to session of intergovernmental negotiating body” could be used in the table in Annex 2 of the draft decision to avoid confusion. If the second session were shown separately from the third Conference, its apparently lower cost of US$ 900,000 might be queried.

Decision FCTC/COP1(11) on the budget and workplan 2006–2007 had included no specific provision on extrabudgetary funds, nor did the present draft decision, but it could if Parties so wished. The additional US$ 2.2 million required for the negotiating body would have to be found from such other sources, as funds received by the Secretariat. He asked whether the authorization given to the Convention Secretariat by the Conference of the Parties at its first session to receive funds should be renewed in the draft decision under discussion.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) asked whether that authorization was indefinite, allowing the Convention Secretariat to continue receiving funds for those areas identified by the Conference of the Parties at its first session, and additional areas identified at the second session.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the authorization given by the Conference of the Parties at its first session had referred only to activities under items II and V of the budget, whereas paragraph 6 of the present draft decision was broader in scope, covering “activities in line with the workplan”.

Mr AITKEN (WHO Secretariat) confirmed that the original authorization was still valid for the areas it covered, while paragraph 6 of the draft decision under discussion would allow the Convention Secretariat to receive funds for activities in other areas. He suggested waiting until Committee A had finished before approving the draft decision.

Ms EMMERLING (European Community) asked to what extent the Head of the Secretariat had authority to move funds between different items within the budget.

Mr AITKEN (WHO Secretariat) said that, in the absence of any other decision, WHO’s Financial Rules would be followed, allowing the Head of the Secretariat to transfer up to 10% of the funds allocated to one item to another item without seeking authorization from the Conference of the
Parties. The Conference could establish different rules, but experience within the WHO Secretariat had shown that the 10% limit allowed flexibility.

(For approval of the draft decision, see summary record of the Committee’s seventh meeting, section 3.)

The meeting rose at 11:45.
SEVENTH MEETING
Thursday, 5 July 2007, at 15:35

Chairperson: Dr J.K. AMANKWA (Ghana)

1. MATTERS ARISING IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES THAT CALL FOR ACTION IN THE PERIOD BETWEEN ITS FIRST AND SECOND SESSIONS (CONTINUED)

Financial resources and mechanisms of assistance (Decision FCTC/COP1(13)): Item 5.1 of the Agenda (A/FCTC/COP/2/5) (continued from the sixth meeting, section 1)

Dr HARVEY (Australia), speaking as the chair of the informal working group, proposed to include a number of clarifications in the draft decision on financial resources and mechanisms of assistance. In the fourth preambular paragraph and paragraphs 1 and 2, the phrase “available bilateral and multilateral funding sources” should be replaced by “all available funding sources”. The sixth preambular paragraph should be reworded to read: “Noting with satisfaction the increase in funding in support of tobacco control in the WHO programme budget for 2008–2009 and the proposed increase for the following years, contained in the Medium-term strategic plan for 2008–2013”; the amendment was not a substantive change, but merely reflected the budgeting process more accurately. Paragraph 3 should be amended to read: “… voluntary extrabudgetary contribution”, for increased clarity. Paragraph 5 should be amended to indicate that WHO would submit a report on the implementation of the Framework Convention at the next session of the Conference of the Parties, a point omitted from the earlier draft.

The draft decision was approved, as amended.¹

Dr HARVEY (Australia), in response to a point raised by Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran), stated that the phrase “all available funding sources” excluded funding provided by the tobacco industry.

2. DATE AND VENUE OF THE THIRD SESSION OF THE CONFERENCE OF THE PARTIES: Item 8 of the Agenda

Dr OGWELL (Kenya), speaking on behalf of the Parties to the Convention in the WHO African Region, proposed that the third session of the Conference, in 2008, should be held in South Africa, at a venue to be decided later.

¹ Transmitted to the Conference of the Parties in the Committee’s second report, and adopted as decision FCTC/COP2(10).
Ms MATSAU (South Africa) said that the venue was likely to be Cape Town, Durban or Johannesburg, depending on bids by conference organizers.

Mr MOURA GEORGE (Portugal) and Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) thanked the Government of South Africa for offering to host the third session.

Ms EMMERLING (European Community) asked whether the bureau of the Conference would have any say in the choice of venue, or whether South Africa would propose a single venue after an internal bidding process.

The CHAIR said that, as the question lay outside the Committee’s mandate, it should be left to the plenary.

Dr OGWELL (Kenya), speaking on behalf of the Parties to the Convention in the WHO African Region and supported by Mr MOURA GEORGE (Portugal), said that the decision submitted to the plenary for approval should state clearly that the third session was to take place in South Africa, rather than leaving the final decision to the bureau. South Africa should decide on the most appropriate venue and inform Member States accordingly, through the Convention Secretariat.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) recalled that the Conference of the Parties had entrusted the bureau with deciding the venue of the second session. He saw no reason why it should not make the decision on the third session.

Ms MATSAU (South Africa) assured the Committee that, should the third session be held in South Africa, the Government would assume any additional costs in accordance with the principles agreed on by the Conference of the Parties.


The CHAIRMAN invited the Committee to consider a revised draft decision, proposed by the Convention Secretariat, on the budget and programme of work for the Conference of the Parties for the financial period 2008–2009, in which the entries under “COPER 5” in the table in Annex 1 (see document A/FCTC/COP/2/B/SR6) read as follows:
### COP5
Elaboration of guidelines and protocols and other activities (Article 24.3(g))

#### INDICATORS

<table>
<thead>
<tr>
<th></th>
<th>5.1 Meetings of protocol expert groups on illicit trade [cross-border advertising, promotion and sponsorship]</th>
<th>5.2 Meetings of Parties convened for the elaboration of guidelines for Article 9 for consideration by the COP at its third session</th>
<th>5.3 Meetings of Parties convened for the elaboration of guidelines for other Articles</th>
<th>5.4 Meetings of the ad hoc study group on alternative crops convened</th>
<th>5.5 Technical assistance provided to Parties, for example, in regional and sub-regional workshops for the implementation of the WHO FCTC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TARGETS TO BE ACHIEVED BY 2009</strong></td>
<td>Two meetings of each expert group convened with reports back to the COP</td>
<td>Three meetings convened with a report back to the COP</td>
<td>Four meetings of the guidelines groups convened with reports back to the COP</td>
<td>Two meetings of the study group convened with a report back to the COP</td>
<td>Assistance and participation in eight workshops</td>
</tr>
<tr>
<td><strong>Budget (US$)</strong></td>
<td>750 000</td>
<td>600 000</td>
<td>200 000</td>
<td>265 000</td>
<td>1 550 000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>3 365 000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total budget for financial period 2008 - 2009: 8 010 000
Mr AITKEN (WHO Secretariat) suggested that a footnote be added to the last item in Annex 2, “Net Required for INB: 2 200 000”, to indicate the extra cost (US$ 900 000) that would be incurred should the second session of the negotiating body not take place at the same time as the third session of the Conference. That would enable the Head of the Convention Secretariat to raise the additional funds through voluntary contributions, if necessary.

Ms EMMERLING (European Community) said that the European Anti-fraud Office would provide substantial funding for the second session of the negotiating body.

Mr HOFMANN (Germany) suggested that the Committee propose dates on which the two sessions might be held consecutively.

Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran) observed that Annex 2 failed to indicate the currency used.

Dr OGWELL (Kenya) drew attention to the revised expected result 5 on elaboration of guidelines and protocols and other activities. The targets provided for only one meeting to draw up guidelines for Article 5.3. At least one further meeting should be allocated to Article 5.3, at the expense of an article of lower priority.

Mr AITKEN (WHO Secretariat) said that Committee A was considering a draft decision on the same issue. No extra meetings could be added. It had been generally accepted that two meetings should be allocated to Article 11, which had a three-year reporting requirement under the Convention, and three meetings to Article 13, for which two sets of guidelines were almost complete (see Annex 1, Indicator 5.1). The guidelines for Articles 5.3, 9, 10 and 12 were at an early stage and only a progress report would be submitted to the third session of the Conference; however, momentum should be maintained.

Responding to a point raised by Mr TRIVEDI (India), he confirmed that the intention was to hold the second session of the negotiating body immediately before the third session of the Conference, which could thus consider the reports of both sessions of the negotiating body.

Dr OGWELL (Kenya) suggested that, should the extra sum of US$ 900 000 become available, it might be better spent on drafting protocols and guidelines than on holding the second session of the negotiating body separately from the third session of the Conference.

Mr MALOBOKA (Namibia) said that consecutive sessions would clarify global tobacco control, which some delegations still had difficulty explaining to their governments.

Mr HOFMANN (Germany) suggested that paragraph 5 of the draft decision be amended to read: “... and submit an interim performance report based on the budget structure (Decision ....) to the third session of the Conference of the Parties along with ...”. The relevant decision number would be added later.

Ms EMMERLING (European Community) noted that the expected extrabudgetary contribution from Australia was recorded in Annex 2 as US$ 175 000, whereas she had understood that Australia would contribute US$ 200 000. Was the difference due to the programme support costs of 13% imposed by WHO?

Indicator 5.5 in Annex 1 referred to technical assistance for Parties in respect of Framework Convention measures with definite deadlines. That activity could be performed by WHO. The budget for that item could be divided between indicator 4.4, assistance to Parties in search of funding, and indicator 5.5 on the financing of the negotiating body.
Indicator 5.4 referred to a meeting of the ad hoc study group on alternative crops to tobacco. That meeting should take place, but the associated research and scientific activities could be undertaken by WHO. Expected result 5 of Annex 1 should deal only with the organization of meetings, the preparation of reports and meetings of the negotiating body.

Dr NIKOGOSIAN (Head, Convention Secretariat) confirmed that the figures in Annex 2 regarding two extrabudgetary contributions (expected voluntary assessed contribution from new Parties and expected extrabudgetary contribution from Australia) were net of programme support costs. In indicator 5.3 of Annex 1, the research referred to analyses intended to facilitate future work. That item could be deleted. The technical assistance referred to in under indicator 5.4 would assist Parties in respecting their commitments, particularly those with a strict deadline, and thus be an activity specific to the Convention as opposed to the general support provided by WHO. Again, that item could be deleted.

Replying to a further point raised by Ms EMMERLING (European Community), he said that a number of commitments, including reporting under the Framework Convention, specified a time limit, of three or five years for example. The present structure of the text should be retained, as it clearly indicated the three areas in which the Convention Secretariat would provide support for Parties: reporting, meeting their obligations under the Framework Convention, and accessing sources of funding.

Mr MOHAMED (Maldives), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, said that that Region had arranged valuable consultations preceding the first session of the Conference. The Parties in the Region wished to hold similar regional consultations before each session of the negotiating body. Were funds available or could funds be made available from another source?

Mr AITKEN (WHO Secretariat) said that those regional consultations had been widely acknowledged as valuable. Unfortunately, the budget under discussion provided little scope, although Dr Bettcher had indicated that WHO might provide some funding.

Mr TRIVEDI (India) said that the countries of the WHO South-East Asia Region welcomed the Convention Secretariat’s commitment to help Parties with their obligations under the Framework Convention. The Parties in his Region had considered ways of avoiding gaps in the distribution of activities between the Secretariat and WHO. However, they would await the next session of the Conference of the Parties before suggesting courses of action. He emphasized the potential for scientific and technical cooperation between the countries of the South and with countries in the North. He was confident that funding for the necessary activities would be forthcoming from voluntary or other sources.

In reply to Mr BAYAT MOKHTARI (alternate to Dr Alavian, Islamic Republic of Iran), Mr AITKEN (WHO Secretariat) explained that programme support costs were levied, on the instructions of the Health Assembly, on all contributions not forming part of the regular budget in order to cover administrative costs of those funded activities, such as the payroll system or security services. The figure of 13% no longer matched the true costs, but even then donors were seeking to reduce it to 7%.

Mr TRIVEDI (India) said that, in considering any such reduction, the Health Assembly should maintain core competencies and equity between countries. The predominance in recent years of extrabudgetary funding in WHO’s programme budget had created a dichotomy between the commitment of Member States to WHO’s work and the financial resources they were prepared to provide.
Mr AITKEN (WHO Secretariat), replying to a question from Ms EMMERLING (European Community), said that the 13% figure for programme support costs had originally been applied throughout the United Nations system. Many bodies of that system had since reduced the figure to 7%, making up the shortfall through such other mechanisms as voluntary core funding. Although programme support costs might be waived or reduced in special cases, such as emergencies or donations from non-Member States of WHO, no such exception was likely in the present case. In addition to the activities of its Tobacco Free Initiative, WHO contributed considerable resources to the Conference of the Parties, including his own services and those of around one third of the present session’s staff.

Ms KONGSVIK (alternate to Ms Wilson, Norway) said that a study conducted at FAO had shown that administrative costs of extrabudgetary donations, especially small ones, represented between 25% and 30% of the donation. However, the issue concerned the Health Assembly rather than the Conference of the Parties.

Dr MAKINO (alternate to Mr Kobayashi, Japan) welcomed the European Commission’s proposals concerning sessions of the negotiating body in 2009. The carrying forward of US$ 1.5 million in expected savings from the 2006–2007 budget (see Annex 2) must not be seen as a precedent.

He suggested some amendments to the draft decision. Paragraph 5 should be reworded to read: “… submit a final report on the 2006–2007 biennium to the third session of the Conference of the Parties … and a final report on the 2008–2009 biennium to the fourth session of the Conference of the Parties in 2010, with each report clarifying the relationship with the work of the Tobacco Free Initiative”.

Paragraph 6 should be reworded: “ … extrabudgetary contributions from Parties and other international donors, including intergovernmental organizations, for activities … “.

Mr AITKEN (WHO Secretariat) said that both an interim and a final report would be required for the 2006–2007 biennium, prepared by the interim secretariat and the Convention Secretariat, respectively. In paragraph 6, no particular type of donor should be specified, as that might be taken to exclude others. WHO’s rules would prevent the acceptance of donations from unsuitable sources, such as the tobacco industry.

Dr MAKINO (alternate to Mr Kobayashi, Japan) said that he withdrew his proposed amendment to paragraph 6.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that savings carried forward from the 2006–2007 budget would not create a precedent: he intended to make use of the entire budget available, leaving nothing to carry over. He thanked the Committee for its confidence, shown by its approval of the extensive workplan and the flexibility to spend the budget as he saw fit and to raise additional funds. He promised transparent budget procedures. He intended to use funding from government sources for activities related to new provisions of international law, such as the drafting of protocols, and funding from other sources for activities such as technical assistance.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that, in the interests of transparency, the budget should clearly show income and expenditure, with income divided into four categories: contributions from Parties, voluntary contributions, extrabudgetary funding, and any shortfall requiring additional resources. The budgets for the third session of the Conference of the Parties and the second session of the intergovernmental negotiating body should be separate.
Mr AITKEN (WHO Secretariat) said that the figure of US$ 8 million in paragraph 1 of the draft decision was made up of voluntary assessed contributions. The rest of the budget, shown in Annex 2, consisted of voluntary contributions. The latter were difficult to predict, and details would be published in the accounts or performance reports.

Ms EMMERLING (European Community) welcomed the pledge by the Head of the Convention Secretariat that he would use public money for activities concerning international law. The Conference of the Parties should consider the final reports of the bienniums 2006–2007 and 2008–2009.

The draft decision, as amended, was approved.¹

4. CLOSURE

After an exchange of courtesies, the CHAIR declared the work of the Committee completed.

The meeting rose at 17:00.

¹ Transmitted to the Conference of the Parties in the Committee’s third report, and adopted as decision FCTC/COP2(11).
PART II

REPORTS OF COMMITTEES
The text of decisions recommended in committee reports and subsequently adopted without change by the Conference of the Parties have been replaced by the serial number (in square brackets) under which they appear in Section 1, Decisions. The verbatim records of plenary meetings at which these reports were approved are reproduced in Section 2.

**CREDENTIALS**

Report

[A/FCTC/COP/2/16 – 3 July 2007]

1. The Bureau of the Conference of the Parties examined the credentials delivered to the Secretariat in accordance with Rule 18 of the Rules of Procedure of the Conference of the Parties.

2. The credentials of the Representatives of the Parties shown in the Annex hereto were found to be in conformity with the Rules of Procedure. It is therefore proposed that the Conference of the Parties accept them.

3. The Bureau examined notifications from the Parties listed below, which, while indicating the names of the Representatives of the Parties concerned, could not be considered as constituting formal credentials. It is therefore recommended to the Conference of the Parties that they be entitled to participate provisionally in the session, pending the arrival of their formal credentials:

   Azerbaijan; Bahrain; Bolivia; Cameroon; European Community; Honduras; India; Luxembourg; Panama; Philippines; Romania; Sao Tome and Principe; Senegal; Sudan; The former Yugoslav Republic of Macedonia; United Arab Emirates.

**ANNEX**

Albania; Algeria; Armenia; Australia; Austria; Bangladesh; Barbados; Belgium; Benin; Bhutan; Brazil; Brunei Darussalam; Bulgaria; Burkina Faso; Burundi; Cambodia; Canada; Cape Verde; Central African Republic; Chad; Chile; China; Comoros; Congo; Cook Islands; Democratic People’s Republic of Korea; Democratic Republic of the Congo; Denmark; Djibouti; Egypt; Estonia; Fiji; Finland; France; Georgia; Germany; Ghana; Greece; Guatemala; Guyana; Hungary; Iran (Islamic Republic of); Ireland; Israel; Jamaica; Japan; Jordan; Kenya; Kiribati; Kuwait; Lao People’s Democratic Republic; Latvia; Lebanon; Lesotho; Libyan Arab Jamahiriya; Lithuania; Madagascar; Malaysia; Maldives; Mali; Marshall Islands; Mauritania; Mauritius; Mexico; Micronesia (Federated States of); Mongolia; Myanmar; Namibia; Nauru; Nepal; Netherlands; Niger; Nigeria; Niue; Norway; Oman; Pakistan; Palau; Papua New Guinea; Paraguay; Peru; Poland; Portugal; Qatar; Republic of Korea; Rwanda; Saint Lucia; Samoa; Saudi Arabia; Singapore; Slovakia; Slovenia; Solomon Islands; South Africa; Spain; Sri Lanka; Swaziland; Sweden; Syrian Arab Republic; Thailand; Togo; Tonga; Trinidad and Tobago; Turkey; Ukraine; United Kingdom of Great Britain and Northern Ireland; Uruguay; Vanuatu; Venezuela (Bolivarian Republic of); Viet Nam; Yemen.

---

1 Amended and approved by the Conference of the Parties at its third plenary meeting.
COMMITTEE A

First report¹

[A/FCTC/COP/2/17 – 4 July 2007]

Committee A recommends to the Conference of the Parties the adoption of one decision under the following agenda item:

5.3.1 Elaboration of guidelines for implementation of the Convention:
Article 8: Protection from exposure to tobacco smoke

One decision entitled: Guidelines on protection from exposure to tobacco smoke.

Second report¹

[A/FCTC/COP/2/18 – 5 July 2007]

Committee A recommends to the Conference of the Parties the adoption of one decision under the following agenda items:

5.4.2 Elaboration of a template for a protocol on cross-border tobacco advertising, promotion and sponsorship

and

6.1.3 Elaboration of guidelines for implementation of the Convention:
Article 13: Regulating cross-border advertising

One decision entitled: Elaboration of guidelines for implementation of Article 13.

Third report¹

[A/FCTC/COP/2/22 – 6 July 2007]

Committee A recommends to the Conference of the Parties the adoption of three decisions as follows:

5.4 Elaboration of protocols (decision FCTC/COP1(16))

5.4.1 Elaboration of a template for a protocol on illicit trade in tobacco products

5.5 Establishment of a study group on alternative crops (decision FCTC/COP1(17))

¹ Approved by the Conference of the Parties at its fourth plenary meeting.
5.3 and
6.1 Elaboration of guidelines for implementation of the Convention (decision FCTC/COP1(15))

COMMITTEE B

First report

[A/FCTC/COP/2/19 – 6 July 2007]

Committee B recommends to the Conference of the Parties the adoption of the attached decision on reporting and exchange of information.

5.2 Reporting and exchange of information (decision FCTC/COP1(14))

Second report

[A/FCTC/COP/2/20 – 6 July 2007]

Committee B recommends to the Conference of the Parties the adoption of the attached decision on financial resources and mechanisms of assistance.

5.1 Financial resources and mechanisms of assistance (decision FCTC/COP1(13))

Third report

[A/FCTC/COP/2/21 – 6 July 2007]

Committee B recommends to the Conference of the Parties the adoption of the attached decision on a budget and programme of work for the Conference of the Parties for the financial period 2008–2009.

7. Consideration of a budget and programme of work for the Conference of the Parties for the financial period 2008–2009

1 Approved by the Conference of the Parties at its fourth plenary meeting.