



WORLD HEALTH ORGANIZATION

**INTERGOVERNMENTAL NEGOTIATING BODY
ON THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
Fifth session
Provisional agenda item 3**

**A/FCTC/INB5/3
5 August 2002**

Drafting and negotiation of the WHO framework convention on tobacco control

Textual proposals and definitions submitted for the new Chair's text by 15 May 2002

1. Following the final plenary meeting of the fourth session of the Intergovernmental Negotiating Body, held on 23 March 2002, a Note Verbale was sent to all Member States inviting them to submit, not later than 15 May 2002, any further textual proposals that they might have in respect of the proposed draft convention to the Chair of the Negotiating Body. Participants had also been invited to present proposed definitions for 10 key cross-cutting terms that had been identified through extensive consultations during the fourth session.
2. Pursuant to this request, the following Member States and a regional economic integration organization submitted textual proposals: Algeria, Australia, Canada, China, Cuba, European Community, Guatemala, India (on behalf of the Member States of the WHO South-East Asia Region)¹ Japan, Mexico, Myanmar, Norway, Panama, the Philippines, Republic of Korea, the Russian Federation, the Syrian Arab Republic, Slovakia, South Africa, Thailand and the United States of America. These proposals are set out below.
3. The following document, referring to the Note Verbale, was divided into two parts. Part A contains textual proposals and Part B contains the definitions. Section B(1) refers to the definitions of the 10 key cross-cutting terms. Some Member States submitted definitions of additional terms; section B(2) refers to definitions of these additional terms. The alphabetical order was used since proposals and comments were submitted on the pre-existing structure of the various Co-Chairs' Working Papers which formed the basis of discussion during the fourth session of the Intergovernmental Negotiating Body.²
4. In addition to textual proposals, supporting explanations were received from some countries but are not reproduced in this document. Copies are available on request.³

¹ Bangladesh, Bhutan, Democratic People's Republic of Korea, India, Indonesia, Maldives, Myanmar, Nepal, Sri Lanka, Thailand.

² Documents A/FCTC/INB4/2(a), A/FCTC/INB4/2(a) Amend.1, A/FCTC/INB4/2(b), A/FCTC/INB4/2(c) Part 1, A/FCTC/INB4/2(c) Part 2, A/FCTC/INB4/2(c) Part 3, A/FCTC/INB4/2(c) Part 4, A/FCTC/INB4/5.

³ Requests should be addressed to Dr D. Bettcher, at FTC@who.int.

A. TEXTUAL PROPOSALS

A. *Preamble*

Text proposed by Canada

The parties recognize that tobacco use carries gender-specific risks, and that tobacco control strategies should address these concerns and include gender-sensitive methods and perspectives.

Text proposed by Mexico

As tobacco involves specific risks, policies and strategies to control tobacco and its various components should include methods and approaches that include the gender perspective.

C. *Objective*

No textual proposal was received for Article C.

D. *Guiding Principles*

Text proposed by Canada

The parties recognize that tobacco use carries gender-specific risks, and that tobacco control strategies should address these concerns and include gender-sensitive methods and perspectives.

Text proposed by China

5. Tobacco control measures taken to protect human health should not constitute a means of arbitrary or unjustifiable discrimination in international trade.

Text proposed by India (on behalf of the Member States of the WHO South-East Asia Region)

9. Delete.

Text proposed by Japan

4. Delete [, including the creation of a global funding mechanism].

5. Choose second option.

Text proposed by South Africa and supported by Australia, Canada, Mexico and New Zealand

Tobacco control carries gender-specific risks. Tobacco control strategies and their component parts should address these concerns and specifically include gender-sensitive methods, perspectives and language.

Text proposed by Thailand

To achieve the objective of this convention and to implement its provisions, the Parties shall be guided *inter alia* by the principles set out below:

1. It should be a public health imperative to prevent and halt the growth of tobacco consumption and to reduce its current impact on human health and the environment, in order to protect and promote the health of all individuals and to reduce tobacco-related morbidity and mortality at national and global levels through the application of comprehensive, multisectoral and coordinated national actions and international responses.
2. Full information should be provided to the general public about the addictive and lethal nature of tobacco consumption, and everyone should be protected from exposure to environmental tobacco smoke and from the health consequences of tobacco dependence and nicotine addiction.

E. General Obligations

Text proposed by India (on behalf of the Member States of the WHO South-East Asia Region)

1. Each Party shall develop, implement, periodically update, review and enforce, where appropriate, comprehensive, multisectoral, national tobacco-control strategies, policies, legislation and other national tobacco control programmes, such as standards, in accordance with the provisions of this convention and, as relevant, its protocols.

Text proposed by South Africa

The provisions of this convention shall be the floor and not the ceiling for tobacco control measures and shall in no way affect the right of Parties to:

- (a) adopt additional domestic measures and nor shall they affect measures already taken by a Party; and
- (b) enter into bilateral or multilateral agreements, including regional or subregional agreements, or issues relevant to or additional to the convention, provided that such measures or agreements are compatible with its obligations under this convention and its protocols. Copies of such additional measures or agreements shall be communicated to the secretariat of the convention by the Parties concerned.

In the event of a conflict between this convention and any of its protocols, and any other international agreement, measures to protect and promote public health shall prevail.

Text proposed by Thailand

1. Each Party shall develop, implement, periodically update, review, enforce, comprehensive multisectoral national tobacco-control strategies, policies, legislation, and other national tobacco-control measures and programmes, such as standards, in accordance with the provisions of this convention and, as relevant, its protocols.
2. To this end each Party shall, to the extent possible:

(a) establish or, where it already exists, reinforce, and adequately finance a national coordinating mechanism for tobacco control, with inputs from relevant government and civil society sources;

(b) adopt legislative, executive and administrative measures and cooperate with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to environmental tobacco smoke.

F. Price and tax measures to reduce the demand for tobacco

Text proposed by Japan

1. Delete “[progressive]/[coordinated]”.

Delete “and tax”.

Choose “[measures]”.

Choose “[can be]”.

Delete “[The parties agree that ... in tobacco products.]”.

2. Without prejudice to the sovereign right of States to establish their taxation policy, each Party shall endeavour, as necessary, to take account of their national public health objectives towards tobacco consumption when determining national tobacco taxation policies, by adopting legislative, executive or administrative measures. These measures may include:

(a) Add “for customers within each Party’s discretion” after “products”.

(b) Add “appropriate” before “taxes” and delete “so as to achieve a progressive reduction in tobacco consumption”.

(c) Delete.

(d) Replace “in accordance with” by “to the extent possible and within”.

G. Non-price measures to reduce the demand for tobacco

Text proposed by the European Community and its Member States

1.

(b) adoption and implementation of appropriate measures [, as recommended by the World Health Organization/the Conference of the Parties,] for the regulation of the content of tobacco products, to be based on the industrial standards referred to in (b *bis*);

(b *bis*) cooperation in the development and harmonization of related industrial standards, taking into account public health criteria, for measuring the content and the emissions of tobacco products, and for verifying the accuracy of such measurements, in consultation with competent international bodies, such as the International Standards Organization and

the World Health Organization, and taking into account the expertise of independent tobacco analysis laboratories [and of the Codex Alimentarius Commission].

- (d) adoption and implementation of [appropriate] measures to ensure that:
- (i) tobacco packaging and labelling does not promote a tobacco product by any means that are false, misleading [, unsubstantiated] or [otherwise] deceptive or that are likely to create an erroneous impression about its characteristics, [or to minimize its] health effects, hazards or emissions ~~[, or that encourage consumption];~~
 - (ii) the terms [“low tar”,] “light”, “ultra light”, “mild”, any similar terms, or any expression [,] / [or] text [, trademark, figurative sign or other picture or pictogram] are not used on any package in any manner that [may] [directly or indirectly] convey the impression that a tobacco product is less harmful [to health] than others;
 - (iii) each unit packet or package of tobacco products shall:
 - (1) carry a ~~clear, visible, and legible~~ [general] [rotating] health warning, which may be accompanied by a picture or pictogram, as prescribed [which shall be approved] by the ~~national~~ competent health authorities ~~and~~ or in keeping with World Health Organization specifications, illustrating the harmful consequences of tobacco consumption ~~[for health][and that generic packaging is used for the parts of the package other than where mandatory messages are required]~~, in accordance with Annex [INSERT]. These warnings shall appear prominently on the ~~upper portion of the front panel~~ most visible surface and/or the second most visible surface of the unit packet and occupy not less than ~~[twenty five per cent (25%)]~~ 35% ~~[fifty per cent (50%)]~~ of such front ~~[and rear] panel[s];~~ of these two surfaces taken together;
 - (2) ~~[clearly indicate the prohibition of sales of tobacco products to [persons under the age of 18]/[minors as determined by domestic law];]~~
 - (3) provide clear [and meaningful] information [and, where appropriate, relevant and quantitative data] on the toxic constituents of the tobacco product[s and the smoke [emissions] they may produce], [specifically with regard to tar, nicotine and carbon monoxide] [, and also];
 - (4) carry the ~~statement and~~ product information specified in Article G.1(c) [or data approved in another form];
 - (5) carry the marking specified in Article [INSERT current I.3];
 - (6) be enclosed in a packaging that shows tampering.
 - (iv) all textual information shall appear in the principal language or languages of the country in whose territory the product is placed on the market, and must be clear, visible, and legible;

Text proposed by Japan

1.

(d) adoption and implementation of appropriate measures, in accordance with national law, to ensure that:

(ii) the terms “low tar”, “light”, “ultra-light”, “mild” or any expression, figurative signs or presentation would not convey the impression that a tobacco product is less harmful to health than others;

(iv) each unit packet or package of tobacco products carries a clear, visible, and legible general health warning, which may rotate and include a picture and pictogram, as prescribed by national authorities, illustrating the harmful consequences of tobacco consumption for health in accordance with the Annex [INSERT]; these warnings shall:

2. Choose “[and as long as advertising is permitted]”.

Replace “and” by “or” in “legislative, executive, administrative and other measures to reduce ...”.

Replace “[gradually eliminating]/[progressively removing]” by “appropriately restricting” but keep “in conformity with their national constitution.”.

Delete “including through sub-brands or through brand sharing, as well as promotion and sponsorship through, *inter alia*, gifts, coupons, rebates, competitions and frequent-purchaser programmes”.

Delete “[within two years of entry into force of this convention, each Party acting individually and in cooperation with other Parties shall implement the provisions of this paragraph]”.

(a) “[in conformity with its national constitution and its domestic law, impose appropriate restrictions on all forms of tobacco advertising and promotion with the aim of reducing the appeal of tobacco products to all segments of society [, without prejudice to stricter national rules];]”

(b) Delete.

(d) Choose “[appropriately restrict]”.

Replace “tobacco [promotion and] sponsorship” by “tobacco brand [promotion and] sponsorship”.

Delete “[, within [(...)] / [10] years after the entry into force of the convention”.

(e) Choose “[appropriately restrict]”.

Choose “tobacco brand”.

Integrate subparagraph (a) and subparagraph (e).

Delete “[within two years after this convention has entered into force]”.

Text proposed by Mexico

(Passive smoking)

1.

(a) implementation of legislation and other effective measures at the appropriate governmental level that provide for systematic protection from exposure to tobacco smoke in indoor workplaces, enclosed public places, and public transport, with particular attention to special risk groups such as children, women and the elderly;

(Regulation of contents of tobacco products)

(b) adoption of standards for the regulation of the contents of tobacco products, including standards for testing and measuring, designing, manufacturing and processing such products that take into account the different vulnerability of men and women to their harmful effects, and cooperation in the development and harmonization of such standards under the auspices of the World Health Organization;

(Packaging and labelling)

(d)

(iv) each unit packet or package of tobacco products carries a general health warning targeting different age and gender groups in accordance with their consumption habits, including a picture or pictogram illustrating the harmful consequences of tobacco consumption, in accordance with Annex [INSERT]; these warnings shall:

(Education, training and public awareness)

(e)

(ii) ensure that the general public and, notably, children, young persons, women and other vulnerable groups are fully informed about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of smoking cessation and tobacco-free lifestyles;

(vii) develop specific counter-advertising campaigns targeting women and young persons to check tobacco companies’ strategies focusing on these groups.

(Advertising, promotion and sponsorship)

2.

(d) adopting national measures and imposing appropriate regulatory restrictions to ensure that tobacco advertising, promotion and sponsorship does not promote a tobacco product by any

means that are false, misleading, deceptive, associated with male and female gender role images or stereotypes or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

Text proposed by the Syrian Arab Republic

1.

(d)

(4) Insert at the end of the paragraph: The health warning on tobacco product packages should refer to the fact that tobacco products and the yield of their burning contain 4000 toxic (poisonous) substances.

(e)

(1) Insert at the end of the paragraph: emphasizing the text about economic counselling on the adverse effects of the use of tobacco products, as well as health education.

(6) Insert at the end of the paragraph: reference to the important role played by the private sector in tobacco control, particularly in the tobacco counter advertising.

Text proposed by Thailand

1. Each Party shall adopt legislative, administrative and other measures, and cooperate with other Parties in adhering to international standards developed in consultation with the World Health Organization and other relevant bodies and in harmonizing appropriate non-price policies, in order to reduce the prevalence of tobacco consumption, nicotine addiction and exposure to tobacco smoke. Such measures and policies shall include *inter alia* the following:

(Protection of the public from passive smoking)

(a) adoption and enforcement of legislation and implementation of other effective measures at the appropriate governmental and nongovernmental levels that provide for systematic protection from exposure to tobacco smoke in workplaces, including educational institutions, public places and public transport;

(Standardization of contents of tobacco products)

(b) cooperation in the development and adoption of standards for testing and measuring toxic constituents and additives, designing, manufacturing and processing of various tobacco products, and cooperation in the development and harmonization of such standards in consultation with the World Health Organization or other relevant bodies; and towards this end, each Party shall ensure that the costs of implementing such measures are fully covered by the tobacco manufacturers;

(Regulation of tobacco-product disclosure)

(c) implementation and taking of necessary steps to enforce measures for tobacco-product disclosures by all manufacturers, where appropriate by brand, including all ingredients and additives, and all constituents of tobacco smoke where applicable, and promotion of availability of such information to the public. Each Party shall apply these measures to all tobacco products manufactured, packaged, sold or imported for sale within its jurisdiction;

(Packaging and labelling)

(d) adoption of appropriate measures to ensure that:

(i) the terms “low tar”, “light”, “ultra light”, “mild” or any other similar term the aim or the direct or indirect effect of conveying the impression that a particular tobacco product is less harmful than others are not used on any unit packet or package of tobacco products;

(ii) tobacco packaging and labelling does not otherwise promote a tobacco product by any means that are false, misleading or deceptive or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(iii) each unit packet or package of tobacco products carries the statement and product information specified in Article [*Measures related to the supply of tobacco*];

(iv) each unit packet or package of tobacco products carries rotational health warnings including a picture or pictogram, which shall be prescribed or approved by national health authorities, illustrating the harmful consequences of active and passive tobacco consumption, in accordance with Annex [INSERT]; these warnings shall:

(1) clearly indicate the prohibition of sales of tobacco products to and by persons under the age of 18;

(2) provide clear information about the toxic emissions of the tobacco product, specifically tar, nicotine and carbon monoxide, including actual measurements of smoke yields, where applicable, to indicate conformity with prescribed national standards;

(3) appear in the principal language or languages of the country in whose territory the product is placed on the market.

(Education, training and public awareness)

(e) facilitation and strengthening of education, training, and public awareness campaigns, including counter-advertising. To this end, each Party shall, as appropriate:

(i) develop and assure universal access to effective, and comprehensive educational and public awareness programmes on the health risks of tobacco consumption, and exposure to tobacco smoke, that include the use of various print, audiovisual, and electronic media;

- (ii) ensure that the general public and notably children, young persons, and vulnerable groups are fully informed about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles;
- (iii) facilitate public access to a wide range of information on the tobacco industry, as relevant to the objectives of this convention;
- (iv) develop and implement effective and appropriate training programmes on tobacco control for health professionals, educators, political leaders, administrators and other concerned persons;
- (v) develop and implement effective and appropriate formal and non-formal educational interventions for tobacco control for students, young people at various levels of education and out of school youth;
- (vi) endeavour to promote the participation of public and private agencies and nongovernmental organizations other than those connected with the tobacco industry in the development and implementation of programmes and strategies for tobacco control.

(Prohibiting advertising, promotion and sponsorship)

2. In addition to obligations related to other non-price measures specified in Article [INSERT], all Parties shall commit themselves specifically to prohibiting all forms of tobacco advertising both direct and indirect, including through sub-brands or through brand sharing, as well as promotion and sponsorship through, *inter alia*, gifts, coupons, rebates, competitions and frequent-purchaser programmes, with the aim of reducing the appeal of tobacco products to all segments of society.

3. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures in the area of tobacco advertising, promotion and sponsorship.

4. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures in the areas of standardization of the contents of tobacco products and their measurement, tobacco-product disclosures, and packaging and labelling of tobacco products.

H. Demand reduction measures concerning tobacco dependence and cessation

Text proposed by Mexico

2.

- (a) implementation of promotional and educational campaigns with a gender focus aimed at encouraging cessation of tobacco use;
- (c) establishment, as a priority in health centres, of programmes for diagnosis, medical advice and treatment of tobacco dependence that take account of the different characteristics of this addiction in men and women.

Text proposed by Thailand

1. Each Party shall take all practical, effective and culturally relevant measures to treat tobacco dependence and to promote cessation of tobacco use.
2. Taking into account national circumstances each Party shall undertake the following measures:
 - (a) design, implementation and evaluation of health promotion and educational campaigns aimed at cessation of tobacco use and their integration into national health, education and other development programmes;
 - (b) integration of treatment of tobacco dependence, routine advice and counselling services on cessation of tobacco use into all national health programmes, plans and strategies, including primary care programmes in all rural and urban areas;
 - (c) establishment of community-based programmes for the diagnosis, counselling, referral and treatment of dependence in health care facilities and other rehabilitation centres.

I. Measures related to the supply of tobacco

Text proposed by China

8.
 - (c) totally prohibit the installation of tobacco vending machines in countries where such machines do not presently exist, and adopt measures to gradually reduce the number of such machines until final elimination in countries where they already exist.

(Licensing)

13. Each Party shall, in accordance with the means at its disposal and its capabilities, regulate the manufacturing and marketing of tobacco and its products by setting up and implementing a licensing system.

Text proposed by India (on behalf of the Member States of the WHO South-East Asia Region)

5.
 - (b) enactment and/or strengthening of legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes, raw tobacco materials, and other such tobacco products, and taking of appropriate steps to enforce such prohibition;
 - (c) appropriate steps to ensure that all confiscated counterfeit and contraband cigarettes and other such tobacco products are destroyed.

Text proposed by Japan

8.

(c) require appropriate measures to strictly restrict the access of minors as determined by domestic law to tobacco vending machines and prohibit tobacco sales via the Internet to minors as determined by domestic law;

10. Each Party shall, according to its capabilities, prohibit the sales of cigarettes individually or in packets of fewer than [10]/[20] cigarettes, should this be necessary to prevent the sale of tobacco products to minors.

15. Delete.

Text proposed by Thailand

(Elimination of supply to and by young persons)

8. Each Party shall, to the extent possible, prohibit tobacco sales and supply to and by persons under the age of 18. To this end, each Party shall:

(a) require that all suppliers of tobacco products post signs at the point of sale and supply which carry a health warning indicating that the sale and supply of tobacco products to persons under the age of 18 is prohibited;

(b) require that all sellers and suppliers of tobacco products establish that each tobacco purchaser has reached the age of 18;

(c) prohibit tobacco vending machines and tobacco sales via the Internet.

9. Each Party shall take appropriate measures to prohibit the sale and supply of tobacco products by persons under the age of 18.

10. Each Party shall, according to its capabilities, ensure compliance with paragraphs 8 to 9 above and implement appropriate penalties against sellers and distributors for the violation of measures prohibiting sales of tobacco products.

11. Each Party shall take appropriate legal and other measures to ensure that no criminal penalties are imposed against persons under the age of 18 for selling or buying tobacco products for personal use.

J. Compensation and liability

Text proposed by Algeria

1. Each Party shall reinforce, through specific legislation, legislative measures whereby it is possible to invoke the civil liability of tobacco manufacturers and importers for harm caused by the consumption of tobacco products.

2. Each Party shall introduce or reinforce criminal penalties for the breach of legislative and regulatory provisions on tobacco control.
3. Each Party shall cooperate with other Parties in invoking the liability of tobacco manufacturers, by providing the secretariat of the convention and interested parties with:
 - relevant information in its possession on the health effects of the consumption of tobacco products;
 - information on the legislation and regulations in force in the country and on any relevant decisions taken by the national courts.

Text proposed by Japan

- J. Delete.

Text proposed by Panama

Principles:

1. The Parties recognize that tobacco products are harmful substances and that considerable damage to health is caused by their consumption.
2. The Parties agree to refrain from adopting policies that encourage or promote tobacco consumption or that jeopardize putting their population's health before tobacco.
3. The Parties also recognize that illicit trade in tobacco products affects economies and fiscal revenue and undermines countries' health programmes for the purpose of tobacco control, and agree to take collective measures to counter such acts.
4. The tobacco industry shall be responsible for damage to public health through its failure to comply with the provisions of this convention and its protocols or with the health regulations adopted by the States Parties on the basis of those instruments.

Each State Party, in coordination with other Parties and on the basis of the principles laid down in this convention, shall adopt all necessary measures in order to establish, within its jurisdiction, mechanisms for liability and compensation. Each State shall define what is meant by liability and compensation in conformity with the principles governing this convention.

- (a) governments shall be responsible by omission for illicit trade in tobacco products, in accordance with the provisions of this convention;
- (b) the tobacco industry, any natural or legal person involved in packaging or labelling and any person advertising tobacco shall incur civil liability should they fail to comply with the regulations of State Parties adopted in accordance with the provisions of this convention and its protocols;
- (c) conditions relating to liability and compensation for harm to health, including maximum compensation, shall be determined within the jurisdiction of States Parties, in conjunction with other Parties and taking into account the specific situation of each Party;

- (d) claimants shall be entitled to choose the jurisdiction of the courts of their domicile (lex domicilii) or of the place where they work or trade (lex loci);
- (e) States Parties shall afford one another mutual legal assistance with investigations, legal procedures and, in particular enforcement of judgements or access to their national courts in relation to offences covered by this convention and its protocols;
- (f) States Parties shall, taking into account the particular circumstances of each territory, collaborate to harmonize their legislation and other measures in order to establish analogous legal procedure in relation to the harm caused by tobacco. To this end, the development of a model law, with the cooperation of the World Health Organization, should be envisaged;
- (g) failure by the tobacco industry to comply with the norms laid down in this convention regarding, *inter alia*, the contents of tobacco products, packaging and labelling shall constitute prima facie evidence of liability
- (h) with regard to the harm to health resulting from tobacco consumption and passive smoking, the World Health Organization shall establish an advisory committee of experts to set up, *inter alia*, a technical and scientific database to be at the disposal of States Parties to assist them in their legislative and judicial activities. This database shall be reviewed and updated periodically to keep pace with scientific developments;
- (i) the Conference of Parties shall begin preparation of a mechanism to establish a special fund for compensation for health damage caused by the consumption of tobacco products; the fund shall be financed by direct taxation of the tobacco industry (in accordance with the “polluter pays” principle).

The States Parties request the secretariat of the convention to establish a group of experts to prepare the protocols on compensation and liability.

Panama would prefer the texts proposed by Norway¹ to be included in a protocol.

Text proposed by Norway

1. The Parties recognize that international approaches to compensation and liability are important means of rectifying damage caused by tobacco use.
2. Each Party shall, to the extent possible within the means at its disposal and capabilities:
 - (a) make available relevant documentation about health effects caused by use of tobacco products;
 - (b) collect and make available to other Parties all documentation produced during and after the consideration, by judicial or administrative bodies, of disputes concerning compensation for health damage caused by the use of tobacco products. This includes documentation of activities by the tobacco industry;

¹ See document A/FCTC/INB3/5.

- (c) compile and maintain a database of national and subnational laws and regulations on compensation and liability for health damage caused by the use of tobacco products;
 - (d) provide information to potential claimants about such laws and regulations and about any corresponding process-and-substance-oriented international liability schemes;
 - (e) enact national legislation imposing criminal liability for activities inconsistent with the provisions of this convention.
3. The secretariat of the convention shall:
- (a) compile and make available to the Parties all legal documents of general interest for prospective claimants in litigation referred to in paragraph 2(b) above;
 - (b) collect and make available to the Parties all documents produced by the claimants and the tobacco industry in such litigation;
 - (c) assist, when necessary and requested, Parties and individual claimants concerning the social health costs caused by the use of tobacco products;
 - (d) initiate the creation, for use by the Parties, of model laws on compensation and liability for health damage caused by the use of tobacco products.
4. The Conference of the Parties shall initiate the preparation of a protocol to this convention with the following elements:
- (a) harmonization of national laws to make international and national tobacco companies accountable to citizens of their respective countries for physical and mental harm caused by the use of tobacco products;
 - (b) establishment of a special fund for compensation for health damage caused by the use of tobacco products, financed by direct taxation of the tobacco industry (in accordance with the principle of “polluter pays”).

Text proposed by South Africa

The text proposed under this clause should as a minimum provide remedies for environmental damage, including the restoration orders.

K. Surveillance, research and exchange of information

Text proposed by Mexico

1. The Parties shall establish joint or complementary programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption that incorporate the gender perspective. To the extent possible, the Parties shall integrate tobacco surveillance programmes into national, regional and global health surveillance programmes. To this end, each Party shall, in accordance with the means at its disposal and its capabilities:

(a) establish, progressively and as appropriate, a national system for the epidemiological surveillance of tobacco consumption, with reports broken down in terms of age and sex, periodically updating economic and health indicators so as to monitor the evolution of the problem and the impact of tobacco consumption control;

2.

(a) initiate and cooperate, directly or through competent international bodies, in the conduct of research and of scientific assessments that incorporate the gender perspective, as detailed in Annex [INSERT];

(b) promote and encourage research that includes the gender perspective and contributes to reducing tobacco consumption and harm from tobacco use, particularly in developing countries, taking fully into account the recommendations of the Conference of the Parties.

Text proposed by Thailand

2. The Parties undertake to develop, promote and coordinate as far as possible national, regional and global research programmes for the purpose of this convention. To this end, each Party shall, in accordance with the means at its disposal and its capabilities:

(a) initiate and cooperate, directly or through competent international bodies, in the conduct of research and of scientific assessments, as detailed in Annex [INSERT];

Footnote to (a) should read:

The following language was suggested as an addition to the beginning of K.2(a): “establish an appropriate national system of epidemiological surveillance of tobacco use and ...”. However, it was agreed that, because epidemiological surveillance is addressed in K.1, it could be excluded here.

(b) promote and encourage research that contributes to reducing tobacco consumption and harm from tobacco use, particularly in developing countries, taking fully into account the recommendations of the Conference of the Parties and, as appropriate, in cooperation with the World Health Organization and other relevant bodies, other than those connected to the tobacco industry;

(c) promote and strengthen training and support for all those engaged in tobacco control activities, including research, implementation and evaluation;

(d) promote and encourage research activities designed to accelerate diversification to alternative crops, especially in developing countries;

(e) promote research activities on behaviour and attitudes.

L. Scientific, technical and legal cooperation

Text proposed by India (on behalf of the Member States of the WHO South-East Asia Region)

1.

(b)

(ii) Footnote should read:

Although the word “identifying” was included in the Jakarta text, it was not submitted as a proposed textual change during the second session of the Intergovernmental Negotiating Body. As such, the countries of the South-East Asia Region are considering submitting this text as a proposal during the third session of the Negotiating Body.

Text proposed by Mexico

1.

(b)

(i) building a strong legislative foundation as well as technical programmes, and assisting in the treatment of tobacco dependence in a manner that addresses the specific characteristics of dependence in men and women;

M. Conference of the Parties

Text proposed by Canada

1. The Conference of the Parties shall adopt a budget to provide for the expenses of the secretariat.
2. Each Party shall pay its contribution in accordance with a scale of assessments based on the scale of assessments for the United Nations regular budget, suitably adjusted to take into account the difference in membership.
3. The Conference of the Parties may also receive and utilize voluntary contributions, as additional funds, in accordance with relevant criteria adopted by the Conference of the Parties.

Text proposed by Mexico

4.

(e) ensure that the legislative, executive and administrative actions and measures for tobacco control adopted by the Parties incorporate the gender perspective into their design, implementation and evaluation.

N. Secretariat

No textual proposal was received for Article N.

O. Support by the World Health Organization

No textual proposal was received for Article O.

P. Reporting and implementation

Text proposed by the Syrian Arab Republic

1. Insert the following after the end of paragraph P1: “the text should include reference to the presence of a standardized form for the report to be submitted to the secretariat of the convention; this form may be attached to the convention.”

Q. Financial resources

Text proposed by India (on behalf of the Member States of the WHO South-East Asia Region)

2.

(a) the multilateral fund specified in 2 above shall be financed, *inter alia*, by an export tax on manufactured tobacco products. This fund shall also be voluntarily financed from parties, and in particular cases, by a decision of the Conference of Parties, nongovernmental sources;

(b) the Multilateral Fund specified in paragraph 2 shall be used to support, *inter alia*, the economic transition of tobacco growers and workers, technology transfer for tobacco cessation programmes, for creation of testing facilities required under the convention, and for any other activity to meet the objectives of the convention.

Text proposed by Japan

2. Delete.

R. Settlement of disputes

Text proposed by Japan

8. Delete.

S. Development of the convention

No textual proposal was received for Article S.

T. Final clauses

No textual proposal was received for Article T.

Measures that are not identified with any existing Article

Text proposed by the European Community and its Member States

Insert footnote the first time the term “national” is used: The term “national” refers, where appropriate, equally to regional economic integration organizations.

Text proposed by Panama

Move to the protocol on Smuggling:

- (a) any person who supports, finances or by any other means facilitates the illicit trade in tobacco products shall be subject to criminal punishment, as determined by national law, including deprivation of liberty and/or confiscation of the proceeds of crime, or by the jurisdiction of a State Party;
- (b) without prejudice to subparagraph (a), legal persons, including producers, importers and exporters, shall incur civil liability for the harm caused by them as a result of illicit trade in tobacco products to the interest of states or companies engaged in lawful trade in such products on the same market;

National legislation: damage to health

- (a) retailers of tobacco products shall have civil liability for tobacco sale to minors;
- (b) smokers who expose other persons to smoke in closed work places shall be subject to administrative sanctions;

Standardization

The World Health Organization, in cooperation with public and private sectors, shall establish a series of standards for tobacco products in order to minimize the harmful health effects of these products. Such standards should be adopted by the Conference of the Parties, which shall also provide for a monitoring and follow-up system.

Text proposed by the Philippines

Each Party recognizes the health risks and addictive nature of nicotine, an ingredient of tobacco. As such, every Party shall, as far as practicable, categorize/classify nicotine as a dangerous/regulated drug and accordingly act consistent with its own national laws and regulations.

Text proposed by South Africa

Measures related to the protection of the environment

1. In order to protect the environment:
 - (a) the precautionary approach shall be widely applied by the Parties. Where there are threats of serious damage, lack of scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

(b) the Parties shall apply the “polluter pays” principle. Where environmental degradation is found to be caused by tobacco-related activities, the company to whose benefit the activity was carried out shall pay the cost of compensating for the damage and/or restoring the environment;

2. Each Party shall take measures to requiring tobacco companies to take responsibility for tobacco curing and invest in alternative technologies for tobacco curing, not based on wood fuel.
3. Each Party shall take measures to ensure that the tobacco companies provide training for tobacco farm workers in use of pesticides and for the provision of protective clothing and equipment for the application of pesticides.
4. Each Party shall take measures to require tobacco companies to invest in alternatives to pesticides and not to allow the use of pesticides that may be harmful to human health and the environment.
5. Each Party shall take measures to monitor the use of pesticides and wood fuel in tobacco growing and processing.
6. Each Party shall require tobacco companies to undertake periodic environmental impact audits and to make the result of such audits public.

B. DEFINITIONS

Section 1

1. Advertising/sponsorship/promotion
2. Illicit trade
3. Passive smoking
4. Public place
5. Regional economic integration organizations
6. Technical cooperation
7. Tobacco control/tobacco control strategy
8. Tobacco industry
9. Tobacco products
10. Vulnerable groups

1. Advertising/sponsorship/promotion

Text proposed by Cuba

These cover the techniques or methods used by the tobacco industry to familiarize people with tobacco products and to encourage them to consume them and thus increase their sales. Sponsorship is a special case and is defined as an advertising strategy employed by the tobacco industry in order indirectly to promote consumption of tobacco products, as when the tobacco industry provides financial backing for popular events, such as sporting, artistic or cultural events, or for personalities, such as sportsmen and women, artists, politicians, etc and who, as leaders of opinion, encourage the consumption of specific tobacco products.

Text proposed by Myanmar

The intention of drawing individual or public attention to a tobacco product, its brand names, trademarks, emblems or other distinctive features, and promoting its characteristics, explicitly or implicitly, directly or indirectly, in order to promote its sale.

(a) Advertising

Text proposed by the European Community and its Member States

Any form of commercial communication, recommendation or action that promotes a tobacco product or cigarette paper.

Text proposed by Guatemala

All the means currently used to disseminate commercial messages and any alternative and other means that may be developed in the future.

Text proposed by Japan

Any communication by or on behalf of a tobacco company to consumers which has the aim of encouraging them to select one brand of tobacco products over another, provided, however, that the use of any terms, figures, pictures, expressions or any other presentations on the label and/or packaging of a tobacco product shall not constitute an advertising.

Text proposed by Mexico

An activity that encompasses the whole process of creating, planning, producing and disseminating advertising messages through any mass, intermediate or interpersonal medium, whether commercial or non-commercial, explicit or implicit, direct or indirect, whose purpose is to promote tobacco products, the smoking habit or other ways of consuming tobacco.

Text proposed by Panama

Any form of commercial and non-commercial communication with the aim or direct or indirect effect of promoting a tobacco product, including advertising which, while not specifically mentioning the tobacco product, uses brand names, trademarks, emblems or other distinctive features of tobacco products.

Document A/FCTC/WG2/4, p.3

Text proposed by Slovakia

Advertising covers any visual or acoustic appearance presented for the purpose of smoking needs development, drawing to immediate or future consumption needs.

Text proposed by the Syrian Arab Republic

Using any form of communication to draw the attention of an individual or a group aimed to affect (directly or indirectly) behaviour and conduct, concerning purchasing (the aim here is buying or fostering sales) and/or patterns of thought (the aim here is conviction).

(b) Promotion

Text proposed by Guatemala

Strategic activities by brands of products related to tobacco and tobacco products during a limited period, such as the award of prizes or discounts or the organization of raffles in order to increase sales of products.

Text proposed by Japan

Any event or activity organized by or on behalf of a tobacco company with the aim of promoting a brand of tobacco products, provided that the event or activity would not occur but for such tobacco company's support given to it.

Text proposed by Mexico

Any technique that communicates to potential buyers, in a direct or persuasive manner, information on a *tobacco product* including information on its price and distribution, and the distribution or sale of promotional articles likely to develop attitudes, ideas and behaviour that are favourable towards such a product.

Text proposed by the Syrian Arab Republic

Stimulating the demand for goods by publicity and advertising, as well as special events to draw the attention and interest of consumers.

(c) Sponsorship

Text proposed by the European Community and its Member States

Any form of contribution to any event, activity or individual that promotes a tobacco product.

Text proposed by Guatemala

Protecting, favouring or assisting an enterprise related to tobacco and tobacco products.

Text proposed by Japan

Any public or private contribution, made with the aim of promoting a brand of tobacco product, to a third party organizing an event, team or activity, provided that the event, team or activity would still exist or occur without such contribution.

Text proposed by Mexico

Any financial, in-kind or other form of support, provided directly or indirectly in order to promote, or with the effect of promoting a natural or legal person or to organize any activity or event, and which is linked to tobacco products.

Text proposed by Panama

Any public or private commercial or non-commercial contribution to an event or activity with the aim or effect of directly or indirectly promoting a tobacco product. Example: "The Power is Yours" programme.

Document A/FCTC/WG2/4, p.3

Text proposed by Slovakia

Any direct or indirect support determined by law for the purpose of presentation of benchmarks or any activities related with the object of activities of a sponsor.

Text proposed by the Syrian Arab Republic

Any public or private commercial or non-commercial contribution to an event, activity or occasion (celebration), with the aim of promoting a product or an idea.

2. Illicit trade

Text proposed by Australia

Unlawful trade or commerce in tobacco in any form, including material that is tobacco seed, tobacco plant or tobacco leaf within, between or outside of a country's borders. Can include importation and exportation, and possession for the purpose of sale or supply to others. Illegal trade in tobacco occurs when those involved are not complying with all government licence, permit, restrictions or requirements, and do not pay all taxes that apply.

Compilation of the definition in Demand Reduction: A Glossary of Terms, United Nations, Office of Drug Control and Crime Prevention Studies, New York, 2000, and comments from the Australian Taxation Office

Text proposed by Cuba

Any unlawful trade in tobacco products, either within or beyond frontiers.

Text proposed by the European Community and its Member States

Any practice not authorized by law, relating to the production, holding, handling, movement, or sale of tobacco products.

Text proposed by Guatemala

Business or activity that is contrary to the legal norms of the State and whose purpose is to earn profits or gains through the sale, transformation or purchase of tobacco and tobacco products.

Text proposed by Myanmar

Unlawful trade or commerce in tobacco or tobacco products within or outside of a country's borders or between that country and another country.

Text proposed by Panama

The unlawful exchange of tobacco and tobacco product goods and/or services.

Amended by Panama from text prepared by the secretariat of the Intergovernmental Negotiating Body

Text proposed by the Syrian Arab Republic

Growing, manufacturing, distributing, selling, exporting or importing raw tobacco, raw tobacco products, and substances necessary for it, without authorization from the competent authority, as well as smuggling.

3. Passive smoking

Text proposed by Australia

Exposure to tobacco smoke, or the chemicals in tobacco smoke, without actually smoking. It usually refers to a situation where a person breathes smoke emitted into the environment by other people smoking. This smoke is known as “environmental tobacco smoke”.

National Response to Passive Smoking in Enclosed Public Places and Workplaces: A Background Paper, November 2000, National Public Health Partnership Publication, Melbourne, Australia

Text proposed by Cuba

This occurs when passive smokers, although they do not smoke voluntarily, are compelled to inhale smoke from tobacco products because they are obliged to be in contact for some time with active smokers, and is a greater danger in closed premises. The term covers all persons who live with smokers, whether at home, at the workplace, at school or in meeting places or other premises. If a pregnant woman smokes, her future child is also an involuntary smoker, because the components of tobacco smoke pass through the placenta.

Text proposed by the European Community and its Member States

Exposure of an individual to smoke from a tobacco product which has been or is being smoked by another person.

Text proposed by Guatemala

The intoxication of a person or persons exposed through the environment or through any other channel to tobacco or tobacco products.

Text proposed by Japan

Involuntary inhalation by a person of tobacco smoke emitted by other people smoking in a closed or equivalent environment.

Text proposed by Mexico

Involuntary exposure to the smoke produced by the combustion of tobacco and its wrapping which, by polluting the environment, leads to forced inhalation, or which reaches the product of conception through the blood during pregnancy, and represents a health risk for all those exposed.

Text proposed by Myanmar

The involuntary inhalation of smoke that a person inhales from sources other than by directly smoking a tobacco product.

Text proposed by Norway

Also referred to interchangeable as “involuntary smoking” and “second-hand smoking”. Breathing “environmental tobacco smoke”. Environmental tobacco smoke is mainly formed from the

smouldering of a cigarette or other tobacco product (sidestream smoke), but contains also smoke exhaled by the smokers.

Text proposed by Panama

Refers to the mixture of smoke produced by the burning of tobacco and its means of containment, inhaled by a person other than the smoker, i.e. other than by directly smoking. This mixture is formed from the smouldering of a cigarette or other tobacco product, and from smoke exhaled by the smoker, and contains many compounds that are pharmacologically active, toxic, mutagenic, carcinogenic and irritant.

Refers also to involuntary exposure to tobacco smoke and wrapper constituents.

Based on text in document A/FCTC/INB3/INF.DOC./1

Text proposed by the Republic of Korea

Also used interchangeably with second-hand smoking, environmental tobacco smoke exposure and involuntary smoking, describes involuntary inhalation of a mixture of the smoke given off directly by the burning of tobacco and the smoke exhaled by smokers.

Text proposed by Slovakia

Voluntary or non-voluntary inhaling tobacco smoke that does not lead to addiction. Depending on duration and intensity of exposure, passive smoking leads to damage of an organism. Passive smoking from inhaling tobacco smoke by a non-smoker.

Text proposed by the Syrian Arab Republic

Inhalation of, or passive exposure to, the smoke of tobacco products, resulting from the burning of such products, by users of tobacco products, or the smoke puffed by users of tobacco products. Passive smoking may also be called negative smoking, unintentional smoking, involuntary smoking, compulsory smoking or inhalation of environmental tobacco products.

Text proposed by the United States of America

The inhalation of second-hand smoke or environmental tobacco smoke.

4. Public place

Text proposed by Algeria

Any enclosed and covered premises for collective use, and all covered and uncovered premises used by minors. Such premises include:

- educational, teaching and training establishments;
- health facilities;
- premises on which sporting, cultural, leisure or scientific activities are organized;

- workplaces used by a group of workers; collective accommodation, reception and catering premises and meeting rooms;
- public road, rail, sea and air transport;
- commercial premises on which food and drink are consumed;
- waiting rooms and areas.

Text proposed by Australia

Place or vehicle that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise).

From the New South Wales Smoke-Free Environment Act 2000

Text proposed by Cuba

Any open or enclosed place of transit, amusement or leisure that accommodates people, without distinction of age, race, religious belief, level of education, occupation or other distinction.

Text proposed by the European Community and its Member States

Any enclosed location intended for the use of the general public.

Text proposed by Guatemala

An area to which any person has free access, in accordance with established general rules. The consumption of tobacco and tobacco products shall be prohibited on indoor and outdoor public or private premises to which people have free access at specific times.

Text proposed by Mexico

Any building or facility owned, leased, operated, occupied or franchised in any way by the Government and any such place owned by private individuals at which public services are provided, workplaces shared or which the public may enter either free of charge, against prior payment or by invitation, such as schools, leisure centres, libraries, museums, theatres, sports facilities, recreational facilities, shopping centres, places of worship, etc. and all means of public transport. They may be open if situated outdoors, or enclosed if located inside a building.

Text proposed by Myanmar

Any area, location, building or facility wherein the public or a section of the public congregate either freely, by invitation or against payment.

Text proposed by Norway

Any indoor or enclosed area used by the general public (where two or more persons are gathered) or serving as a workplace for (public) employees including but not limited to offices,

educational facilities, health care facilities, production establishments, shops, theatres, libraries, auditoriums, banks, cafeterias, elevators, waiting rooms, corridors and similar areas. This also includes public transit vehicles, or any other conveyance in which an employee works: for example buses, trains, trams, ships, aeroplanes and similar conveyances.

Text proposed by Panama

Any location to which the general public is admitted, whether accessible freely, by invitation or against payment.

*Amended by Panama from text prepared by the secretariat
of the Intergovernmental Negotiating Body*

Text proposed by the Republic of Korea

Enclosed premises or facilities open to the general public and designed for common use.

Text proposed by Slovakia

Indoor or outdoor places where the higher concentration of persons appears. These include schools, universities, hostels, leisure centres, parks, stadiums, cultural facilities, official buildings, catering facilities, restaurants, pubs, bars, bus and railway stations and bus stops, social places and shopping centres, castles or manor houses.

Text proposed by the Syrian Arab Republic

“Public place” means a place to which an individual or a group ordinarily has access, whether or not by payment or by invitation.

Text proposed by the United States of America

An enclosed area to which the public is invited or in which the public is permitted, including but not limited to banks, educational facilities, health care facilities, laundromats, public transportation, public transportation facilities, reception areas, retail service establishments, retail stores, shopping malls, sports arenas, theatres and waiting rooms.

5. Regional economic integration organizations

Text proposed by Australia

Organization constituted by sovereign States to which its Member States have transferred competence in respect of matters governed by the framework convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it.

Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal (Basel, Switzerland, 10 December 1999)

Text proposed by the European Community and its Member States

Organization constituted by sovereign States, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters.

Text proposed by Mexico

Bodies set up by states which have transferred to them competence for matters covered by the framework convention, including competence to enter into treaties on those matters.

Text proposed by Myanmar

An organization constituted by sovereign States of a given region which has competence in respect of matters governed by this convention or its protocols and has been duly authorized, in accordance with its internal procedures.

Text proposed by Panama

Organizations constituted by sovereign States, Members of the World Health Organization, to which their Member States have transferred competence and which have been authorized in respect of matters governed by this convention and its protocols. These bodies may sign, ratify, accept, approve or accede to the instruments concerned.

Based on resolution WHA52.18 of the World Health Assembly, para. 1(3)

Text proposed by the Republic of Korea

An organization constituted by sovereign States of a given region which has competence in respect of matters governed by this convention or its protocols and has been duly authorized, in accordance with its international procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

Text proposed by the Russian Federation

The term “Regional economic integration organizations” may be translated as “Regional organizations for economic integration”.

Text proposed by the Syrian Arab Republic

Here applies the definition in paragraph 1(3) of World Health Assembly resolution WHA52.18.

6. Technical cooperation

Text proposed by Australia

In-kind assistance and knowledge and information sharing on technical issues, across Member States that are party to the framework convention on tobacco control.

Definition supplied by Department of Health and Aged Care, Australia, in consultation with AusAID

Text proposed by Cuba

Joint action by two or more parties to produce, exchange and apply knowledge, techniques and methods that help to resolve development problems identified by the parties.

Text proposed by the European Community and its Member States

Sharing knowledge, information and assistance in-kind on technical issues.

Text proposed by Guatemala

Advice of a professional or technical nature provided to an institution or programme so that it may perform more efficiently. It may be provided by an international agency or a national body to assist the institution or programme concerned.

Text proposed by Myanmar

Cooperation among the Member States relating to scientific, legal and administrative matters which will have a bearing on tobacco control measures.

Text proposed by Panama

In-kind technical assistance, knowledge and information shared among member states that are party to the convention. Also refers to any technical assistance that may be provided to the States Parties or to the Conference of Parties by international organizations competent in respect of the different aspects of the convention and/or its protocols.

Text proposed by Slovakia

Ensuring of the logistic support for strategy of tobacco control including economic, technical and moral support. Generally it is stated by the contractual agreement and by the engagements (obligations).

Text proposed by the Syrian Arab Republic

A process that involves the provision of any kind of assistance in the technical area, across Member States that are party to the framework convention on tobacco control.

7. Tobacco control/tobacco control strategy

Text proposed by Australia

Range of supply, control, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their exposure to tobacco in all its forms.

Review of Health Warnings on Tobacco Products in Australia: Discussion Paper, Commonwealth Department of Health and Aged Care, Australia, April 2001, ISBN 0642 735557

Text proposed by Cuba

Tobacco control is the prevention and control of tobacco smoking; it involves a strategy designed as part of the programme which defines objectives, policies and actions to check the tobacco epidemic and thus reduce tobacco prevalence and consumption.

Text proposed by Guatemala

The process of management, decision-making and active control of potential risks deriving from exposure to or use of tobacco products, for the purpose of addressing the excessive risk that they pose. It denotes steps taken to implement hygiene and health measures to ensure that exposure remains below an acceptable limit.

Text proposed by the Syrian Arab Republic

A range of actions and activities aimed at reducing the spread of tobacco product consumption in certain populations or eliminating the use of tobacco generally.

(a) Tobacco control

Text proposed by Mexico

The set of measures and provisions of a normative, fiscal, administrative, educational, scientific or other nature adopted to prevent, reduce, cause the cessation or avoidance of use of tobacco products, treat the tobacco dependency of smokers and mitigate the public health consequences and economic consequences for individuals, families and society, as well as among States Parties.

Text proposed by Myanmar

Measures adopted to reduce consumption of tobacco products among the population within the legal framework of a State or a country.

Text proposed by Panama

Refers to measures taken gradually to reduce tobacco consumption and harm to health related to it. Such measures are set out in the general obligations of this convention.

Price and tax measures to reduce the demand for tobacco (section F); Non-price measures to reduce the demand for tobacco (section G); Demand reduction measures concerning tobacco dependence and cessation (section H); Measures related to the supply of tobacco (section I); Compensation and liability (section J); Surveillance, research and exchange of information (section K); Scientific, technical and legal cooperation (section L) and any other measure deemed relevant.

These measures are justified by the contents of the Preamble, Objectives, Definitions and Guiding principles of the convention. The agreements made by parties for the application of certain strategic measures contained in the convention are detailed in specific protocols.

Ratification of the convention by the Parties shall not limit their sovereign right to implement any other measure or strategy to contribute to tobacco control.

Text proposed by Slovakia

Procedures of supervision stated and realized by the government that ensures the maintenance of law and other activities related to tobacco and promotion of no smoking:

- (1) legislative protection of non-smokers,
- (2) price and tax measures in order to decrease the consumption of tobacco,
- (3) education and training in the promotion of no smoking at schools and universities,
- (4) counselling for dishabituating of smoking established at public health institutes and the universities.

(b) Tobacco control strategy

Text proposed by the European Community and its Member States

A range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing the prevalence of tobacco use and its health, social, environmental and economic consequences. The strategies may include among others information, legislation, education and price policy.

Text proposed by Myanmar

Strategy to ensure successful implementation of comprehensive tobacco control measures.

Text proposed by the Republic of Korea

Measures taken with the aim of protecting public health by reducing tobacco consumption.

8. Tobacco industry

Text proposed by Australia

Stakeholders right across the supply chain. This would include tobacco growers, processors, manufacturers and retailers

Definition supplied by Department of Agriculture, Fisheries and Forestry, Australia

Text proposed by Cuba

The industry that sows, harvests and collects tobacco and processes and sells manufactured tobacco products.

Text proposed by the European Community and its Member States

Tobacco processors, and manufacturers and distributors of tobacco products.

Text proposed by Guatemala

A series of operations to produce and process tobacco products. A public or private entity or legal person whose activity or function, either directly or through an agent under its control or under contract to it, is to manufacture, obtain or process tobacco products.

Text proposed by Japan

The sector of an economy made up of the persons, whether legal or natural, who have commercial interests in tobacco products, including tobacco manufacturers, importers, exporters, distributors, retailers, growers, non-tobacco material suppliers for tobacco products and associations of tobacco companies.

Text proposed by Myanmar

Stakeholders right across the supply chain. This would include tobacco growers, processors, manufacturers, distributors, wholesalers, exporters, importers, traders and retailers.

Text proposed by Panama

Refers to stakeholders right across the supply chain; this includes growers, processors, manufacturers, retailers and wholesalers of any tobacco products for non-therapeutic human consumption.

Based on the definition of the Department of Agriculture, Fisheries and Forestry, Australia; amendments made by Panama

Text proposed by the Republic of Korea

Stakeholders right across the supply chain. This would include tobacco growers, manufacturers, importers of manufactured tobacco products, wholesalers and retailers.

Text proposed by Slovakia

A part of business area that deals with the activities concerning cultivation, production and marketing of tobacco products.

Text proposed by the Syrian Arab Republic

Any party involved in any process related to tobacco such as growing, manufacturing distribution, exportation or importation.

9. Tobacco products

Text proposed by Australia

- (a) tobacco (in any form, including material that is tobacco seed, tobacco plant or tobacco leaf); or
- (b) any product (for example a cigar or cigarette):
 - (i) that contains tobacco as its main or a substantial ingredient; and
 - (ii) that is designed or intended for human consumption or use through chewing, swallowing, oral or nasal inhalation.
- (c) a cigarette paper, cigarette roller or pipe designed for use with tobacco.

Modified from Tobacco Advertising Prohibition Act 1992 (Commonwealth) definition with the reference to “material that is tobacco seed, tobacco plant or tobacco leaf” from the Excise Act 1901 (Cth) sections 117C to 117H

Text proposed by Canada

Canada supports the definition of the term “tobacco products” as found in document A/FCTC/INB1/2 of 26 July 2000.

Text proposed by Cuba

All manufactured products derived from the production of the tobacco industry and which may cause damage to health when consumed by individuals, such as dependence (nicotine), cancer (tar) etc. They may include, *inter alia*, cigars, cigarillos, pipe tobacco, chewing tobacco, cigarette paper and smokeless tobacco.

Text proposed by the European Community and its Member States

Products for the purposes of smoking, sniffing, sucking or chewing, inasmuch as they are, even partly, made of tobacco, whether genetically modified or not.

Text proposed by Guatemala

Any article, the raw material for which is tobacco or tobacco products, and which is intended for consumption.

Text proposed by Japan

Products entirely or partly made of the leaf tobacco as raw materials which are manufactured to be used for smoking, chewing and snuffing.

Text proposed by Mexico

All those products composed in whole or in part of tobacco, including the leaves of various species of the *Nicotiana* genus and its extracts intended for human consumption by smoking, inhalation, sucking, chewing or smearing on the skin. Includes ingredients, components, parts or accessories such as paper, cylinders, additives and filters, with the exception of those produced for therapeutic purposes.

Text proposed by Myanmar

Any product made or derived from tobacco that is intended for human consumption.

Text proposed by Norway

Any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. It includes, *inter alia*:

Smoked tobacco:

cigarettes; (i) manufactured, ... hand rolled or “roll your own”, made by hand or hand-held machine from fine cut smoking tobacco using cigarette paper or tubes with filter.

bidis ... cigars; (i) ... (ii) ... (iii) ... pipes;

Smokeless tobacco:

snuff; (i) *moist* – finely cut tobacco. The major use involves placing a suitable amount between the lower lips and gum or between the gum and buccal mucosa; snuff has become available in small packets wrapped in porous paper (like “tea-bags”). *Dry* – usually snuffed through the nasal cavity.

chewing tobacco;

Contents and ingredients:

Refer to both tobacco and non-tobacco substances used in the manufacturing process and present in a tobacco product.

Text proposed by Panama

Any preparation composed in whole or in part of dry leaves of *Nicotiana tabacum* or any extract thereof used for human consumption. It includes cigarette papers, tubes and filters, but does not include any food, drug or device that contains nicotine, to which the Food and Drugs Act applies.

Based on the definition proposed by Canada, Tobacco Act (1997, c.13), amended by Panama

Text proposed by the Republic of Korea

Tobacco manufactured in a state suitable for smoking, chewing or sniffing, using leaf tobacco as principal raw materials.

Text proposed by Slovakia

These are the products made of tobacco raw or technologically processed tobacco, that are intended for smoking, chewing and snuffing.

Text proposed by the Syrian Arab Republic

Any product manufactured or extracted, partially or wholly, from the tobacco plant, including the tobacco leaves, the rolling paper, filters and additives, intended to be used by man by way of smoking, inhaling or chewing.

10. Vulnerable groups

Text proposed by Australia

“High risk population” consisting of groups or individuals whose defining characteristics make them more likely to use tobacco products or to suffer health harms from their use.

*Definition supplied by the Centers for Disease Control and Prevention,
Atlanta, Georgia, United States of America*

Text proposed by Cuba

These are groups of people who are more likely to be harmed in a given situation and who merit special attention on account of the magnitude of their problem, or the opportunity to change harmful habits or behaviour, generally adopted by imitation (pregnant women, children, adolescents and chronically ill persons).

Text proposed by Guatemala

A group of persons who may be harmed by exposure through any channel to tobacco and tobacco products, or who share a characteristic related to health, and in particular children and pregnant women.

Text proposed by Mexico

Population groups which, on account of their age, sex, status or profession are more exposed to the risk of taking up and continuing the consumption of tobacco products or of being affected by its consequences.

Text proposed by Myanmar

Age and ethnic groups who are liable to be misled by the marketing techniques of the tobacco industry.

Text proposed by Norway

Groups or individuals, such as children, pregnant women and persons suffering from lung and heart disease.

Text proposed by Panama

Refers to population groups or individuals who are more likely to use tobacco products and to fall ill and/or die from an illness related to the direct or indirect consumption of such products.

Also refers to population groups or individuals whose health status makes them more likely to fall ill and die as a result of direct or indirect tobacco consumption.

Text proposed by the Republic of Korea

Susceptible group to be affected from tobacco smoke or high-risk populations such as children, pregnant women and persons with respiratory infections.

Text proposed by Slovakia

These include groups of population that are likely to be the most inclined to start to smoke or are regular smokers, or the persons that directly harm other persons by smoking: children up to the age of 18, pregnant women.

Text proposed by the Syrian Arab Republic

Particular groups of the population that are more vulnerable than the others, for physiological and health reasons, such as infants, children, old people and sick people.

Text proposed by the United States of America

Groups or individuals whose defining characteristics make them more susceptible to exposure to second-hand smoke. These groups include children, the elderly, and those who suffer from respiratory or cardiovascular disease.

Section 2

In addition to these original terms, some countries submitted definitions for additional terms, listed as follows:

1. Addiction
2. Indirect advertising
3. Regional economic establishment
4. Second-hand smoke or environmental tobacco smoke
5. Smuggling
6. Tobacco control programme

1. Addiction

Text proposed by Norway

Addiction is a strongly established pattern of behaviour characterized by:

- (1) the repeated self-administration of a drug/nicotine in amounts which reliably produce reinforcing psychoactive effects, and
- (2) great difficulty in achieving voluntary long-term cessation of such use, even when the user is strongly motivated to stop.

2. Indirect advertising

Text proposed by Panama

Advertising which, while not specifically mentioning the tobacco product, tries to circumvent a tobacco advertising ban or with the aim or the indirect effect of promoting a tobacco product. This may include products intended to be consumed by children and other persons, using shapes or images associated with tobacco products. Example: chocolate cigarettes.

Joossens L. How to circumvent tobacco advertising restrictions: the irrelevance of the distinction between direct and indirect advertising. Lyons, International Union against Cancer, 2001, amended by Panama

3. Regional economic establishment

Text proposed by Slovakia

The legal persons running businesses, particularly in the place of their registered office, or the legal persons established by other business subject in order to satisfy user's needs.

4. Second-hand smoke or environmental tobacco smoke

Text proposed by the United States of America

Tobacco smoke in the ambient air that is a mixture of the smoke given off by the burning end of a cigarette, pipe, or cigar and the smoke exhaled from the lungs of smokers.

5. Smuggling

Text proposed by Panama

The offence of smuggling shall be constituted by the introduction onto the customs territory, or the removal therefrom of goods without the intervention of the customs authorities, regardless of whether it causes no loss of excise revenue or leads to the avoidance of payment of duties, taxes, levies or any other relevant taxes.

Smuggling is also constituted by the transfer of imported foreign goods from a territory subject to a preferential or special tax regime to another where taxation is heavier and the introduction into or removal from the country of prohibited goods.

Panama. Law No. 30 of 8 November 1984. Smuggling and Customs Fraud. Article 15

6. Tobacco control programme

Text proposed by the United States of America

A combination of educational, clinical, regulatory, economic, and comprehensive social approaches to reduce the initiation of tobacco use among youth, to increase cessation of tobacco use among youth and adults, and to eliminate exposure to environmental tobacco smoke.

*Reducing Tobacco Use: A Report of the Surgeon General, Washington DC,
Department of Health and Human Services, 2000*

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