



# WORLD HEALTH ORGANIZATION

**INTERGOVERNMENTAL NEGOTIATING BODY  
ON THE WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL**

**A/FCTC/INB6/ SR**

**Sixth session**

**17-28 February 2003**

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**SUMMARY RECORDS**

CONTENTS

	<b>Page</b>
<b>First meeting</b>	
1. Opening of the session .....	3
Adoption of the agenda .....	5
Methods of work .....	5
2. Activities since the previous session .....	5
3. Drafting and negotiation of the WHO framework convention on tobacco control .....	6
 <b>Second meeting</b>	
1. Organization of work .....	17
2. Drafting and negotiation of the WHO framework convention on tobacco control (continued) .....	17
 <b>Third meeting</b>	
Drafting and negotiation of the WHO framework convention on tobacco control (continued) .....	32
 <b>Fourth meeting</b>	
1. Approval of draft text of the WHO framework convention on tobacco control .....	35
2. Future protocols .....	40
3. Report to the Fifty-sixth World Health Assembly .....	40
4. Closure of the session .....	41

**FIRST PLENARY MEETING**

**Monday, 17 February 2003, at 09:45**

**Chair:** Mr L.F. DE SEIXAS CORRÊA (Brazil)

**1. OPENING OF THE SESSION:** Item 1 of the Provisional Agenda (Document A/FCTC/INB6/1 Rev.1)

The CHAIR declared open the sixth and final session of the Intergovernmental Negotiation Body on the WHO framework convention on tobacco control, and welcomed delegates. He reaffirmed his conviction that the Negotiating Body would be able to meet the expectations of the international community by delivering an innovative, meaningful and effective convention for adoption by the Health Assembly in May 2003. Consumption of and exposure to tobacco accounted for more than nine deaths every minute, 50% of them in the developing world. With the ground-breaking negotiations undertaken, which would result in WHO's first-ever multilateral treaty, the Negotiating Body had within its reach the means to stop the death clock and to reduce disease in the developing world. As government representatives, delegates were invested with a clear political responsibility to do just that. By putting in place a framework for international cooperation on tobacco control within the time frame allocated to it, the Negotiating Body would show that the international community could act forcefully and take a common stand to curb global public health problems.

Having reached the final and decisive stage in its protracted negotiations, the Negotiating Body could not afford to make mistakes. He was confident that it would succeed in agreeing on important decisions to extensively address transnational public health problems through a global approach, thereby shaping national policies and international cooperation for years to come. The framework convention would not be the end of a process: control was not a static concept, but implied activities designed to be implemented and advanced in time and in space. The convention was destined to become a milestone, the first institutional step paving the way for a continuous multilateral process of tobacco control. The adoption of the text in May 2003 would boost international cooperation and mobilize further political will. Once in force, the convention would constitute a powerful platform to develop comprehensive global standards and harmonize national policies. The principles and norms ultimately codified in the framework convention would set up global priorities for national action and a framework for international cooperation. Within that framework, protocols would be negotiated on specific subjects, with detailed provisions on many issues set out therein.

The institutions to be established by the framework convention, including a Conference of the Parties endowed with a mechanism to monitor compliance, provisions for ongoing consultations among the Parties, financial mechanisms, technical advice and support programmes, would be able to promote adoption and implementation of effective tobacco control strategies worldwide. To achieve that objective it was essential to work as much as possible on a consensus basis during the negotiation process, so as to guarantee that the final outcome would be a convention that was both meaningful in setting international health standards and ratifiable by the great majority of States. The convention would not be an abstract instrument, but a piece of international legislation that would have to be approved by national parliaments and enforced in countries with widely differing legal systems.

Consensus – which, incidentally, did not mean unanimity – was the accepted practice in multilateral treaty negotiation. He would continue to explore possibilities for consensus, and hoped that a point of convergence, an outcome acceptable to all, would be found. But, of course, his ultimate guidance must come from the Member States. He had no doubt that all participants were ready to go beyond country perspectives and aim for the collective interest. In the two weeks of hard work that lay ahead, all delegates must be prepared to take important decisions in order to deal effectively with the

many different requirements of tobacco control. For his part, he pledged to do his utmost to accomplish that task.

In conclusion, he reiterated his deep appreciation to WHO staff for the assistance they had extended to him in preparing a revised Chair's text (document A/FCTC/INB6/2), representing his best judgement on how a consensus might be achievable, in particular with regard to its most controversial parts; and to the Director-General, who after careful consideration, had taken the extraordinary step of announcing her endorsement of his proposed text as a basis for negotiation. That endorsement had further convinced him that the text pointed in the right direction from the public health perspective.

The DIRECTOR-GENERAL referred to the courage shown four years previously by countries that had initiated the Intergovernmental Negotiating Body at the Fifty-second World Health Assembly and set out to prepare a framework convention on tobacco control as a means of reducing the spread of tobacco and tobacco-related deaths worldwide. The mandate of the Negotiating Body had been clear, and remained unchanged. At its sixth session, the Negotiating Body must arrive at an effective framework convention on tobacco control, one that would assist countries in curbing tobacco use within their national context. During the four years that had been devoted to negotiating the treaty, the annual death toll had leapt by 900 000 people. That alone was motivation enough to act swiftly and decisively.

A framework convention that simply maintained the status quo could not be effective. Voluntary codes of agreement on advertising and promotion of tobacco and its products were not acceptable, for the tobacco epidemic was an advertised disease. The revised Chair's text made it clear that on issues such as advertising, promotion and sponsorship, the ultimate objective was a complete ban; and it provided for such a ban through binding declarations, in accordance with WHO and World Bank policy.

An effective framework convention would impose universal obligations, inspire action, set clear goals and promote continuous work at the national level. It would lay the foundations for a continuous process of international cooperation. It would be a universal instrument, aimed at bringing solutions to the challenges and special needs of all countries; and the first step in a lengthy process encompassing the creation of protocols, the enactment and enforcement of national legislation, annual tax increases, unrelenting measures to combat smuggling, and ongoing information campaigns and surveillance. While the convention should have teeth, it must also command broad support by setting clear and realistic goals. It should inspire the many, offering powerful reporting systems to highlight deficiencies in implementation, and set out to identify tools to meet those challenges. Mutual trust and confidence would be needed to find common ground and goals based on public health needs. It must be borne in mind that failure to produce an effective convention would strengthen the hand of the tobacco industry, which, even more than a bland and unambitious treaty, would welcome one so draconian that it would stand no chance of being ratified by a significant number of key countries.

Two weeks previously she had attended a meeting on tobacco control and development policy, hosted in Brussels by the European Commission, the world's largest provider of development assistance. At that meeting, several developing countries had stressed the need for international support for national tobacco control efforts. In response, the Development and Humanitarian Aid Commissioner, Mr Poul Nielson, and the Health and Consumer Protection Commissioner, Mr David Byrne, had affirmed that tobacco control should be an integral part of development policies. The World Bank and bilateral donors had echoed that view. Those responses were most encouraging, showing that donors were prepared to provide support if governments prioritized tobacco control.

In the two weeks ahead the Negotiating Body must take decisions to produce a convention for all: for countries that had to contend with an overwhelming onslaught of tobacco marketing, with smuggling or with financial constraints; for countries that lacked adequate legislation and resources for enforcement and information; even for countries that had effective policies: for they, too, needed the framework convention to stop cross-border smuggling, advertising and marketing, and would benefit from the sharing of cutting-edge policies that had proved effective elsewhere. It was a

convention that would save lives and work for the global common good. She thanked the Chairman for his tireless work in providing a draft text that was a means of enabling governments to achieve those goals. It was vital in the coming days to live up to that historic opportunity and find the solutions needed to save people the world over from the death and suffering brought on by tobacco.

### **Adoption of the agenda**

**The agenda was adopted.**

### **Methods of work**

The CHAIR drew attention to the provisional daily timetable contained in document A/FCTC/INB6/DIV/1 Rev.1, proposing that, following a brief introduction of the new revised text, the Negotiating Body should immediately embark on a general discussion thereof. Speaking time would be limited to five minutes. Two issues still required major work and would occupy the remainder of the first week of the session, namely Article 13, on advertising, promotion and sponsorship and Article 26 on financial resources. They would be considered in two informal working groups of the whole, with Mr Aiston (Canada) chairing the former, and the other chairperson to be announced later. A further informal group chaired by Ms Lambert (South Africa) would consider all legal and institutional aspects, in particular the preamble, Article 1 and Articles 23-25 and 27-38. Lastly, a Chair's group would consider Articles 2-12 and 14-22. The working groups on legal aspects and on advertising would meet in the mornings, the other two groups in the afternoons. Arrangements for the second week of the session would be discussed by the Bureau in due course. Evening sessions would take place if required. The Chairman would meet all three facilitators daily and would be at the disposal of delegations and groups of delegations throughout the process. Nongovernmental organizations in official relations with WHO would have access to plenaries as observers and be permitted, at the end of each meeting, to make interventions on issues discussed each day in plenary. If there was no objection, he would take it that such a procedure was acceptable.

**It was so agreed.**

## **2. ACTIVITIES SINCE THE PREVIOUS SESSION:** Item 2 of the Agenda (Documents A/FCTC/INB6/4 and A/FCTC/INB6/4 Corr.1)

Dr DA COSTA E SILVA (Project Manager, Tobacco Free Initiative) presented a brief update of the Initiative's activities since the fifth session of the Negotiating Body, which had involved a number of economic, surveillance, research and capacity building projects at global, regional and country levels, full details of which were set out in document A/FCTC/INB6/4 and Corr.1. Those activities included various youth-related projects, the development of practical guidelines for tobacco control at country level, and the launching of a fact sheet on gender and tobacco.

World No Tobacco Day 2003 would focus on tobacco and entertainment, with emphasis on the film and fashion industries. A global initiative entitled "Channelling the outrage" aimed to strengthen the capacity of nongovernmental organizations in tobacco control. In November 2002 WHO had participated in a meeting on "Bridging the Research Gap in Global Tobacco Control", hosted by the Research for International Tobacco Control organization. A key outcome of that meeting had been the Ottawa statement on tobacco control research.

On 3 and 4 February 2003 a High-Level Round Table on Tobacco Control and Development Policy had been organized in Brussels by the European Commission in cooperation with WHO and the World Bank. At its fifth meeting, in November 2002, the Scientific Advisory Committee on Tobacco

Product Regulation had discussed recommendations on the regulation of ingredients and emissions from tobacco products and smokeless tobacco. Those recommendations, along with a statement of principles on modified/re-engineered tobacco products, would be released during the current session, as would the report of the International Meeting on Economic, Social and Health Issues in Tobacco Control (Kobe, Japan, 3 and 4 December 2001). The Tobacco Free Initiative was also continuing to expand its network of collaborating centres in the area of tobacco control and prevention of noncommunicable diseases.

The Tobacco Free Initiative continued to develop its work in close collaboration with its regional advisers and country representatives. The Initiative would continue, within the limits of its capacity, to assist Member States in furthering the urgent cause of tobacco control.

**3. DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL:** Item 3 of the Agenda (Documents A/FCTC/INB6/2, A/FCTC/INB6/3 Rev.1, A/FCTC/INB6/INF.DOC./1 and A/FCTC/INB6/INF.DOC./3)

The CHAIR said that almost three years had elapsed since the Fifty-third World Health Assembly had charged the Negotiating Body with the task of elaborating a framework convention on tobacco control. He paid tribute to his predecessor, Mr Celso Amorim, who had drafted a first Chair's text to serve as a basis for initial discussions. At its first four sessions the Negotiating Body had made substantial progress in identifying relevant proposals from among the almost 4000 submitted; but little actual negotiation had taken place. The fifth session had represented a breakthrough, with a new Chair's text (document A/FCTC/INB5/2) enabling the Negotiating Body to embark on the actual process of negotiation. In that text he had attempted to explore possible convergences, focusing on specific formulations so as to allow delegations to find appropriate language generating consensus in some areas and narrowing differences in others.

At the final plenary meeting of the fifth session, it had been decided that the Chair should produce a revised version of the text, based on the discussions that had taken place, the proposals made, and consultations with individual delegations and groups of delegations. It had been agreed that the revised Chair's text would not contain square brackets or options, and that it would attempt to take account of all the views expressed. In keeping with that decision, on 15 January 2003 he had submitted a revised version of the text (document A/FCTC/INB6/2), which attempted to present formulations that, while representing effective breakthroughs from a public health perspective, could at the same time take into account all relevant concerns of Member States; which, in other words, would converge to form a signable and ratifiable instrument that would have a substantial impact in terms of public health.

In the interests of transparency, he had also issued, following consultations with delegations, a letter (document A/FCTC/INB6/3 Rev.1) containing a full explanation of the reasoning behind the formulations proposed. The revised text was thus a negotiating tool, representing his own best judgement as to how agreement might be achievable. The final decision, however, lay with Member States. Together with the other three facilitators, he would now strive to turn that text into an effective piece of international legislation.

Mr CAMARA (Senegal), speaking on behalf of the Member States of WHO's African Region, whose representatives had met in Dakar from 6 to 10 February 2003, expressed appreciation for the Chair's work in producing a revised text in time for the session. While the African group of countries noted that there were some areas of convergence, it remained committed to ensuring that the convention would advance public health; and, having carefully examined the revised Chair's text, it wished to articulate its concerns.

With regard to the procedure, the Chair's letter commenting on the revised text (document A/FCTC/INB6/3 Rev.1) stated that the aim had been to produce a text that focused mainly on background material and information obtained from various sources, including informal proposals submitted to the Secretariat by various Member States. The African group of countries had been under the impression that the deadline for written contributions had been 15 May 2002. They had not been informed of the possibility of submitting informal proposals, and therefore felt they had been denied the opportunity to do so. The letter also stated that the text had been based on oral inputs at various consultations conducted by the Chair during and after the fifth session. To the best of his knowledge, none of the Member States of WHO's African Region had been included in such consultations prior to the drafting of the revised Chair's text, and he would thus welcome clarification regarding the criteria employed to determine who should participate.

With regard to substantive issues, the group considered that the facilitation meetings held during the fifth session of the Negotiating Body had come up with a majority view on such key issues as advertising bans, creation of a global fund and the prioritization of public health over trade, to name but a few. However, the text failed to reflect some of those majority views and thus represented a regression from the positions expressed at the fifth session. Indeed, some of the language to which Member States of WHO's African Region had objected had been reinstated in the revised Chair's text, thereby weakening the obligations of Parties to the convention.

The World Bank report *Curbing the epidemic: governments and the economics of tobacco control* conclusively demonstrated that tax and price increases and comprehensive advertising bans were among the most powerful means of reducing tobacco use. In order to reverse the global epidemic, his group believed that the convention should contain language that placed binding obligations on Member States. It was the group's view that the Chair's text had been watered down and now fell short of the goals affirmed earlier in the negotiation process. However, the group was flexible and believed in consensus building, provided that consensus did not mean sacrificing key interests, but rather, achieving a balance between competing interests. His group stood ready, during the current session, to participate in developing a convention that would be ratifiable by a substantial majority of Member States. Such a convention would do much to advance public health.

Mr CAUGHLEY (New Zealand) said that the only way to tackle the epidemic of tobacco-related diseases and its appalling death toll was through an international legally binding convention with a strong public health focus. He therefore endorsed the principles that underlay the revised Chair's text, and also the proposed method of work. The proposed convention would set minimum yet demanding standards which all Parties would be encouraged to exceed, and which would mark the beginning, rather than the end, of the process of global tobacco control.

Although many of the articles in the revised text constituted a good compromise that would effectively address global concerns about tobacco use and the damage it caused, there were a number of areas where the text needed to be developed further. Those areas included Article 1, whose definitions were crucial to several key articles, in particular, those relating to tobacco advertising and sponsorship. Article 8 would be more effective if it gave clearer guidance on the extent to which protection should be provided to those who were affected by tobacco smoke. In view of the effectiveness of comprehensive bans on tobacco advertising, promotion and sponsorship (as opposed to ad hoc or limited restrictions), which had been stressed by, *inter alia*, the World Bank and WHO, New Zealand advocated the inclusion of provisions in Article 13 that would effectively discourage tobacco use. In Article 16, New Zealand called for the text to be strengthened to encourage the banning of self-service tobacco vending machines. Article 26 was also very important and New Zealand looked forward to working with other delegations to build on the revised Chair's text so as to encompass divergent views.

New Zealand was aware that compromise would be required in order to secure a convention that was widely acceptable. In striving to finalize the convention in time for adoption by the Health

Assembly at its fifty-sixth session, the paramount objective of the Negotiating Body should be to lay effective foundations for the continuing development of tobacco control at international level.

Mr KINGHAM (United Kingdom of Great Britain and Northern Ireland), speaking on behalf of the 51 Member States of WHO's European Region and the European Commission, welcomed both the revised Chair's text and the covering letter explaining the reasoning behind the new wording, which improved the transparency and openness of the process and had facilitated the preparatory work by Member States. Since the start of work on the convention in 1999, the Member States of the European Region and the European Commission had been fully committed to delivering a convention that would have a major impact on the global issues associated with the threat to health posed by tobacco consumption. The time had now come to reach agreement on a text for adoption by health ministers at the Fifty-sixth session of the World Health Assembly. The convention would help to initiate the actions so urgently needed to reduce the negative health impact of tobacco consumption on individuals and on society.

Since the launch of the text in January 2003, two European regional coordination meetings had been held. He was grateful to the Chair for having attended one of them and for his willingness to participate in the frank discussions that had taken place, which had been an important element in preparing for the sixth session of the Negotiating Body. At those meetings it had been decided not to establish a coordinated regional position, as such an approach would be too rigid, particularly given that it would be each Party's responsibility to determine whether it could accept the final text. The deliberations at the coordination meetings had highlighted several important issues which needed to be the subject of a full and rigorous exchange of views during the current session. Articles 6, 8, 13 and 26 fell into that category, as did some of the definitions and certain trade-related elements. Further points might also be raised in subsequent interventions from the European Region.

The text before the Negotiating Body represented a best attempt to rationalize the many views previously expressed. But, as with any compromise, it was important that all the differing views should be aired before any agreement could be reached. The Member States of the European Region and the European Commission were ready to play a full and active part in the negotiations and to work constructively towards securing an agreement. The need for flexibility was implicit in that process, and he hoped that all concerned would share that spirit as the negotiations progressed.

The European group of countries appreciated the decisions taken by the Bureau regarding working methods. Constructive engagement and transparency would be the key guiding principles. If formal evening sessions were kept to a minimum, more time would be available for informal talks and interactions between delegations, enabling the emphasis to be placed firmly on developing greater mutual understanding. The scope of the four proposed working groups had been noted with interest. However, the issue of tobacco advertising, promotion and sponsorship was not confined to Article 13, nor were financial resources restricted to Article 26. He thus hoped that such links would be considered in their totality within the working groups.

Mr MORA GODOY (Cuba), speaking on behalf of the Americas group, said that the group had met from 13 to 15 February 2003 to discuss the revised Chair's text, which represented a masterly attempt to reconcile the various disparate positions. The group considered that the text provided a sound basis for the Negotiating Body to continue its work and pledged its support in the ongoing efforts to conclude a framework convention on the basis of consensus.

It was his country's intention to do its utmost to ensure that the convention was concluded and ready for adoption by the Health Assembly at its fifty-sixth session. Cuba attached great importance to public health and had already shown that positive results could be achieved by implementing appropriate methods and policies to control tobacco consumption: over the past five years there had been a 5% reduction in the number of Cubans who smoked. Furthermore, as a tobacco-producing country, Cuba would like to play its part in reducing the damage caused by tobacco products worldwide.

The revised text represented a good point of departure: Cuba could accept most of the articles, but was willing to be flexible in its approach to others it regarded as compromise solutions, in the interests of advancing the negotiating process. However, one element that was totally unacceptable was the inclusion of liability and compensation in the framework convention. In view of the complexity of the issue, there was every need to be cautious in assigning liability for damage to health, particularly in the context of Article 4, paragraph 5. Even the protocol on liability and compensation to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, refrained from singling out specific individuals or industries. Furthermore, it was not clear that making the tobacco industry liable would actually reduce tobacco consumption. In negotiating a framework convention, the emphasis should be placed on laying down basic principles that could be accepted by all Parties, rather than on identifying and developing other elements that might irrevocably jeopardize the text. Last but not least, it was important to bear in mind that liability and compensation was an area which, strictly speaking, went beyond the scope of a convention designed to protect health. With some 300 000 Cubans economically dependent on the tobacco industry it was unacceptable that that industry should be penalized when all Cuba's other sources of revenue were under constant threat as a result of an economic blockade. The negotiations should focus, not on compensation for the harm done, but on measures to reduce the damage caused to health, such as education, the treatment of addiction, advertising and health promotion activities. On that basis, Cuba was willing to negotiate new proposals for Article 4, paragraph 5 which did not attribute blame. It also reaffirmed its view that Article 19, on questions related to liability, had no place in the convention.

In conclusion, he affirmed his belief that it would be possible to arrive at a consensus text that took account of all the various interests and could be ratified by all Member States, including the tobacco-producing countries.

Mr MORIMOTO (Japan) welcomed the revised Chair's text, which was well considered and had been designed to narrow down the differences of views while remaining an effective mechanism for tobacco control. His delegation was ready and willing, without any preconditions or reservations, to contribute fully to constructive discussions during the current session, with the aim of producing a final draft text that could be adopted by the Health Assembly at its fifty-sixth session. Time was short, and no effort should be spared to expedite the Negotiating Body's work. At the outset, he wished to reiterate Japan's belief that a framework convention on tobacco control should be both effective and flexible enough to take account of the differing circumstances of individual countries, while simultaneously protecting human health from the adverse effects of tobacco products. In due course, his delegation intended proactively to discuss liability, packaging and labelling, advertising and financial resources, all of which were matters of particular concern. Meanwhile, it would work to contribute to producing a final text that could be ratified by the largest possible number of Member States.

Dr NJALSSON (Iceland) said that in his capacity as Chairman of the drafting committee of the European Strategy for Tobacco Control, he had gained an insight into the difficulties of reaching a consensus among so many participating countries. However, the revised Chair's text provided a promising basis for a successful outcome. He had three remaining sources of concern: first, on advertising, his view was that it should be banned as a general rule, except in the case of countries that were unable to accept it for constitutional reasons. Secondly to ensure that countries' autonomy was respected, a ban on cross-border advertising should be included in the main framework text. Thirdly, more needed to be done to find ways of providing financial and technical support for countries taking their first steps towards protecting their citizens against the dangers posed by tobacco consumption. Member States should work towards reaching a consensus as a first step along the road to establishing regional strategies. The experiences of WHO's European Region had shown that such a working method could ensure stronger regional tobacco control than would be possible when certain countries' trade considerations conflicted with the majority view.

Mr AISTON (Canada) stressed that Canada regarded tobacco control as a very serious issue and therefore hoped that the text before the Negotiating Body would be strengthened as negotiations proceeded. In his view, the convention should initially resemble a sturdy house built on solid foundations, that would soon be extended by means of additional protocols. Although Canada generally supported the revised Chair's text, it had some reservations, the most serious of which related to Article 6, on taxation. It could not accept wording that placed conditions on countries' sovereign powers of taxation. The Chair should thus establish a contact group to review the terms of that important article. Canada would also be making a small number of other proposals, including some in relation to Article 14.

There were some who believed that extending the negotiations beyond May 2003 would result in a stronger convention. He supported their objectives but could not agree with their conclusion. Ministers' and governments' attention was currently focused on the issue but both groups might quickly lose interest if the Negotiating Body failed to deliver a convention on time. Nor was there any guarantee that longer negotiations would produce a stronger convention. Only the tobacco industry stood to gain from such an extension. The negotiations to date had already led to some successful outcomes with the articles on illicit trade and scientific and technical cooperation all but complete. The Negotiating Body must build on those successes and complete its work forthwith. The opportunity to make history in a positive sense was one which came to few, and which must not be allowed to slip away.

Ms DE BELLIS (Uruguay) expressed gratitude to the Chair for his work on the revised text. Every paragraph represented a compromise, and although, like other delegations, her delegation would often have preferred different wordings, the revised text was acceptable as a basis for negotiation. It was important not to lose sight of the fact that the main objective of the negotiations was to reduce mortality and morbidity caused by tobacco consumption. In her view, the text provided an effective response, as it was consistent with public health objectives and contributed to the fight against tobacco consumption. Another fundamental consideration was to ensure that the convention was adopted on time, failing which its credibility could be undermined and its effectiveness diminished. She urged Member States to be flexible and open-minded in their attitude to new ideas in the interests of finding consensus solutions. In that spirit, Uruguay, which had previously favoured the progressive phasing-out of tobacco advertising, now welcomed more flexible formulations such as those set out in Article 13, paragraph 2 of the revised text. Her delegation would save its comments on specific articles for the relevant working groups, but wished at the outset to welcome the deletion of Article 2, paragraph 3, of Article 4, paragraph 5, and of Article 15, paragraph 2, of the previous text; and to call for a requirement in Article 11, paragraph 1 (c) for health warnings to cover 50% of the entire area of the packet or package.

Mr MOJTAHED SHABESTARI (Islamic Republic of Iran), speaking on behalf of the Member States of WHO's Eastern Mediterranean Region, said that the revised Chair's text offered a good basis for further work, and that the working methods proposed were acceptable. His region would make every effort to reach consensus on the final text of an effective, workable and widely supported framework convention on tobacco control in time for adoption by the Health Assembly at its fifty-sixth session. Some sacrifices would be necessary in order to resolve the outstanding differences in a way that would not undermine the integrity of WHO's first multilateral negotiated treaty. The convention should affirm global health concerns, while taking due account of the socioeconomic impact of such concerns; and collective efforts of Member States should demonstrate the centrality of the concept of international cooperation for the attainment of common global health objectives. The threat posed by tobacco cut across national boundaries, cultures, societies and socioeconomic strata. Hence, a broad-based approach to tobacco control at national, regional and international levels, both on the supply and on the demand sides, was required. Addressing the tobacco threat as a multidimensional global scourge necessitated an effective and meaningful multisectoral approach at

the international level, encompassing all relevant disciplines and stakeholders. Such an approach should complement national and local legislation on transboundary matters and identify responses that required international cooperation, for example, on advertising, sponsorship and smuggling.

Effective action at the international level depended much on the financial and other resources available. New ways and means were needed to help developing countries to expand their capacities in response to that demanding health agenda, improve related infrastructure and training, mitigate any social and economic impacts, and fulfil their obligations under the convention, its future protocols and other measures to be elaborated and adopted by the Conference of the Parties. The convention should be seen as a framework for international solidarity and cooperation and for capacity-building in tobacco control. Mitigation of the socioeconomic impact of tobacco control required support for the creation of diversified substitution options in the tobacco industry and agriculture, particularly in developing countries, which would bear the highest adjustment costs and in which poverty eradication was an urgent and resource consuming task. Provision of resources to developing countries thus needed to be addressed in the text. Furthermore, the framework convention, as a component of a bigger picture, called for complementary support from other sectors.

On the basis of those considerations, the Member States of WHO's Eastern Mediterranean Region reaffirmed their strong support for the unanimously adopted language proposed by the Group of 77 and China during the fifth session of the Negotiating Body for financial resources in Article 5, paragraph 2(c) and Article 26, paragraphs 1, 2 and 3, and urged the Chair to include those textual proposals for further consideration at the current session.

Dr OTTO (Palau), speaking on behalf of Pacific island States, welcomed the Chair's revised text as a sound basis for the coming two weeks' work. While the convention constituted no more than a framework, such a framework nonetheless had to be built on solid foundations, so as to withstand future onslaughts. The Pacific island States saw the failure to specifically indicate the supremacy of public health over trade interests as a conscious omission of a vital pillar in the overall structure.

He had read with care the Chairman's explanations as to why health issues were no longer to be given precedence over trade interests. The rationale was that the preamble reiterated the paramount importance of health; that there were precedents for not including language to prioritize health over trade; and that in international law there was no built-in hierarchy between different types of treaties. However, he viewed those explanations as reasons for not doing what the Negotiating Body now had a historic opportunity to accomplish. In the opinion of the Pacific island States, it was essential to find a way of giving priority to public health issues, for a number of reasons. In the first place, the tobacco problem had been understated in the preamble: it was not merely a global problem, but an urgent global catastrophe, claiming 4.9 million lives a year. Consequently in the event of conflicts, health concerns should not be allowed to lose out to trading interests in international courts. Secondly, the convention should create a precedent that could be evoked in subsequent arguments in favour of the supremacy of public health over the tobacco industry. Thirdly, the framework convention offered an opportunity to cease to regard tobacco as a commodity with a status equal to that of other traded goods. Even if it were not possible to make tobacco illegal, his group would favour a specific statement in the guiding principles of the convention, to the effect that in the event of a conflict of interests, the convention would prevail, on the grounds that it sought to protect public health.

Dr ALBADAH (Saudi Arabia) said that his country had an ambitious programme for a tobacco-free *hajj*. As two million persons convened annually on that occasion, it was to be hoped that the participants might become messengers for tobacco control and prohibition. He favoured a strong and effective convention: yet the text as it was now formulated had a number of weak points. For example, Article 13, on publicity and marketing, was likely to prove ineffectual as reformulated. The articles relating to trade and health, which ought to form the backbone of the convention, were now ambiguous, and little would be lost if they were deleted. The framework convention, the provisions of which were supposed to override trade and industrial interests, in fact provided loopholes for countries

with divergent interests. There was a danger that the convention might prove unlikely to survive until May 2003, unless agreement was reached on forceful wording, such as was notably absent from Articles 13 and 26. His fear was that the sixth session of the Negotiating Body might represent a retrograde step in comparison with the achievements of the fifth session. He favoured forceful articles on essential issues, such as passive smoking, to ensure that the convention would prove strong and healthy enough to withstand opposition from the tobacco industry worldwide.

Mr KRIEKOUKIS (Greece), speaking on behalf of the 15 Member States of the European Union, the acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, and the associated countries Bulgaria, Romania and Turkey, said that one of the biggest challenges of the time was to maintain and improve the health status of societies. Priority should be given to measures to promote healthy living and to protect public health. The reduction of tobacco consumption was a major aspect of that task, and one that would become more visible after the adoption of the framework convention.

The European Union welcomed the Chair's new text which provided a solid basis for reaching consensus, and which it was able broadly to support as it stood. However, some important issues, such as price and tax measures to reduce the demand for tobacco, protection from exposure to tobacco smoke, tobacco advertising, promotion and sponsorship, sales to and by minors, and financial resources, required further discussion. Exposure to tobacco smoke was an issue of great importance to the European Union, and although the relevant text was clear, it needed to be strengthened. Preventing young people from starting to use tobacco was essential, and, as prohibition was ineffective, he strongly supported efforts to restrict their access to tobacco products. The European Union recognized that adequate financial resources would be needed to develop tobacco control activities, but considered that developing countries had to determine their own priorities and integrate them into their own development agenda. Other issues such as advertising and taxation, on which a stronger text was sought, would be raised by the European Commission.

Lastly, the European Union fully supported the working methods proposed by the Chair and considered it important to focus on overall negotiating positions, rather than on detailed textual proposals. The European Union hoped that other delegations would join it in working constructively so as to improve the text where required. Although it had expended considerable effort on controlling tobacco consumption, the European Union felt that much more needed to be done and that the framework convention might constitute the global solution to the global problem posed by tobacco. The time had come for action

Dr HETLAND (Norway) said that a great deal of work had been done to shape a framework convention and that that process had already laid the basis for positive and ground-breaking national activities. In his country, it had lent authority to a proposed bill providing for smoke-free bars and restaurants from 2004 onwards. The legally binding document, when adopted by the Health Assembly in May 2003, would constitute a milestone in public health concerns. For its part, his delegation was willing and eager to work to achieve an agreed text during the final round of negotiations. That instrument would provide a tool with the potential to reduce inequalities and socioeconomic gaps in health care within and between regions and nations.

As the World Bank had shown in its 1999 report, cost-effective means of reducing the harmful effects of tobacco did in fact exist: a recent total ban on advertising in Norway had clearly shown that a ban had an impact on the prevalence of smoking, provided it was comprehensive. Accordingly, he strongly recommended that the text on the prohibition of advertising, promotion and sponsorship should be made as comprehensive as possible. Although no one would be entirely satisfied with the end result, all participants should be able to feel they had done their best to improve the health of present and future generations. His delegation felt proud and privileged to be part of that important task.

Mr CHIPAZIWA (Zimbabwe) said that his delegation wished to associate itself with the statement made by the delegate of Senegal on behalf of the 46 Member States of WHO's African Region and that it also supported the proposals by the Group of 77 and China on financial support made at the fifth session of the Negotiating Body. It was impossible to overstate the importance of the present sixth session, the task of which was to draft a balanced legal instrument which prioritized health, and which at the same time was able to command universal adherence by Member States. His delegation was prepared to make every effort to achieve consensus on the key issues.

His delegation wished to see a convention with a central health perspective which also addressed the negative socioeconomic implications that might result from its implementation. The convention should provide for proactive cooperation by the international community in dealing with the problems of tobacco consumption and control. Technical and financial assistance, as well as the transfer of technology, including the establishment of a global fund, were issues of crucial importance. The convention would be ineffective if States Parties were unable to discharge their obligations, owing to lack of resources for the necessary transition to other, more desirable, agricultural products, following the successful control and eventual abandonment of tobacco. The burden of dealing with the scourge of tobacco consumption could not be left to individual governments: effective international cooperation was essential to help developing countries, threatened by rising mortality rates due to tobacco use, as well as by the devastating effects of the AIDS epidemic on their economies. Zimbabwe was one of the countries that were to a large extent dependent on revenues from tobacco sales, and would therefore expect assistance in cushioning its economy from the destabilizing effects of tobacco control. Revenues from tobacco sales not only supported the health delivery system but also played a key role in tackling the key issues of food security and employment opportunities. He would thus welcome a reformulation of Article 26 on financial resources, so as to ensure that the requisite resources were committed to States that were dependent on revenues from tobacco. Article 19 also needed careful handling, especially with regard to apportioning liability.

His delegation undertook to engage constructively in the formulation and adoption of a consensual, practical and ratifiable framework convention. However, it was not prepared to be fobbed off with vague promises where beneficial implementation of the convention was at stake.

Ms KERR (Australia) welcomed the revised Chair's text, which provided a strong basis for the final round of negotiations, and expressed the view that the adoption of a framework convention by the Fifty-sixth World Health Assembly would be a fitting conclusion to Dr Brundtland's outstanding efforts as Director-General.

Australia had argued strongly for a reference in the convention to relationships with existing international agreements and was concerned that there should be no suggestion in the text of a hierarchy among such agreements. Australia believed that the health objectives of the convention should not be compromised. It was important to ensure that the convention was not misused to undermine existing international agreements; and her delegation was convinced that all such agreements could be implemented in a mutually supportive manner. In that context, she welcomed the Chair's new, alternative approach to addressing her delegation's concerns on those issues.

With regard to the Chair's new proposals for dealing with advertising, promotion and sponsorship, her country's experience had shown that public health objectives were best achieved by comprehensive bans, with a minimum number of exemptions defined by domestic legislation in the light of local conditions. She had some suggestions to clarify and strengthen the article, which she would raise in informal discussions.

Her delegation was convinced that health warnings were a crucial part of comprehensive tobacco control strategy, and favoured large, strong, prominent and rotating warnings, possibly including pictures or pictograms and advice on quitting, ideally covering 50% or more of the package; but not a mandatory minimum percentage.

Following the vigorous debate at previous sessions on questions relating to liability, she considered that the revised Chair's text set forward a balanced, pragmatic approach to that issue.

Furthermore, she commended the institutional and other legal provisions of his text, which reflected well-established precedents from other multilateral treaties, and presented an effective basis for the day-to-day operation of the convention. Her delegation also supported the Chair's objective of ensuring consensus decision-making by the Conference of the Parties' objective that should be fully realized in the final text.

Lastly, the structure of the convention warranted further attention; thus, for example the revised text might benefit from more discussion of issues such as the expected function of annexes to the convention, as well as the need to ensure that the guiding principles did not inadvertently qualify the effect of the convention's operative provisions. In concluding, she expressed her delegation's support for the Chair's proposed method of work and assured him of its intention to work cooperatively, so as to finalize the convention for consideration at the Fifty-sixth World Health Assembly.

Dr SALAMA (Egypt) commended the excellent and highly transparent negotiating tool provided by the Chair, which had incorporated all previous inputs. While the revised text might be seen as a regression in relation to each country's initial submissions, it undoubtedly represented progress from the perspective of common denominators. It was to be hoped, however, that the negotiators would not confine themselves to the lowest common denominator. One of the most important contributions in terms of added value was the dimension of international cooperation. Consequently Article 26 was of particular importance for Egypt, as a matter of principle. In that connection, he endorsed the point made by the delegate of Palau concerning the need to set a precedent, which, however, required, not the intervention of international lawyers, but political will. Given that the convention represented a new horizon for such international cooperation, a precedent constituting a strong foundation was essential if the instrument was to be a success.

The attractive feature of such a convention was the opportunity it afforded for technical exchange and financial support. Developing countries were caught in a vicious circle: the lower the level of development, the more tobacco was consumed and the less effective health policies became, given the increased number of competing priorities. Hence there was an ever-increasing need for technical support and financial resources, in the absence of which multilateral action served no useful purpose; for countries entered into multilateral agreements, not simply for the prestige, but only when there was a genuine benefit to be obtained therefrom. That aim could be achieved through Article 26, without substantial changes.

Dr WAQATEIREWA (Fiji), speaking on behalf of Pacific island States, said that his country had been involved in negotiations on tobacco control from the outset. He thanked WHO for its technical support in organizing the INB intersessional meetings, which had been crucial to his group's understanding of the dimensions and impacts of the framework convention and which, furthermore, had provided an opportunity for those States collectively to address and agree on certain articles in the Chair's text.

Commenting on specific articles, he said that with regard to Article 13, his group was in favour of a total ban on all forms of advertising, promotion and sponsorship. Although certain States might have difficulties in addressing those issues, the wording of the first paragraph of Article 13, which provided for some flexibility, offered a unique opportunity to work towards a total ban. With regard to Article 13, paragraph 1(b), it was the collective view of his group that the provision provided some leeway for tobacco advertising, thereby undermining the substance of Article 13. Accordingly, that subparagraph should be deleted. Furthermore, so as to reflect the intention of introducing a total ban on tobacco advertising, promotion and sponsorship, he proposed that the word "restrict", in the first sentence of Article 13, paragraph 1, should be replaced by "prohibit".

Professor ZATOŃSKI (Poland), welcoming the progress made by the Intergovernmental Negotiating Body, felt that the convention, though not yet finalized, was already contributing to reducing the adverse health consequences of tobacco consumption in the world. In Poland, the

convention would mean little change: Poland's Tobacco Control Act was among the most comprehensive in the world and tobacco regulation had brought about a dramatic improvement in the population's health over the past decade. He strongly supported the revised version of the Chair's text. While he would have preferred a stricter convention, the specific situation of other countries had also to be taken into account. Apart from the health aspect, tobacco consumption led to the impoverishment of nations. The meeting should stop worrying about commas and agree on the compromise that was now within reach. However, the most important task, namely, implementing the convention, still lay ahead.

Mr VEGAS TORRES (Peru) hailed the revised text of the convention as a sound basis for achieving general consensus. Efforts had clearly been made to strike a balance between different positions and interests. Peru's national legislation was not fully compatible with the text and the entry into force of the convention was likely to create serious economic and social difficulties for certain sectors of Peru's population which depended directly or indirectly on the cultivation, processing and marketing of tobacco. Nevertheless, public health was a greater good which justified the effort required to bring national legislation and specific interests into line. His delegation was willing, in the few days remaining, to work hard to ensure that a consensus text was adopted so that the convention could enter into force and its provisions be implemented in the near future, with a view to preventing millions of deaths, most of them in the developing world.

Ms LAXANACHANTORN LAOHAPHAN (Thailand), speaking on behalf of the Group of 77 and China, reaffirmed the Group's willingness to continue working towards a mutually acceptable text for the framework convention on tobacco control. She appreciated the efforts made by the Chair in producing the revised text; however, she wished firmly to reiterate the common position of the Group of 77 and China concerning financial resources and the creation of a multilateral global fund to help developing countries to honour their commitments under the framework convention. In that connection, she welcomed the information on precedents for financing the implementation of the convention, set forth in document A/FCTC/INB6/INF.DOC./1. She recalled that at the fifth session of the Negotiating Body the Egyptian delegation, in its capacity as Chair of the Group of 77 and China, had proposed, on behalf of the Group language for Article 5, paragraph 2(c) and Article 26, paragraphs 1, 2 and 3 of the new Chair's text (document A/FCTC/INB5/2). Though a step in the right direction, the revised text did not yet meet the essence of the Group's concerns about financial resources. The Group felt strongly that the framework convention should be not only a source of new obligations, but also a basis for renewed, clear and concrete commitments to genuine international cooperation, in order to enable developing countries to meet those obligations. While maintaining their initial proposals, the Group of 77 and China were willing to work on the basis of the revised Chair's text. If all groups took the same constructive approach and showed genuine flexibility, the current negotiations could have a positive outcome.

Mr SOLANO (Costa Rica) endorsed the statement by Cuba on behalf of the Americas group. Drafting a text which accommodated the interests of so many States was no easy matter, but the revised Chair's text, which he fully supported, was an excellent basis for work in the last two negotiating weeks. While a total ban on advertising would clearly not be feasible in the short term, on account of constitutional obstacles in many States, it remained his delegation's preferred ultimate objective. It favoured a gradual phasing-out, beginning with a ban on television advertising. The money that would otherwise have been invested in advertising could be devoted to the fund for the prevention of the consumption of tobacco products. He also stressed the importance of ensuring that smoke-free areas were genuinely smoke-free.

Mr OGANOV (Russian Federation), speaking on behalf of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, the Republic of Moldova, Russian Federation, Tajikistan, Ukraine

and Uzbekistan, commended the Chair on a balanced text which had achieved compromise formulations for many complex issues while preserving the constructive nature of the convention. Of course, points remained that would have to be looked at carefully during the current session, including advertising and promotion of tobacco and tobacco products, subsidies and financial resources. The delegations for which he spoke would make their specific comments and proposals as and when the articles concerned came up for discussion. When considering precise wording, delegates should bear in mind that articles could be fleshed out in greater detail in the convention's protocols and a timetable for implementation laid down. In his view, work on the protocols should be carried out after the work on the convention had been completed. He stressed the importance of ensuring that all the language versions of the convention were consistent, and expressed his gratitude to the WHO Regional Office for Europe for the considerable financial and organizational assistance it had provided during the work on the convention, thereby enabling the countries for whom he spoke to come up more easily with uniform positions. Overall, the delegations for which he spoke approved the revised text, which, when signed, would help to control the use of tobacco worldwide.

**The meeting rose at 12:30.**

**SECOND PLENARY MEETING**

**Monday, 17 February 2003, at 14:20**

**Chair:** Mr L.F. DE SEIXAS CORRÊA (Brazil)

**1. ORGANIZATION OF WORK**

The CHAIR announced that, following consultations, it had been agreed that Mr Padilla (Philippines) would chair the informal working group on financial resources.

**2. DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL:** Item 3 of the Agenda (Documents A/FCTC/INB6/2, A/FCTC/INB6/3 Rev.1, A/FCTC/INB6/INF.DOC./1 and A/FCTC/INB6/INF.DOC./3)  
(continued)

Mr VELÁSQUEZ (Venezuela) associated himself with the statement in the first meeting by the delegate of Cuba on behalf of the Americas group. Like previous speakers he felt that the revised Chair's text (document A/FCTC/INB6/2) was a sound basis for achieving a consensus, and that if all delegates showed flexibility the necessary compromises could be achieved. For Venezuela the convention would mean strengthening national laws and decrees that had come into force since 1978, and also the health bill currently before the National Assembly.

Generally speaking, availability of and access to financial resources would be an indicator of the political will to bring the convention into force. He therefore supported the initiative to create a global fund to take special account of the needs of developing countries. He agreed with the Chair's proposals on advertising, promotion and sponsorship, which did not conflict with any national telecommunications regulations and aimed at banning all commercial advertising intended to encourage tobacco consumption, including cross-border advertising. Lastly, he observed that a convention whose very essence was the protection of public health must include provisions on compensation and liability.

Mr RAJALA (European Commission), speaking on behalf of the 15 Member States of the European Community and the acceding and associated countries Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, joined previous delegations in commending the Chair on his revised text, which was an excellent basis for the current critical round of negotiations. The European Community warmly welcomed the working methods proposed for the current session of the Negotiating Body, which followed the same lines as those adopted at the fifth session. The European Community was fully committed to finalizing a strong and widely acceptable convention in time for adoption by the Health Assembly in May 2003.

Nevertheless, some issues required further clarification. On advertising, he appreciated the new structure of Article 13, but would seek to make that important part of the convention stronger and more concrete. In particular, the international aspects of tobacco advertising should be more concretely stated in the body of the text, to protect countries and persons from involuntary exposure to cross-border tobacco advertising. Taxation policy, in particular the sovereignty of the Parties and the extremely complex question of duty-free sales, should be fully clarified. With regard to the regulation of tobacco products, the revised text was satisfactory and a good basis for discussion, though in that area too some issues required further clarification.

Mr KURTTEKIN (Turkey) said that Turkey, although a tobacco producer and exporter, had been engaged in the negotiations to produce a framework convention on tobacco control from the very outset, and had always supported a convention that would lay down the basic principles and guidelines with as wide a participation as possible. Progress thus far had been encouraging but a few issues, none of which was unresolvable, remained to be dealt with and the revised Chair's text constituted a solid basis for that purpose. With a constructive and determined approach by all delegates, it should be possible to achieve an effective final text.

The convention was intended to set minimum standards for health protection and none of its provisions need prevent any Party from taking further measures, a fact that should reassure those Member States that considered certain provisions not strong enough. It should not be forgotten that the tobacco control process was still in its initial stage and that efforts had been made to find common ground on which to base future progress towards the final goal. Given the convention's economic and social implications, the measures stipulated should be implemented fairly and in a non-discriminatory manner with sharing of burdens and sacrifices in order to achieve a broader consensus.

Clearly, there would be intensive discussion of tax and price measures, which needed to be considered in conjunction with the necessary tools to combat illicit trade. At the same time, care should be taken to avoid creating an environment advantageous to illegal traders. Turkey considered that such issues would best be addressed in a protocol.

Another significant issue concerned advertising, promotion, and sponsorship. His country had no difficulty in that connection since it had operated a total ban on advertising and sponsorship of tobacco products since 1996. It was therefore very much in favour of a total ban. However, in view of the legal difficulties facing certain countries, a progressive approach that did not lose sight of the ultimate goal of a total ban would be acceptable. Lastly, the obligations of the Parties should reflect their economic capacities, and their needs and concerns should be taken into account. For countries like his own, where tobacco production played a significant role in agriculture and social life, the transition towards other viable activities would require effective international support.

Mr PADILLA (Philippines) congratulated the Chair on the revised text, which would provide a good basis for negotiations, and commended the method of work chosen. Considerable progress had been made. However, he expressed concern about certain phrases or words used in the text. Provision existed for adopting and implementing effective legislative, executive, administrative and other measures, but in some cases, the word "effective" had been deleted, as if to distinguish between some measures that were effective and others that were not. In another case, the term "effective measures" appeared to contrast with legislative or executive measures. In certain other provisions use was made of the phrase "in accordance with national capabilities". He wondered if that phrase was to be taken as meaning "in accordance with national law", "subject to national law", or even "subject to the national constitution". In his view, those phrases denoted four quite different concepts. He had also remarked that the more controversial the provision, the more qualifiers were employed. He did not know if that had been the intention, but, while some might regard those amendments as purely formal, the result could, when seen in the context of the convention as a whole, radically affect the substance.

Dr WANGI (Papua New Guinea) commended the revised Chair's text as a whole but expressed serious concern over certain articles, particularly with regard to the aims of advertising, promotion and sponsorship, the banning of such activities, and the need for health to take precedence over trade.

With regard to the aims of advertising, promotion and sponsorship, his country was concerned about the failure to differentiate between the various reasons for such activities, whose effect was always to increase the consumption of tobacco, particularly among children and young people. It seemed that the Negotiating Body did not wish to focus on particular subgroups such as children and young people for fear of weakening the convention by encouraging a differentiated approach to tobacco control. Yet the long-term survival and profitability of tobacco companies clearly depended

on the recruitment of young smokers. The convention should therefore differentiate between general approaches to tobacco control and approaches focused on the young.

On the second point, his country considered that, to achieve the maximum reduction in the number of smokers and smoking-related illnesses, a total ban on all forms of advertising, promotion and sponsorship was essential. Thirdly, it maintained that health must take precedence over trade. Otherwise many governments, including his own, would tend to give profit and economic return precedence over health, and the tobacco companies would advance their age-old argument that tobacco trade and consumption had nothing to do with health. He concluded by expressing his country's readiness to contribute fully to the drafting of a viable text for submission to the Health Assembly.

Mr XIONG Bilin (China) said that the revised Chair's text reflected the main positions of Member States and that, with a joint effort by all delegates, the negotiation of the convention could be brought to a successful conclusion. The differences on certain specific important issues had been considerably reduced and progress made on key aspects of a global strategy to reduce the unacceptable burden of deaths and diseases due to the consumption of tobacco. China had actively participated in the negotiations and fully supported the goal of adopting the convention at the Fifty-sixth World Health Assembly, since that would promote international public health standards acceptable to the majority of countries. A global framework convention commanding universal acceptance would address tobacco control and related transnational issues and encourage Member States to cooperate more actively on tobacco control.

China fully understood the risk to its people posed by tobacco and had imposed effective control measures on tobacco use and organized a variety of activities aimed at the protection of young people. Since 2000, a nationwide activity had focused on encouraging middle-school students to refuse their first cigarette and join a new generation of non-smokers. At present three million students had responded positively and the number was expected to rise to five million by the end of 2003.

China regulated tobacco advertising strictly. A national law laid down strict rules and the government departments concerned had taken a series of concrete actions in that area. In February 2003 the Ministry of Health, and the National Industry and Commerce Administration had announced joint measures to promote tobacco advertisement-free cities. So far, 50 cities had applied for inclusion in the scheme. In the context of World No Tobacco Day films and videos had been produced and tobacco-free activities organized.

The Tobacco Monopoly Law had led to strong action against illicit trade in tobacco products and tangible results had been obtained. It had also regulated tobacco manufacturers and offered them incentives to reduce the health risks of tobacco to a minimum. Strict control measures with regard to tobacco production had been introduced. In recent years structural measures had been intensified and a number of manufacturing plants phased out. Efforts would continue in that direction.

The period leading up to the Fifty-sixth World Health Assembly would be an important stage in the history of world public health. He hoped that a frank discussion among Member States would resolve all differences so that the future convention would benefit all peoples of the world.

Dr SANDA (Romania) said that Romania, as one of the candidate countries for accession to the European Union, had consistently expressed its support for the positions taken by the European Community. She welcomed the revised Chair's text and emphasized the importance for Romania of having an international treaty to guide and justify the tobacco control measures it took. The new text had a real potential for achieving a consensus among States.

Romania, 20% of whose population smoked daily, was in the process of introducing tobacco control measures. Smoking had been banned in public places and workplaces and on public transport and stricter rules on advertising, health warnings and sales to minors had been introduced. In 2003 new legislation on packaging and labelling, maximal yields, dissemination of information and

disclosure to the authorities would be discussed. It had been decided to organize a National No Tobacco Day to be celebrated every year, as a means of halting the increase in tobacco consumption.

Government efforts had been focused on three major issues: the harmonization of Romanian with European Community legislation; the European Strategy for Tobacco Control adopted by health ministers at Copenhagen in September 2003; and the framework convention on tobacco control.

The Romanian Secretary of State for Health was currently having a hard struggle to counter domestic attempts to weaken the provisions of a recent law to control tobacco use. That struggle was made harder by the fact that the framework convention was at present merely a draft. Once ratified it would lend Romania's efforts the authority of an international treaty. Romania would approach the coming discussions with flexibility in order to facilitate the adoption of what would be a most important public health treaty. Delegations should act in the same spirit of flexibility in order to reach a consensus that would contribute to the health of the world.

Mr KALONTAS (Vanuatu), speaking on behalf of the Pacific island States of the Cook Islands, Fiji, Kiribati, the Marshall Islands, Palau, the Solomon Islands, Tuvalu and Vanuatu, expressed his gratitude for WHO's assistance in enabling Vanuatu to play its part in the collaborative development of the framework convention. All the Pacific island States strongly supported the framework convention on tobacco control. Since everyone was affected by the issue of tobacco, everyone must be made aware of its dangers and assume responsibility for combating them. With its harmful impact on individual health and the family budgets of the very poor, tobacco would remain a contentious issue of great importance for many years to come. However, with international and national collaboration, it could be sustainably controlled and its use reduced.

The small Pacific island States supported the Chair's text for Article 26, on financial resources, and would make every effort to further improve the article during the current negotiations. In particular, they supported the idea of obligatory contributions for core operations. The funding of the framework convention was too important to be left to the uncertainties of voluntary contributions. Obligatory contributions from all signatories could ensure adequate funding and a balanced influence of the Conference of the Parties. The WHO assessment system could be used to establish appropriate contribution levels for core operations on the basis of each country's ability to pay, while other programmes could rely on voluntary contributions, mainly from developed countries. Vanuatu strongly advocated the establishment of a mechanism to ensure that each Party financed its obligatory contributions to the convention through taxes on tobacco industry revenues, in particular for the purpose of financing the Conference of the Parties referred to in Article 23.

Confident in the success of the framework convention, the small Pacific island States welcomed the interest taken in the subject by major international organizations and associated themselves with the commitment expressed by the European Commission and WHO. All developing country Parties to the convention should include tobacco control in their respective national development plans. The small Pacific island States would contribute fully to achieving the objective of a consensual text.

Mr NAIK (India), speaking on behalf of the Member States of WHO's South-East Asia Region, commended the Chair's revised text, which successfully tackled the problem of reconciling the many conflicting positions. However, despite differences of opinion, the prime objective of the convention and its most important ends should not be forgotten. At the end of the fifth session of the Negotiating Body, in October 2002, India had felt that, even though much remained to be done to achieve consensus, especially on the contentious issues, progress had been made in narrowing differences and improving delegations' understanding of differing viewpoints. Most countries favoured a total ban on advertising, giving priority to public health and providing for a viable funding mechanism. However, the present draft did not adequately address those and other concerns, such as the elimination of subsidies.

Perhaps delegates needed to be reminded of the initial objective of the whole process. Despite the depressing statistics on tobacco-related deaths and morbidity and the lofty objective of saving

future generations, there was a reluctance to take the basic steps needed to address the problem. In the long run, half-hearted measures might be more damaging than having no convention at all, since many countries intending to implement strong tobacco control measures would face opposition from vested interests that would cite the convention as the norm. A text was needed that reflected the basic precepts that were supposed to underly the convention.

Everyone knew how the tobacco industry had been using direct and indirect advertising to attract young people, yet there was a reluctance to confront the issue squarely. Everyone knew that, without financial resources, developing countries would find it difficult or impossible to implement the convention, yet there was reluctance to consider a viable funding mechanism. As tobacco consumption in developed countries was falling, while production in developing countries remained at existing levels, the surplus production would naturally be channelled towards developing countries, thus vitiating all efforts to achieve effective tobacco control. Resources were needed to provide substitute activities for tobacco farmers. Other activities such as a tobacco cessation programmes would also need to be funded; hence the vital need for a viable funding mechanism.

If real progress was to be achieved during the current session, those fundamental precepts must not be forgotten. While the Member States of WHO's South-East Asia Region would negotiate in a true spirit of mutual understanding, they were not prepared to accept any compromise on the principal tenets of public health. He therefore urged delegates not to lose sight of the spirit in which the Negotiating Body had embarked on its ground-breaking journey.

Ms CAVALCANTE (Brazil) commended the Chair's revised text and his strenuous efforts to find ways of reconciling different and sometimes conflicting views and positions. The important analysis presented by the Chair in document A/FCTC/INB6/3 Rev.1 had drawn attention to two conflicting sets of expectations regarding the convention's role as a tool in tobacco control, both of which had been present throughout the negotiation process; and all efforts to reconcile those trends should be recognized. The convention could be likened to a forest. The Chair's analysis had helped countries to see its dimensions and its limits, and to realize the impossibility of its sustaining every species. Yet the land was fertile and the future promising. The framework convention would be, not an end, but a beginning.

In Brazil's view, the negotiation process itself had already had a significant impact on tobacco control advances. In Brazil the process had led to stronger restrictions on advertising, promotion and sponsorship of tobacco use, to stronger health warnings with pictures, and to the banning of such terms as "light" or "mild". Brazil considered that the convention provided a firm foundation that would help many countries to make progress in national tobacco control.

Although the text needed certain adjustments, it was generally acceptable. Brazil strongly supported the deletion of Article 2, paragraph 3, Article 4, paragraph 5, and Article 15, paragraph 2, of the new Chair's text submitted to the fifth session (document A/FCTC/INB5/2), which covered matters adequately addressed by the Vienna Convention on the Law of Treaties. It also supported Article 13 on tobacco advertising, promotion and sponsorship, but would make some proposals regarding the use of terms relating to that issue in order to broaden its scope. It also supported Article 15 on illicit trade, Article 19 on liability and Article 30 on reservations. Furthermore, it would be suggesting some clarifications for Article 14.

Brazil also supported the method of work proposed by the Chair and would listen attentively to the views of other delegations in the effort to achieve an effective convention and a final text that could be approved, signed and ratified by the majority of Member States for the purpose of protecting future generations from the scourge of tobacco.

Mr EMMANUEL (Saint Lucia) said that while the revised Chair's text took into account the multiplicity of views and was a solid basis for negotiations, some areas could still be improved, in particular, the articles on use of terms; advertising, promotion and sponsorship; sales to and by minors;

and questions related to liability and financial resources. Certain sections of the text might not be acceptable to all. Refining the text could render it more widely acceptable than was presently the case.

Saint Lucia had contributed to the worldwide efforts to increase tobacco control by completing the Global Youth Tobacco Survey and establishing a multisectoral committee for tobacco control. The Cabinet of Ministers had accepted the convention in principle. His Government had increased its tax on tobacco products by 15% in the 2002-2003 fiscal year, earmarking a portion of the resulting revenue to the country's cancer society for use in tobacco prevention and control programmes. The Ministry of Health had submitted a proposal for drafting a tobacco control act, and a three-year strategic plan for tobacco control had been developed. His country supported the overall goal of the convention, namely reduction of tobacco consumption and protection of the public from second-hand smoke.

Dr JACQUES (Haiti) said that, in the light of the alarming effects of the tobacco pandemic, her delegation supported the statement by the coordinator of the Americas group, and would continue to support the revised Chair's text, in the hope of seeing her country ratify the future convention. While the convention would not satisfy everyone's wishes, it should still be acceptable to all.

Given her country's very low per capita income and large rural population, Article 16, paragraph 3, was problematic since in Haiti cigarettes were sold mainly individually or in small packets. Prohibiting such sales would mean that the poor would have to buy cigarettes in larger quantities, thereby increasing their consumption of and expenditure on tobacco and leaving them with less to spend on household necessities. In that regard, she drew attention to a possible contradiction between Article 15, paragraph 2(a), and Article 16, paragraph 7, of the revised text. Lastly, she welcomed the revised version of Article 13, paragraph 1(c), requiring the disclosure of expenditures by the tobacco industry on advertising. Those figures could be used to estimate and limit funds that the tobacco industry allocated to advertising.

The final text of the convention should be both refined enough to enable it to be ratified by most countries and firm enough to ensure that adequate measures were taken to reduce tobacco use.

Dr BELSASSO (Mexico) said that the revised Chair's text reflected the efforts to confront the problems associated with tobacco use and the priority assigned to public health over trade, a significant global achievement given the inequities that the tobacco pandemic created between regions, countries and social groups. He supported the proposed working methods, and considered the revised text to be a successful reflection of the various views. However, some additions needed to be made to clarify the content of various articles.

Mexico had strengthened its legislation and made significant progress in the areas of taxation, advertising and regulation of consumption in order to protect involuntary smokers. It had also strengthened actions for prevention and treatment. The convention would no doubt enhance those actions, and would not signify the end of the fight against tobacco use, but would instead lead to a new phase in collective global action for public health.

Dr CHAOUKI (Morocco) said that any attempt at reaching consensus meant that some of the ideas initially presented would inevitably be diluted. While some areas of the revised text had been weakened, others had been developed and, overall, it seemed to be on the right track.

While fully supporting the position of WHO's Eastern Mediterranean Region as presented by the delegate of the Islamic Republic of Iran, he insisted on the overriding need to safeguard health, regardless of economic considerations. The impact that tobacco advertising had on consumption called for a comprehensive ban on advertising. Other important issues to be addressed included the sale of tobacco products to and by minors; the need to make financial resources available to support developing countries in their fight against tobacco use; and research on alternative crops. An article on liability and compensation should certainly feature in the convention. His delegation would cooperate with other delegations in order to produce an effective, useful, lasting and perfectible convention, with

the primary goal of safeguarding the health of present and future generations from the destructive effects of tobacco use.

Mr CHIARADIA (Argentina) said that he was optimistic that the revised Chair's text would bring delegations closer to consensus and hoped that by the end of its sixth session the Negotiating Body would be able to adopt a text that would be satisfactory to those negotiating it and useful to the cause of public health. The very serious public health problem posed by tobacco was particularly felt in developing countries. In his country, tobacco caused over 45 000 deaths each year, with a prevalence rate of about 40%. The seriousness of the problem and its specific features called for a high level of commitment and coordinated efforts by governments, international bodies and organized civil society.

Since it seemed that the most effective means to control tobacco were those aimed at reducing demand, he favoured restrictions on advertising, pricing measures, regulation of packaging and labelling and programmes to raise awareness and educate the public. While experience had shown that most supply-side strategies were destined to fail, measures to combat illicit trade and smuggling were an exception.

Since a great number of people worldwide depended on the lawful activities of tobacco manufacturing and trade for their livelihood, the convention should address the concerns of tobacco workers and producers.

Although, as an international instrument, the convention would primarily regulate relations between States, its subject matter would occasionally require it also to address certain issues which were strictly domestic in scope. While his delegation commended the chair's attempt to take account of both aspects of the issue, it believed that the primary focus should be on the international aspects of the phenomenon.

The convention should not be used as an excuse for recourse to protectionist practices. His delegation believed that international agreements concluded in various areas were mutually supportive. That principle must in any case guide the interpretation of their provisions. There could thus be no justification for resorting to discriminatory practices in the name of public health.

In principle, Argentina favoured introducing a degree of flexibility into international instruments through the possibility of reservations, subject to the provisions of Article 19 of the Vienna Convention on the Law of Treaties. That principle also applied to the introduction of provisions enabling Parties that so wished to assume additional obligations on certain matters regulated in the convention, for example, with regard to Article 13 on advertising, Article 16 in the case of vending machines, and Article 27 on settlement of disputes.

The successful implementation of the convention would require material, human and institutional resources to which developing countries did not always have access. Such resources would also be needed to assist farmers and workers in the tobacco sectors of developing countries who might in the long run be adversely affected by the success of the policies promoted in the convention. He thus firmly supported the proposal by the Group of 77 and China on Article 26, concerning financial resources. The revised text successfully addressed most of those concerns, but could still be improved, and his delegation would work to meet the deadline set in resolution WHA52.18, in a spirit of compromise and taking into account the views of all participants in the process, including nongovernmental organizations.

Dr AHSAN (Bangladesh) said that she strongly advocated a total ban on advertising, promotion and sponsorship. The significant number of people worldwide whose livelihoods depended on tobacco growing and tobacco-related activities warranted the creation of a global fund for countries with transitional economies and diversification and alternative crop systems for tobacco producers and workers. Since many people in the developing world were illiterate, she strongly supported raising public awareness of the health hazards of tobacco use through education and training, particularly for women and children, on issues such as the health hazards of passive smoking.

While her country had drafted a bill on tobacco control, that bill would remain a dead letter unless cross-border advertising and promotion were controlled. She thus strongly supported a ban on cross-border promotion activities and illicit trade in tobacco. The duty-free sale of tobacco products should also be banned and tobacco subsidies should be eliminated. Public health should be given priority over trade. She strongly supported the views of India in that regard.

Dr BERNARD (United States of America) said that in spite of the difficult task facing the sixth session of the Negotiating Body, he was optimistic that a final text of the convention would emerge by the May 2003 deadline. The reduction of tobacco-related illness, disability and deaths was a key public health objective in his country, where tobacco use remained the leading preventable cause of death and disease, costing more than 400 000 lives and US\$ 75 billion in direct medical expenses each year. The global costs were even greater.

His country's multifaceted domestic agenda covered preventing tobacco use, eliminating exposure to second-hand smoke, helping people to stop smoking, disseminating relevant information and promoting comprehensive global tobacco prevention and control. Twenty States and Puerto Rico had raised excise taxes in 2002, helping to prevent youth from starting to smoke and reducing tobacco use among adults.

He joined his international partners in calling for a sound and strong convention, and expressed confidence that, by the end of the session, delegations would have found their way forward to consensus. Failure to reach that consensus would mean victory for tobacco. In conjunction with strong tobacco control policies at the national and community levels, the convention would help create a safer and healthier world.

Dr LEWIS-FULLER (Jamaica), supporting the statement in the first meeting by the delegate of Cuba on behalf of the Americas group, said that the revised Chair's text rightly identified two conflicting trends in the negotiating process. A compromise could be found between those wanting very specific provisions and those wanting a more general text, by ensuring that the convention included provisions based on firm scientific evidence concerning such matters as the effects of taxation and pricing on the consumption of tobacco products and the consequences of tobacco product consumption. Such evidence could be reflected in Article 6, on taxation, and also in Article 13, given the scientifically proven effects of advertising and promotion on tobacco product consumption. The convention should also reflect the effects of environmental tobacco smoke on both non-smokers and smokers. As a minimum, the convention should translate those scientific findings into unambiguous and unequivocal action, so as to offer a minimum protection and safeguards. Specific time frames should also be set for objectives in the convention, as a means of helping countries such as her own, that needed more time to put tobacco control measures in place. Her delegation would make specific comments and recommendations on individual articles in the working groups in the course of the session.

Ms HERNÁNDEZ PALACÍN (Nicaragua) said that, as a developing country, Nicaragua favoured strengthening the language of Article 26 of the revised text, since the financial mechanism would be crucial to the successful implementation of the convention. Nicaragua wished to see a consensus agreement that brought real health and social benefits to developing countries. Her country had made considerable progress in enacting laws and regulations guaranteeing the human rights of non-smokers. However, major economic and social obstacles remained to be overcome before that legislation could be fully implemented. She hoped that the convention would help to fill the gaps in her country's legislation and further the cause of guaranteeing global health and social well-being.

Dr PLAZA BOHÓRQUEZ (Ecuador) said that his delegation felt, in particular, that the drafting of the first, third, seventh, ninth and fifteenth paragraphs of the Preamble needed to be refined, and that Article 1, paragraphs (a), (f) and (g) also required attention. It agreed with the Chair's proposals

on certain new definitions relating, *inter alia*, to liability and exposure to tobacco smoke, and would table suggestions about two further terms with a view to attracting consensus on Article 13. With regard to Article 26, the developing countries, including his own, were especially concerned about mounting tobacco consumption and the difficulty, in the case of his own country, of waging campaigns in the face of such phenomena as cross-border advertising; they would doubtless need further funds to assist them in implementing the framework convention. All economies dependent on tobacco and related industries must in any case weight such revenue against the cost in terms of damage to health.

The final document would clearly not reflect all concerns, but other measures, such as regional agreements and protocols, were in place to deal with future problems. The adoption of a convention was overwhelmingly desired and that, therefore, must be the immediate goal. His delegation supported the proposed method of work and was ready to cooperate to that end. Since the outset of WHO's work to draft a convention, some 12 million people had died from tobacco-related illness; there was now a favourable climate for completion of the task on time.

Dr ROA (Panama) said that her country was concerned to conclude negotiations on the text of the framework convention for adoption at the forthcoming Health Assembly. The revised Chair's text provided the flexibility that would facilitate consensus without detracting from the goal of reducing tobacco-related deaths and disease. However, certain trade and health matters had not been included, notably a proposed Article 2, paragraph 3; and in Articles 4, paragraph 5 and 15, paragraph 2. Her delegation stressed the need to continue discussions on matters relating to the definition of duty-free sales and sponsorship, while recognizing that the text did provide a basis for consensus on that complex topic. Likewise, subjects such as labelling and packaging, the need for prominence of health warnings, exposure to tobacco smoke and the provision of financial resources for the convention's implementation should also be discussed with a view to achieving a text acceptable to all and applicable nationally and internationally. The draft convention was an important step forward by the international community, but much would remain to be done in redressing the damage caused by tobacco consumption.

Mr ACHADI (Indonesia) said that his delegation associated itself with the statements made by the delegation of India on behalf of the Member States of WHO's South-East Asia Region and by the Philippines. The Indonesian Government had, from the outset, supported the adoption of a framework convention and had high hopes of a text being finalized at the current session. The task could be achieved if all delegations adopted a flexible and constructive approach, recognizing that, despite differing priorities, the foremost duty must remain to promote and protect world health. The revised Chair's text was commendable but could be improved by better accommodating individual countries' preferences. Although the framework convention should reflect all positions, it should also provide some kind of guarantee to countries, particularly developing countries, whose policies would need considerable adjustment. Countries such as Indonesia, where the convention's implementation would have significant social and economic impact, would be in great need of financial assistance in that regard. His delegation therefore reiterated its support for a global financial mechanism, as stipulated in Article 26, and endorsed the statement made by the delegate of Thailand on behalf of the Group of 77 and China.

The problem facing the international community was a broad and complex one due to the scale of the tobacco industry which, despite the harmful effects of its products, employed a huge workforce worldwide, especially in Indonesia, whose Government, although firmly committed to promoting health and engaged in diversification programmes, would remain heavily dependent on assistance in implementing the convention. The task of raising public awareness of the risks associated with the tobacco habit was fraught with difficulties; Indonesia's 2001 national survey had shown that some 60% of adult males smoked and that people were starting to smoke at an increasingly young age. In addition, the country's tobacco-growers were constantly calling for less stringent tobacco controls. His

delegation therefore supported the more strongly worded article on advertising, promotion and sponsorship. Governments would also have to focus on crop and job diversification. The need, therefore, was for a framework convention that would effectively address the issue of reducing supply and demand alike. The task at the current session was to take all those factors into consideration and work constructively towards a realistic, flexible convention.

Ms NGAPOKO SHORT (Cook Islands), speaking on behalf of the small Pacific island States, said that despite their very limited resources, those States were all committed to reducing tobacco-related mortality and morbidity. Article 11 of the draft text, on packaging and labelling, was of particular concern. Consumers had a fundamental right to be told what they were buying, to be informed of the dangers, and not to be misled by descriptions such as “light”, “low tar” and “mild”. Article 11, paragraphs 1(a) and (c) should be amended accordingly.

Dr WAN MAUNG (Myanmar), acknowledging the difficulties of reconciling the various positions, said that he shared the concern voiced by the Member States of WHO’s South-East Asia Region that the revised Chair’s text did not adequately reflect the view they had expressed at the previous session. It should nevertheless be possible to finalize an effective framework convention incorporating important measures such as the prohibition of all forms of tobacco advertising, promotion and sponsorship, the banning of duty-free tobacco product sales and a commitment to the prioritization of health over trade, for adoption by the Fifty-sixth World Health Assembly.

Dr HAZRAT (Azerbaijan) said that, as a physician, he was fully aware of the harmful effects of smoking. His country had taken radical steps to combat tobacco consumption, including the tabling of considerable amendments to the law on advertising, based on guideline documentation from WHO’s Regional Office for Europe, with a view to the eventual prohibition of tobacco advertising. In addition, a programme adopted by the Ministry of Health provided for a much stronger monitoring role, and further work would be carried out with the Ministries of Education and Youth. The Government had been given a great deal of information on WHO’s work, and fully supported the efforts towards the adoption of a framework convention, which would lead to a new stage in the campaign against tobacco consumption.

Mr LEE (Republic of Korea) said that the Chair’s letter showing the rationale and precedents behind important and controversial articles was extremely helpful. In general, his delegation could accept the revised text but wished to comment on several articles for the sake of clarification.

Since taxation policy was one of the most important sovereign rights, Article 6 should be further discussed in that light. With regard to Article 10, as far as was known, few countries were able to measure completely the contents and emissions of tobacco products and it would only be reasonable, therefore, to take into account each Party’s technical capabilities. His delegation also thought that Article 11 required further discussion but, because of time constraints, would put forward its comments in the informal meetings.

In general, precedents of other treaties were followed not because they contained inviolable standards but because they reflected the accumulated wisdom of long discussions among distinguished negotiators. The revised Chair’s text had followed that approach in the balance achieved between the various positions.

Ms MAYSHAR (Israel) said that her delegation supported most of the revised Chair’s text, realizing that some compromise must be made in order to facilitate adoption by as many States as possible, but believed that some provisions would benefit from tighter wording. Advertising was a subject on which international cooperation was essential if tobacco control was to be achieved. Restrictions on advertising, including promotion and sponsorship, should be more stringent, and certain inherently cross-border forms such as television and radio advertising should be prohibited.

Definitions relating to advertising, too, should be tightened, and provisions relating to packaging and labelling should be strengthened. Her delegation would make more specific comments in the working groups.

Mr BASIT (Pakistan) said that his delegation was ready to compromise in order to advance the desirable end of promoting public health, and in that regard fully associated itself with the statement by the Islamic Republic of Iran on behalf of the Member States of WHO's Eastern Mediterranean Region. Pakistan had maintained all along that the framework convention should not be too prescriptive but should provide a general framework which would allow the Parties to enact effective tobacco control laws consistent with their own national requirements. Although some delegations thought that too general a convention would be meaningless, the Negotiating Body could not be selective; if a convention or future protocols could not be implemented by an overwhelming majority of States because of financial and technical constraints, they would neither be effective nor attain universal adherence. It was of the utmost importance therefore to give top priority to provisions relating to financial resources; the Group of 77 and China had tabled a specific proposal in that regard. A multilateral global fund would be necessary in order to achieve the objectives of the framework convention, and the revised Chair's text should be appropriately strengthened for that purpose. With regard to other important issues that remained contentious, such as definitions, liability and compensation, he urged all delegations to show the utmost flexibility since, if matters went unresolved beyond the current session, the momentum that had been built up might never be regained.

The revised text reflected common ground on most of the issues raised and served as a good basis for future work. Pakistan was ready to show maximum flexibility to conclude the negotiations successfully, and was confident that the goal was attainable at the current session.

Dr BETANCOURT (El Salvador) said that his delegation supported the text as a whole, but recognized that there was room for improvement. It agreed that the main purpose of the framework convention should be to promote national policies through international cooperation, and assured the Chair of its fullest collaboration with a view to enabling the forthcoming Health Assembly to adopt an international instrument that would mark a historic step forward for the health of all the world's citizens.

Dr GAMARRA DE CÁCERES (Paraguay) said that in retrospect, topics that at the first session had been regarded as utopian had now, at the sixth session, become a reality, reflected in many articles. Many lessons had been learned and there was a prospect of an effective framework convention which would be a basis for new international standards and cooperation. The revised Chair's text was a masterpiece of conciliation and an excellent point of departure for the final negotiations. There was already consensus on many articles although some controversy remained, notably in regard to Articles 6, 11, 13, 19 and 26, and even in Article 30 on reservations. Every effort must therefore be made to overcome the remaining difficulties, so as to finalize a text for adoption at the forthcoming Health Assembly. To that end, each delegation must be clear about what was negotiable and what was not, and weigh up the costs and benefits of a convention that should be seen as a starting point.

Mr CHANTHALANGSY (Lao People's Democratic Republic), speaking on behalf of ASEAN, expressed support for a revised text as a basis for moving forward but, at the same time, endorsed the position of the Group of 77 and China and of other countries on the question of financial resources, as a strong provision would help to generate strong international cooperation and enable the less developed countries to implement the framework convention. The countries he represented were ready, therefore, to work with the informal group on financial resources with a view to strengthening Article 4, paragraph 7, and Article 26.

The ASEAN Member States also proposed moving Article 16, paragraph 2, to Article 6, paragraph 3, believing that free distribution of cigarettes and tobacco products related more to Article 6 on price and tax measures to reduce the demand for tobacco. With regard to Article 9, they urged caution in relation to the adoption and implementation of standards and any decision on who should issue them; perhaps the task should fall to WHO or some other competent international body. Lastly, they proposed that Article 19 should be entitled “Liability” rather than “Questions related to liability”.

The Member States of ASEAN agreed with the proposed method of work and reaffirmed their readiness to collaborate with a view to finalizing a strong framework convention for consideration at the forthcoming Health Assembly.

Dr KAHANDALIYANAGE (Sri Lanka) said that it was essential that the Negotiating Body should produce a strong and effective instrument that could be implemented by all the Parties to the convention. Certain areas in the revised text, such as advertising, packaging, sales of tobacco products to and by minors and financial resources, needed strengthening, and, to that end, his delegation would propose amendments during the negotiating sessions. He endorsed the views expressed by the Member States of WHO’s South-East Asia Region and by Thailand on behalf of the Group of 77 and China.

Mrs LE THI THU HA (Viet Nam) commended and generally endorsed the Chairman’s revised text. Viet Nam was firmly committed to achieving an effective convention, the prime objective of which should be the protection of public health. That objective should not be compromised. She also endorsed the views expressed by the delegate of the Lao People’s Democratic Republic on behalf of the Member States of ASEAN. However, on the issue of tobacco advertising, promotion and sponsorship, while her country appreciated the Chair’s efforts to find a text that was acceptable to all, it remained concerned that Article 13, as currently worded, did not reflect the substantial consensus achieved during the fifth session of the Negotiating Body in favour of a total ban; such a measure was the only effective way to control the increase in tobacco use. With regard to Article 26, she endorsed the position expressed by the Group of 77 and China that a multilateral global fund should be created to help developing countries effectively to implement tobacco control programmes.

Dr CALDERÓN (Bolivia) said that although the revised text would provide a good basis for the final form of the convention, it did not, as currently drafted, guarantee peasant farmers, who had profitable markets for tobacco, good markets for alternative crops. Bolivia’s efforts over a period of some 10 years to find a substitute for surplus coca crops had had only limited success owing to the protectionist policies of the developed countries. His country’s concern therefore was that Article 22, paragraph 1(b)(iii) as it stood merely reflected good intentions rather than a serious commitment on the part of developed countries to open their markets to and provide technical cooperation for profitable alternative crops in a manner consistent with their national legislation. In Bolivia, public health, while a priority, could not be achieved without an adequate revenue.

Mr BHANDARI (Nepal) said that his country had imposed a health tax on tobacco producers and manufacturers and would shortly be introducing a tobacco-control act to curb increasing tobacco consumption. To avoid any confusion in implementing the convention, its wording must be clear and consistent. The use, in Article 13, of such words as “restrict” and “prohibit” was confusing since the ultimate goal of that article should be a total ban on all forms of tobacco advertising. With regard to Article 11, paragraph 1(c), health warnings should cover at least 50% of the main surface of each unit packet or package of tobacco products. Lastly, the provisions of Article 26 would not adequately ensure the establishment of a global fund for tobacco-control programmes. In that connection, therefore, he supported the views expressed by the delegate of India on behalf of the Member States of WHO’s South-East Asia Region.

Dr INIAKWALA (Solomon Islands), speaking on behalf of the small Pacific island States, said that while he appreciated the need to strike a balance between obtaining a consensus and achieving an effective convention, that balance should lean towards a strong convention which would set the basis for control of tobacco use, not one that could be used to facilitate tobacco proliferation and consumption. He welcomed the inclusion of Article 19 on liability, as it provided an unprecedented opportunity to stop the suffering brought about by tobacco products and the tobacco industry and set a framework for international cooperation in addressing the harmful social and economic effects of tobacco. However, Article 19, as currently drafted, needed to be strengthened further to enable States to deal with those issues.

Dr RADA (Colombia) endorsed the statement in the first meeting by Cuba on behalf of the Americas group. While the consensus approach subordinated rigorous drafting to the interests of achieving agreement by all, that approach had, remarkably, resulted in a new text, which would provide the basis for successful negotiations. It was essential, however, to bear in mind that the convention was a public health instrument and that public health interests should predominate over other interests. Such considerations should guide the Negotiating Body's efforts to improve the proposed text, particularly Article 26, since financial resources for developing countries such as Colombia, where unemployment had reached almost 20%, were essential to enable them to develop national tobacco-control policies.

Professor HAMIDI (Algeria) said that like many developing countries, Algeria was undergoing an epidemiological transition, and the control of tobacco use had become a major public health priority. His delegation endorsed the provisions in general. However, in the interest of achieving a strong framework convention, the important role to be played by civil society in the future needed to be recognized. His delegation would express its views on certain specific aspects and procedures of the convention in the course of the negotiations.

Dr SIENG Lapresse (Cambodia) commended the Chair's revised text, which recognized that the increased use of tobacco was a global problem, and endorsed the views expressed by Member States of WHO's South-East Asia Region, namely Indonesia, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam, and the position put forward by the delegate of India.

Dr COLLISHAW (Commonwealth Medical Association), speaking at the invitation of the CHAIR, said that it was essential that the framework convention should contain provisions for strong, permanent institutions that would ensure the increasing effectiveness of tobacco control as time went on. First, measures should be adopted to ensure effective financing of the convention, by means of a mixture of obligatory and voluntary financing. His organization recommended obligatory funding from every Member State, using money offset from revenues from new tobacco taxes, collected under Article 6; that money should be used to fund the core operations carried out by the convention's institutions. Voluntary funding from developed countries could be used to fund the strengthening of tobacco control in developing countries and countries in transition. Secondly, it was essential that the convention should reduce the current inequity whereby money flowed from poor countries to rich countries in the form of tobacco company revenues and profits, by enabling it to flow in the reverse direction, to assist poor and transitional economies in financing the implementation of the convention. Thirdly, the Conference of the Parties itself needed to be strong and it needed a strong subsidiary body, such as a global tobacco control committee, for which the International Narcotics Control Board and the Human Rights Committee provided good models, to ensure effective and continuous monitoring and surveillance of the convention's implementation. There was also a need for strong and effective institutions that would work proactively to strengthen tobacco control, particularly in developing countries. The Conference of the Parties and all related institutions should have the independence, tools, power and money to get the job done. They should also ensure the highest

possible level of transparency and accountability. Lastly, the framework convention should be given a fresh start. It should continue to be identified with WHO, but its institutions should be located in a developing country or a newly independent State with an effective and comprehensive tobacco-control policy that would set a good example to all other Parties. The Conference of the Parties and the global tobacco control committee should be encouraged to develop their own rules of procedure and administrative practices. Every effort should be made to ensure that the convention entered into force by early 2004 or sooner. An effective global tobacco-control treaty was more than words on paper: it was a shared and ongoing commitment to bring the tobacco pandemic to an end.

Ms MULVEY (Infact), speaking at the invitation of the CHAIR, and also on behalf of the Network for Accountability of Tobacco Transnationals, said that the revised text was too weak to reverse the global increase in tobacco use. While a majority of countries had, at the fifth session, called for the convention to ban tobacco advertising, promotion and sponsorship and to prioritize public health over the tobacco trade, the revised text appeared to accommodate the demands of a few wealthy nations in which the transnational tobacco industry had major interests. The convention must enable countries to improve national legislation in order to overcome the political influence of the tobacco industry, exposed in a report entitled *Treaty Trespassers*. Furthermore, the revised text did not reflect the position that had been widely advocated during the previous session that the convention should establish the principle that public health took precedence over commercial interests in tobacco, and it therefore failed to protect the convention and national policies based on it from being undermined by trade and investment agreements. Some forty nongovernmental organizations had raised those and other concerns in a recent letter addressed to the Director-General. The negotiators were consequently urged not to weaken global standards in pursuit of consensus, which was achievable only at the expense of public health.

Ms ASSUNTA (International Nongovernmental Coalition Against Tobacco, International Union against Cancer and Consumers International), speaking at the invitation of the CHAIR, said that, based on current trends, tobacco-related deaths could rise to one billion in the current century. Cigarettes were the original weapon of mass destruction and still had no equal. A proportional response to the scale of the problem, which WHO had fully recognized, would be to prohibit tobacco advertising, promotion and sponsorship, remove the tax breaks and subsidies granted to the tobacco industry, stop its lethal false claims, ensure that health warnings, including pictures, covered at least 50% of the packaging of tobacco products, and clamp down on racketeering and abusive business practices through the formulation of a detailed regime. While the majority of countries were prepared to tackle the problem, the priorities of a minority of countries appeared to place the commercial interests of the tobacco industry above public health. She urged the supporters of a strong convention to insist that the text be strengthened to provide a response that was proportional to the scale of the problem posed by the increasing use of tobacco and the pandemic of tobacco-related deaths and to develop the political momentum behind protocols on advertising and illicit trade.

Dr ABELIN (World Federation of Public Health Associations) said that, in the past, countries had had to struggle to introduce effective national tobacco control legislation, often in vain, because the international tobacco companies had conspired to do all they could to obstruct such legislation. A well written convention should allow countries that were too small or poor to counteract the power of the tobacco industry effectively when acting alone to introduce good legislation and develop good technical support collectively. To reach those goals, the text of the convention should clearly set out tobacco control measures which the parties agreed were effective, specify verifiable obligations on the Parties to implement those measures, and institute an effective Conference of the Parties that would be entrusted with monitoring and assist in implementation. Such a strong convention would probably not be acceptable to all countries, but there were many international agreements, such as the Kyoto Protocol (1997) to the United Nations Framework Convention on Climate Change, which certain

countries had not signed but which nevertheless had served the world well. The Chair's text should therefore be examined in terms of its suitability to serve countries in need of collective action and documents issued by nongovernmental organizations should be consulted in amending the text, bearing in mind the Chair's recent confirmation that, if a comfortable majority of countries so desired, he would be willing to accept changes to the text even if those changes reduced the text's acceptability for certain countries.

**The meeting rose at 17:15.**

**THIRD PLENARY MEETING**

**Monday, 24 February 2003, at 09:45**

**Chair:** Mr L.F. DE SEIXAS CORRÊA (Brazil)

**DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL:** Item 3 of the Agenda (Documents A/FCTC/INB6/2, A/FCTC/INB6/3 Rev.1, A/FCTC/INB6/INF.DOC./1 and A/FCTC/INB6/INF.DOC./3) (continued)

The CHAIR said that he was pleased to report that substantial progress had been made during the first week of the negotiations. The text had been reviewed in great detail in informal groups; many parts of it had been provisionally agreed, and the remaining differences narrowed down to their essential components. The latest text, now before the Negotiating Body, was not an official or even an informal document, but a text in progress entitled “Draft WHO framework convention on tobacco control: text for negotiation”. That text was the fruit of delegations’ collective efforts to reach consensus through negotiation. As Chair, he would not comment on the substance of the text, nor did he expect any substantive questions to be raised by delegates during the current plenary meeting. He was confident that the outstanding issues could be resolved and the convention approved in plenary session by the end of the week at the latest.

As to the method of work for the remainder of the session, the Bureau, in consultation with all regional groups, proposed the creation of two open-ended informal working groups of the whole to go through the text one last time, iron out any unresolved difficulties and ensure that all the ground had been covered. A drafting group, chaired by himself, would consider matters of language and compatibility, as well as endeavouring to resolve any issues on which the working groups had been unable to agree. As in any large-scale negotiation, the composition of the drafting group would be restricted. He suggested that Mr Aiston (Canada) and Ms Lambert (South Africa) should continue their work as facilitators and chair the first and second working groups respectively.

Three topics, namely liability (Article 4, paragraph 5, and Article 19), trade and health (Article 2, paragraph 3, and Article 4, paragraph 8) and reservations (Article 30), had not been assigned to either working group as the Bureau had agreed that they should be dealt with directly by the drafting group.

If there was no objection he would take it that that procedure was acceptable.

**It was so agreed.**

Mr OLUWAFEMI (Infact), speaking at the invitation of the CHAIR and also on behalf of the Network for Accountability of Tobacco Transnationals, urged those countries that were fighting to protect public health to stand firm on fundamental principles and obligations in pursuit of WHO’s first multilateral treaty. The negotiations in the week ahead would determine whether the framework convention on tobacco control was a weak but universally accepted treaty, or a strong and meaningful treaty that would command wide acceptance and set a high standard of public health protection. The choice would come down to whether health or commercial interests prevailed. The majority of countries were demanding that the relationship between health and trade should be made explicit in the convention, and language had been proposed that provided interpretative clarity to adjudicators by stipulating that in the event of conflict, public health concerns would prevail. Delegates should hold out against the few countries that still insisted on prioritizing commercial interests at all costs. Some of the apologists for industry were also claiming that the tobacco corporations had a legitimate voice in the formulation of public health policy, even though those corporations had tirelessly undermined

genuine public health efforts around the world. Delegates should stand firm, even if a few countries had to be left behind.

The framework convention must clearly establish the tobacco industry's responsibility and liability for the harm caused by its products and hold corporations such as Philip Morris, BAT and JT International financially accountable. Delegates should stand firm in the face of the refusal of a few countries to name the tobacco corporations as the vector of a preventable epidemic.

Without adequate financial resources, the framework convention would not be widely implemented. Yet a few countries denied the need for additional financial resources to control tobacco and for a dedicated funding mechanism that could ensure continuity, follow-up and results. Delegates must continue to insist that the urgent need for investment should be recognized.

A comprehensive ban on tobacco advertising, promotion and sponsorship was a proven and very effective prevention initiative. A few countries were seeking an approach that would create loopholes and differentiated obligations. Delegates should lead the way with principled, visionary action and let civil society in the countries concerned create the political will necessary for its participation.

The tobacco industry was present at the sixth session of the Intergovernmental Negotiating Body and, with powerful allies, was seeking to disrupt progress towards a strong and enforceable treaty, putting millions of lives at stake. In the face of that threat, the message remained: stand firm!

Dr DAGLI (International Union against Cancer), speaking at the invitation of the CHAIR, on behalf of the International Union against Tuberculosis and Lung Disease, highlighted the issue of tobacco advertising, promotion and sponsorship. The convention should codify best practice and provide only for evidence-based and effective tobacco-control measures. Evidence from a survey of tobacco advertising conducted by the United States National Bureau of Economic Research had further reinforced the views of WHO and the World Bank by concluding that, while comprehensive advertising bans could reduce tobacco consumption, a limited set of bans would have little or no effect: current total advertising expenditure would remain at the same level, since tobacco advertising would merely be transferred to the remaining non-banned media. Tobacco advertising led to addiction, disease and death, and by failing to ban it the Negotiating Body would become complicit in a process that ultimately killed people. A comprehensive ban was thus a vital public health measure; merely restricting such advertising was not an adequate response.

The views of those who valued the freedom of speech of tobacco corporations more highly than their citizens' lives should not be accommodated in the interests of reaching a consensus. Provision should exist for those unable to accept a comprehensive ban to opt out. Her organization therefore supported option 2 for paragraph 2 of Article 13 in the text for negotiation, since that option established the important priority of a comprehensive ban, permitting only those Parties unable to undertake such a ban to apply restrictions to tobacco advertising, promotion and sponsorship.

Dr BRISTOL (International Union against Cancer), speaking at the invitation of the CHAIR on behalf of the World Heart Federation and on behalf of the International Nongovernmental Coalition Against Tobacco, said that, while the general statements of principle contained in the draft convention demonstrated the Negotiating Body's extensive knowledge of science-based tobacco-control measures that could reduce tobacco-related deaths and diseases around the world, the weak language used in the convention's specific provisions would, if retained, make the convention unable adequately to tackle the expected global increase in deaths and diseases caused by tobacco. For example, Article 8, as currently worded, did not oblige Parties to take any measures to protect people from exposure to tobacco smoke, even though it was known that second-hand smoke killed and that creating separate, ventilated areas for smokers was not an effective measure. The only known protection from second-hand smoke was its elimination. Under one proposal, Article 11, while stating that warnings describing the harmful effects of tobacco use should ideally cover at least 50% of the principal display areas of the packaging of tobacco products, obliged Parties merely to "endeavour to require" that such warnings covered no less than 30% of at least one principal display area. Large warning labels with

pictures cost nothing and effectively communicated the dangers of tobacco. In endorsing small and ineffective warnings, the draft text was unacceptable.

The convention should include only those tobacco-control measures that were based on credible evidence and that had proved effective, even if the resulting text was one that some countries would be unwilling to endorse. He urged delegations to keep in mind the main aim of the convention, namely, to protect public health and to halt the increasing use of tobacco.

Ms KAYEMBA (International Union against Cancer), speaking at the invitation of the CHAIR, recalled that the sixth session of the Intergovernmental Negotiating Body marked the culmination of a process that had begun in 1963, when the medical community had called on governments to implement tobacco-control policies by increasing excise taxes on cigarettes, banning tobacco advertising, promotion and sponsorship, barring smoking in public places and placing health warnings on tobacco products. Although both WHO and the World Bank had endorsed those policies as essential and effective tobacco-control strategies, some countries were resisting those strategies, thereby placing global public health in jeopardy.

While the urge to reach agreement in the final week of negotiations was strong, it was essential to ensure that the convention's provisions were based on the best scientific evidence available and on international best practice rather than on expediency. The goal should be, not a convention acceptable to all, but one that could start to prevent the one billion deaths from tobacco-related diseases that had been forecast to occur in the twenty-first century. A convention that exemplified best practice would also help lower-income countries to counter the powerful influence of the tobacco industry and overcome its resistance to regulation; such a convention would also lend authority to poor tobacco-growing countries' efforts to change from agricultural production to alternative crops. However, a convention that ignored the scientific evidence would enable the tobacco industry to escape regulation and enjoy decades of increased profits. If, for example, the convention allowed tobacco advertising, promotion and sponsorship to continue, it would betray the millions of young people who were the next generation of addicts that the tobacco industry sought to create. Any loopholes in the convention would be exploited by a totally unscrupulous tobacco industry to escape regulation. The final round of negotiations offered a rare opportunity to devise an effective and loophole-free convention, an aim which could be achieved with leadership, vision and unity of purpose.

**The meeting rose at 10:15.**

**FOURTH PLENARY MEETING**

**Saturday, 1 March 2003, at 02:30**

**Chair:** Mr L.F. DE SEIXAS CORRÊA (Brazil)

**1. APPROVAL OF DRAFT TEXT OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL:** Item 4 of the Agenda (Document A/FCTC/INB6/5(Draft))

The CHAIR recalled that the Fifty-second World Health Assembly had established the Intergovernmental Negotiating Body with a mandate to draft and negotiate a framework convention on tobacco control and possible related protocols. The text of the draft convention, contained in document A/FCTC/INB6/5(Draft), was the result of such negotiation and it was now incumbent upon the Negotiating Body to agree to transmit the text to the Fifty-sixth World Health Assembly for consideration for adoption in accordance with Article 19 of the Constitution. If there was no objection, he would take it that the Negotiating Body agreed so to do.

**It was so agreed.**

Mr MORA GODOY (Cuba) said that throughout the negotiations, Cuba had accorded the highest priority to public health, an area in which its results had been internationally recognized and in which it had an extensive cooperation programme despite a 40-year economic blockade.

During the negotiation process his delegation had repeatedly highlighted the problems that could arise as a result of attempts to tamper with the fundamental concepts underlying the framework convention, which should be a repository of universally accepted general principles and standards. The final text nevertheless failed to reflect certain basic concerns of some Member States. Cuba had also advocated the importance of concentrating on health and prevention issues in the interests of achieving as wide a consensus as possible internationally. Hence, it was disappointing that despite Cuba's concerns, the final text included an article on liability, an area more closely related to economics than health. Cuba would never accept liability with respect to its 300 000 tobacco workers, on the grounds that tobacco production was legal and provided a livelihood for the local population. It was regrettable, too, that certain developed countries had lacked the political will to agree to the call by the developing countries for the establishment of a global fund to aid diversification out of tobacco, as was the fact that the convention did not include strong measures to prevent cross-border advertising. Furthermore, as Cuba had never been opposed to tackling the problems caused by tobacco use, it was disappointed that WHO had so far not proposed conventions in other key areas, such as AIDS, malaria and tuberculosis, all of which were having a devastating impact on the populations of developing countries. Nor had it proposed instruments designed to increase the number of health professionals in poor countries or to make essential medicines more widely available. The deaths of fourteen million children each year from just six diseases could be prevented if they had access to a vaccine costing only a few cents.

Despite those reservations, and in a spirit of solidarity, Cuba would not oppose transmission of the draft convention to the Health Assembly.

Mr PURI (India) said that the successful conclusion of a framework convention on tobacco control represented a landmark in the annals of WHO. At the end of a very difficult negotiating process, many Member States clearly felt that their expectations had not been met in full. The fact that most countries had experienced some degree of disappointment was an indication of the significance of the outcome, which consequently deserved support.

It was to be hoped that those Member States that had constructively engaged in the negotiation process but had been unable to join in the consensus would find a way of so doing before the Fifty-sixth World Health Assembly, in the interests of ensuring that the framework convention became an effective means of achieving its global public health goals.

Mr YI Xianliang (China) said that the framework convention marked a historic occasion as it ushered in a new era for present and future generations in the protection of human health.

Tobacco use had been widespread in China for more than 400 years and there were currently some 300 million smokers, despite the Government's active tobacco control measures. The framework convention would undoubtedly enhance his Government's efforts.

The negotiations had been arduous, as different countries had different national conditions to protect, despite the common goal of improving public health. There was an Asian saying that a thousand-mile journey started with the first step. Likewise, the framework convention was merely the beginning of the course and the way ahead would no doubt be a long one. Solid foundations had nevertheless been laid and future work would be carried out on a basis of cooperation and consensus. He thanked the nongovernmental organizations for their contributions to the discussions and expressed the hope that they would adopt a more positive and constructive attitude in future negotiations.

Although the Chinese delegation, like others, had reservations in respect of certain articles, it intended to make positive recommendations to its Government, with a view to facilitating the implementation of the convention. Unfortunately, Article 33, paragraph 2, as it stood did not adequately reflect the tenor of the negotiations. Furthermore, protocols constituted separate conventions and should be adopted by consensus. Consequently the Chinese delegation was opposed to the adoption of a protocol on the basis of a vote, and would maintain that position in future negotiations.

Ms KERR (Australia) said that, having supported the development of a strong and effective framework convention on tobacco control from the outset, Australia welcomed the fact that the essential elements of a comprehensive tobacco control programme were now well established in both scientific and policy terms. Such policies were central to Australia's public health strategies following years of sustained and cooperative effort between the Government and the nongovernmental sector.

The framework convention was a powerful tool for establishing such policies at the global level and facilitating their adoption by countries around the world, through close international and regional cooperation, and comprehensive tobacco control strategies, developed in conjunction with expert sources outside government, would be the most effective way of curbing the devastating consequences of tobacco use.

Overall the text gave an appropriate level of prescription for the development and enforcement of effective domestic tobacco control programmes and a sound, if not perfect, foundation for work in decades to come.

Mr EMMANUEL (Saint Lucia) expressed his delegation's appreciation for the draft text. The entry into force of the framework convention would mark the dawn of a new day in the history of global public health.

Mrs LAMBERT (South Africa) said that it was fitting that the Member States of WHO had chosen to make a noncommunicable disease whose complete control was dependent only on political will the subject of the first international convention dealing entirely with a public health issue. Agreement on the text of the framework convention marked a historic moment, both for WHO and for the 46 Member States of the African Region, that were among the prime targets of a merciless tobacco industry. African Member States had from the outset viewed the draft framework convention as a matter of life and death. Although it fell short of expectations, it represented a best collective effort to achieve tobacco control and a tobacco-free world. The nongovernmental organizations were to be

commended for their information and focused concern for Africa and the developing world in general, as were the 46 African states for having spoken with a single voice throughout the three and a half years of the negotiations. The strength they had developed through one another and the use of African grace and patience to solve their differences had presented the tobacco industry with a united front. As a result, that industry would no longer find the African countries as weak and defenceless as it had in the past.

Professor HAMAD (Sudan) observed that the agreement on the draft convention marked a historic juncture in the life of peoples and nations. The convention did not meet all expectations, but was commendable for its contribution to public health, and the opportunity it provided for tomorrow's world to overcome the problems of tobacco.

Mr METSCHER (Germany) said that, although Germany did not oppose the transmission of the draft convention to the Health Assembly, it was not in a position to agree to the text of Article 13, paragraphs 2 and 3, as drafted in document A/FCTC/INB6/5 (Draft).

Dr CHRISTIANSEN (Norway) said that the convention was a remarkable achievement and, when adopted, would be a milestone in the history of the Organization. His delegation endorsed the draft text as a whole, and commended the willingness shown by all delegations to find constructive solutions to complex issues. The value of adopting the convention by consensus at the forthcoming Health Assembly could not be overemphasized; it would be regrettable if any government failed to support it in its entirety. An effective convention would guide the unified efforts of all WHO Member States and mobilize the support of the entire international community in meeting the public health challenge of tobacco control; no effort should be spared in combating the tobacco pandemic, which caused millions of premature deaths every year and widespread disease and suffering. In the coming years, the successful implementation of the framework convention would depend on the commitment and involvement of all Member States.

Mr MOJTAHED SHABESTARI (Islamic Republic of Iran), speaking on behalf of the Member States of the Eastern Mediterranean Region of WHO, said that the successful outcome of the negotiations demonstrated the value of international cooperation in attaining the common objective of global public health. The developing world, which had made considerable sacrifices, and whose active contribution to the negotiating process had made the agreement possible, was determined to pursue the implementation of the convention's provisions, which must be followed up by concrete actions.

Mr HOHMAN (United States of America) expressed regret that, although parts of the draft text enjoyed wide support, it had not been possible to conclude a text on which there was general agreement. Indeed, some of the provisions were unacceptable to his delegation, including those of Article 11, Packaging and labelling of tobacco products that required a minimum size of health warnings but failed to take into consideration his Government's principle of the separation of powers and the prerogatives of its Congress. That failure was doubly unfortunate in view of his country's leadership role in tobacco control and its use of effective warning labels that had led to a substantial reduction in tobacco consumption. Similarly, the provision in Article 16, Sales to and by minors, relating to the distribution of free tobacco products to youth, failed to take into account the states' role in his country's federal system of government. The use of the expression "indigenous peoples" was also unacceptable as it was not used in any resolution of the United Nations General Assembly or the United Nations Commission on Human Rights. The draft text should therefore be made to conform to the standard formulation prior to adoption. The definition of advertising and promotion in Article 1 was too broad, and the definition of sponsorship, if applied in the United States, would violate its constitutional protection of freedom of speech. It was disappointing that reservations had been

excluded; his delegation would examine the text closely for areas of flexibility and consider other ways of dealing with the issue.

Lastly, he reaffirmed his country's commitment to concluding a framework convention on tobacco control that it could sign and ratify. While the United States did not oppose the submission of the draft convention to the Health Assembly at its forthcoming session, the latter would need to deal with the issues on which a consensus remained to be achieved, either by amending the text of the convention or by some other means.

Dr SEKABARAGA (Rwanda) said that the nongovernmental organizations in particular were to be commended for their contribution to the negotiations, as were the Member States of WHO's African Region for their solidarity and willingness to find compromise solutions. The international community now had an instrument that would enable it to combat the tobacco epidemic. Having lost a million of its inhabitants through genocide some eight years previously, the Rwandan Government welcomed any measures that prevented further loss of life and harm to human health. Seeing tobacco use as an epidemic transmitted by tobacco advertising and sponsorship, his delegation would have preferred a convention that placed a total ban on those activities. It was unfortunate that certain delegations had found it difficult to accept a comprehensive ban. It was therefore to be hoped that the Conference of the Parties would continue to encourage the various parties to strengthen the provisions with a view to securing a total advertising ban.

Mr MORIMOTO (Japan) said that agreement on the text of the draft framework convention, the first in the field of public health, should be regarded as a cause for rejoicing. The draft convention was unprecedented in the manner in which it spelled out measures to combat the epidemic of tobacco-related diseases. Once it entered into force and was implemented it would mark a major first step towards effective tobacco control.

Japan saw the framework convention as mapping out the way towards protection of the health of the world's citizens, and his Government intended to adopt and implement effective measures to ensure that the convention's objectives were realized. However, agreement on the text of the draft framework convention was only the first step on a long road. Some daunting domestic challenges still lay ahead, including mustering support for the adoption of the proposed convention by the Fifty-sixth World Health Assembly and intensifying interministerial cooperation to bring about better coordination of measures relating to tobacco control. Japan was not alone in facing those challenges, and he was confident that if countries worked together in a spirit of cooperation and mutual support, the goals that were sought could be attained.

Mr VARELA (Argentina) welcomed the outcome of two weeks of intensive work as an important step towards promoting public health in the crucial field of tobacco control. However, as others had pointed out, that outcome was not the end of the road, nor even the culmination of a process, but the start of a new stage in the struggle. The framework convention provided a number of innovative and effective elements and mechanisms which would allow substantial progress to be made in promoting public health at the global level. The negotiating process had been a difficult one, requiring participants to show a great deal of flexibility and a spirit of compromise. All the delegations had had at some point to give ground on matters close to their hearts; but, in view of the goals sought, that had been a price worth paying.

Nevertheless, two points could have been better resolved, thereby making for a more balanced text. First, the relationship between the framework convention and other international agreements should have been spelled out more clearly. The solution reached did not obviate the risk of situations arising which would be detrimental to the causes of health and development. Secondly, his delegation had always been in favour of making the provisions of the framework convention sufficiently flexible to ensure that it could be universally implemented.

Dr LEWIS-FULLER (Jamaica) said that the framework convention would strengthen countries' efforts to stop the growing epidemic of tobacco consumption and its deadly sequelae. The process had been challenging, but infused with purpose and determination and worth the trouble taken. Future generations would not be able to accuse the present generation of having known of the dangers of tobacco but having failed to act to eliminate the scourge, instead preferring to give commercial interests precedence over lives. The framework convention was a milestone in the evolution of public health and demonstrated the power of the collective will to prevail. Nevertheless, many more struggles lay ahead. The momentum should be maintained until the tobacco scourge was a mere historical curiosity, relegated to the world's museums.

Dr OTTO (Palau), speaking on behalf of the nine small Pacific island States, hailed the framework convention as an instrument that would protect people everywhere, and in particular the poor and vulnerable, from ruthless exploitation by the tobacco industry. The small Pacific island States would do their utmost to help to promote the political and public will needed to give effect to an instrument that offered so much potential for good.

Dr DILEMRE (Turkey) congratulated all delegations and nongovernmental organizations for their contribution to the drafting of the world's first multilateral instrument for the protection of public health. Those efforts were expected to continue after the transmission of the draft to the Fifty-sixth World Health Assembly. The convention constituted a starting point for further measures to promote the protection of public health.

Dr GAMARRA DE CÁCERES (Paraguay) said that her delegation welcomed the outcome of the strenuous negotiations which, despite some disappointments, had nevertheless provided the satisfaction of participation in a historic process to promote the cause of public health. Although the wording of some of the articles left something to be desired, the agreement reached marked the beginning of a new stage, the aim of which would be to further strengthen the framework convention.

Ms VALLE (Mexico) welcomed the agreement reached on the text of the first draft international treaty on tobacco control. The negotiations had been complex, difficult and sometimes confused; it was nevertheless highly important, for the sake of public health, to have a legal instrument which, while not perfect, would provide international support for tobacco-control efforts at the national level. The outcome represented a historic moment in the promotion of public health.

Mr FETISOV (Russian Federation) said that the agreement reached on the text of the draft convention marked a decisive step forward in the campaign against the epidemic of tobacco-related diseases, a campaign aimed at protecting the health of many millions of people worldwide. Future generations would have reason to be grateful for that important initiative. The negotiations had indeed been complicated, and the text agreed upon was not ideal. In that regard, his delegation shared the concerns voiced by several others with regard to the formulation of certain articles. The consensus text formulated as a result of long and intensive efforts by Member States and nongovernmental organizations should nonetheless be hailed as a great success.

Ms CAVALCANTE (Brazil) said that agreement on a draft text of the framework convention constituted a historic step forward in the fight to control tobacco use in Brazil and worldwide. The negotiation process had shown what could be achieved through perseverance in working towards the gradual attainment of realistic goals.

Mr KINGHAM (United Kingdom of Great Britain and Northern Ireland) said that during the past four years the Member States of WHO's European region and the European Commission had worked hard to reach the historic moment of agreement on a draft text of the convention. Every effort

had been made to overcome the serious concerns that had arisen during negotiations. The European Region's commitment to global health was unequivocal, and it appreciated the impetus that adoption of the convention would provide to national tobacco control policies. The framework convention was a vital step in addressing tobacco control issues and strengthening public health.

Dr AHSAN (Bangladesh) said that agreement on the draft text of the convention was a step towards protecting public health from the epidemic of tobacco-related diseases and ensuring that future generations would be tobacco-free. She urged the international community to seize that historic moment and start to fight the tobacco epidemic without delay, through implementation of comprehensive policies. It was to be hoped that the advertising, promotion and sponsorship of tobacco products would be banned within the stipulated time frame, since public health interests were more important than trade interests.

Dr SANTIAGO PÉREZ (Dominican Republic) said that the Dominican Republic would continue to support adoption of the convention, a goal towards which it had worked in coordination with its national tobacco control commission since February 2002. The agreed text of the convention was a step by the international community towards controlling the use of tobacco products, and would no doubt underpin the efforts of countries such as his own that already had tobacco control legislation or constitutional provisions protecting the health of their citizens. The Dominican authorities were working hard to ensure that protection.

As other delegations had pointed out, various issues relating to the convention still needed to be addressed. His Government would submit formal comments as soon as possible to clarify certain questions of form and substance, in the interest of perfecting the convention and eliminating any obstacles that might impede its implementation.

## **2. FUTURE PROTOCOLS:** Item 5 of the Agenda (Document A/FCTC/INB6/INF.DOC./2)

The CHAIR said that future protocols would be important for the effectiveness of the framework convention. He reminded delegates that it had been agreed at the Negotiating Body's fifth session to discuss the issue at the end of the sixth session, once agreement had been reached on the draft text of the convention. However, in view of the late hour and delegates' collective fatigue, he suggested that the discussion and adoption of protocols should be postponed until the Fifty-sixth World Health Assembly, at which there would be time for consideration of the matter.

**It was so agreed.**

## **3. REPORT TO THE FIFTY-SIXTH WORLD HEALTH ASSEMBLY:** Item 6 of the Agenda

The CHAIR said that the work of the Intergovernmental Negotiating Body had to be transmitted to the Health Assembly, which would adopt the convention pursuant to Article 19 of the WHO Constitution, by passing a resolution to that effect. As Chair of the Negotiating Body, he intended to submit a brief report to the Health Assembly containing basic information on matters such as the number of meetings held, and stating that the Negotiating Body had agreed to transmit to the Health Assembly the draft text of the framework convention, which would be annexed to the report. He also intended to prepare a short draft resolution for consideration by the Health Assembly, stating that the Health Assembly adopted the framework convention and called upon Member States and regional economic integration organizations to take the necessary action to become parties thereto. Prior to its

transmission to the Health Assembly, the text of the framework convention would be verified to ensure consistency between all the official language versions. In the absence of objections he took it that that procedure was acceptable.

**It was so agreed.**

**4. CLOSURE OF THE SESSION:** Item 7 of the Agenda

The DIRECTOR-GENERAL said that all concerned had reason to celebrate and to be proud of what had been achieved. She thanked all the delegations and especially the Chair, who had borne the heaviest burden, for their contributions to what constituted a major step forward for the health of peoples and nations. The convention agreed on was a milestone in the history of public health and international collaboration in a globalized world, thanks to which nations would work systematically together to protect the lives of present and future generations and share responsibility for making the world a better and healthier place. Millions of lives would be saved as a result of a shared commitment based on the determination and inspiration of all those who had worked so hard to conclude an effective and strong convention.

The CHAIR expressed his gratitude to all those who had worked so hard and long to see the framework convention through to completion, and in particular the delegates of Member States for their substantive contributions, their remarkable spirit of good will and mutual understanding, and their collaboration throughout the years of negotiation, especially during the sixth and final session. He also acknowledged the contribution of the numerous nongovernmental organizations that had actively contributed to the process through their enthusiasm and vigilance. He was particularly grateful to the Director-General for her leadership and continuous support throughout the process; Dr Brundtland would be forever associated with the Negotiating Body's achievement. He paid special tribute to the late Paul Szász, who had played an important part in the process; and to his predecessor Mr Celso Amorim, who had chaired the first three sessions.

It had been a privilege to serve as Chair of the Intergovernmental Negotiating Body. He was proud that his own country, Brazil, had thus been associated with such a historic convention. He was also proud to have been so closely associated with an endeavour to address the most essential of human needs, that of health. He concluded by expressing his gratitude to all those who had placed such confidence in his country and himself.

**The meeting rose at 04:10.**

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