



WORLD HEALTH ORGANIZATION

**OPEN-ENDED INTERGOVERNMENTAL
WORKING GROUP ON THE
WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
Geneva, 31 January - 4 February 2005**

**A/FCTC/IGWG/2/7
5 October 2005**

Report of the second session of the Intergovernmental Working Group

INTRODUCTION

1. By resolution WHA56.1, the Fifty-sixth World Health Assembly in May 2003 established an open-ended intergovernmental working group to consider and prepare proposals on a number of issues identified in the WHO Framework Convention on Tobacco Control. The Working Group's recommendations and proposals will be submitted for consideration to the Conference of the Parties at its first session.
2. The first session of the Working Group was held in Geneva from 21 to 25 June 2004. A draft report of its deliberations¹ was prepared by the interim secretariat and submitted to the second session for approval. The report also contained draft rules of procedure for the Conference of the Parties, with amendments proposed by participating Member States and one regional economic integration organization.
3. The Working Group held its second session in Geneva from 31 January to 4 February 2005 with the participation of 120 Member States and one regional economic integration organization. Its tasks were to finalize its input to the first session of the Conference of the Parties, including recommendations for the designation of the permanent secretariat and arrangements for its functioning; propose a draft budget for the first financial period, draft rules of procedure and draft financial rules for the Conference of the Parties; and draw up the terms of reference for a study of potential sources and mechanisms of assistance.

OPENING OF THE SESSION AND ADOPTION OF THE AGENDA: Item 1 of the Provisional agenda (Document A/FCTC/IGWG/2/1)

4. Mr Luiz Felipe de Seixas Corrêa (Brazil) informed the Working Group that owing to new responsibilities conferred upon him by his Government, he would be unable to chair the remainder of the session. In accordance, therefore, with Rule 28 of the Rules of Procedure of the World Health

¹ Document A/FCTC/IGWG/1/8.

Assembly he appointed, after consultations with the Bureau, Ms Patricia Lambert (South Africa) to take his place.

5. Ms Patricia Lambert (South Africa) took the Chair.

6. After a discussion on the organization of work, it was agreed that agenda item 5.1, Options for designation of the permanent secretariat and arrangements for its functioning, would be introduced as planned, but discussed later during the session to give regional and interregional groups time to consult.

7. The agenda was adopted on that understanding.

ACTIVITIES OF THE SECRETARIAT SINCE THE FIRST SESSION OF THE OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 2 of the Agenda (Document A/FCTC/IGWG/2/5)

8. The interim secretariat, introducing the document, said that a comprehensive overview of WHO's work on tobacco could be found in the Initiative's report of activities 2003-2004.¹ Much had been accomplished by the Tobacco Free Initiative in a short time; greater support from WHO and from Member States would be essential in future.

9. The primary focus of that work included provision of interim secretariat services to the Framework Convention; research and policy development; surveillance and monitoring; capacity building and training; communications and media; and the Initiative's global network. Additionally, four awareness-raising and capacity-building workshops had been held between August and December 2004. A new publication in the series "Tools for advancing tobacco control in the 21st century", focusing on the development of national tobacco-control capacity had been issued in 2004 and was being widely disseminated.² The report on the United Nations Millennium Development Goals and tobacco control,³ analysing the contribution of tobacco control to the achievement of each of the eight Goals, had been issued in early 2005.

STATUS OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 3 of the Agenda (Document A/FCTC/IGWG/2/6)

10. The interim secretariat drew attention to a typographical error in paragraph 1 of the document, which should state that as of 25 June 2004 there had been 148 (and not 159) signatories to the Convention. A similar error appeared in paragraph 17 of document A/FCTC/IGWG/1/8.

11. The number of Contracting Parties had increased since 17 December 2004, when document A/FCTC/IGWG/2/6 had been finalized. Finland, Lesotho, Netherlands, Senegal, Spain, Timor-Leste and Turkey had ratified since the document had been prepared, and Botswana ratified during the

¹ *Tobacco Free Initiative report of activities: 2003-2004*. Geneva, World Health Organization, 2005.

² *Building blocks for tobacco control: a handbook*. Geneva, World Health Organization, 2004.

³ *The Millennium Development Goals and tobacco control: an opportunity for global partnership*. Geneva, World Health Organization, 2005.

session, bringing the number of Contracting Parties to 55. The 170 State participants in the Treaty, including the 55 Contracting Parties, represented over 90% of the world's population.

12. The Framework Convention had attained the goal of 40 Contracting Parties on 29 November 2004, only 18 months after its adoption by the Health Assembly. Its entry into force on 27 February 2005 was to be celebrated at WHO headquarters.

13. The Director-General said that WHO would continue capacity building for tobacco control nationally and internationally. Member States would be kept informed of activities and be supported in meeting the provisions of the Convention. WHO was ready to respond to a request from the Conference of the Parties to support the establishment of the permanent secretariat; its experience in tobacco control, through the Initiative, could contribute significantly to the functioning of the future secretariat. Tobacco consumption continued to be a leading cause of preventable death, and work to overcome that threat was still needed. The current enthusiasm for and commitment to tobacco control must be maintained as the new treaty came into force.

REVIEW OF THE DRAFT REPORT OF THE FIRST SESSION OF THE OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 4 of the Agenda (Document A/FCTC/IGWG/1/8)

14. Representatives of regional groups and of individual Member States requested textual amendments including:

- (a) removal of names of regional and nongovernmental organizations in order to achieve uniformity in so far as no representatives or countries were named; and
- (b) revision of paragraphs 30, 41 and 44 so as to reflect more accurately the discussions held during the first session of the Open-ended Intergovernmental Working Group, particularly regarding the issue of decision-making by the Conference of the Parties and consensus.

15. Those amendments were made and the draft report was approved.

FINALIZATION OF THE INPUT OF THE OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL TO THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda

Options for designation of the permanent secretariat and arrangements for its functioning: Item 5.1 of the Agenda (Documents A/FCTC/IGWG/2/2, A/FCTC/IGWG/1/7 and A/FCTC/IGWG/1/8)

16. The interim secretariat, introducing document A/FCTC/IGWG/2/2, recalled that it had been prepared in response to a request by the Working Group at its first session. The document described the three categories of secretariat that had been identified within the United Nations system: internalized, administered and related. Most of the secretariats operating within specialized agencies were internalized within a technical unit, and it had generally been found that the costs of running a secretariat increased with increasing autonomy.

17. All three models would deliver high-quality results; the difference lay in the degree of autonomy. Synergy between the technical and administrative duties, as would occur in a secretariat internalized within the Tobacco Free Initiative, would result in lower costs. A secretariat internalized within WHO would require creation of a new secretariat entity, with added administrative costs. A permanent secretariat internalized within WHO would provide documentation and other support services to the Conference of the Parties, while the Tobacco Free Initiative would provide technical services to all Member States, including Contracting Parties to the Convention. Currently, as interim secretariat, the Tobacco Free Initiative was able to combine many aspects of the two functions, including the organization of meetings in collaboration with WHO governing bodies and other WHO departments and services. If the Conference of the Parties opted for a secretariat internalized within WHO, those functions would have to be managed separately, which would require more staff and more resources than currently allocated to the Initiative. In both internalized models, WHO would provide treaty support. A secretariat administered by WHO would require duplication of the current structure of the Initiative, including dedicated staff for each activity. It would also require a working capital reserve to cover expenses arising from delayed contributions.

18. The interim secretariat provided an informal analysis of the strengths, weaknesses, opportunities and threats (SWOT analysis) of the three models. It was noted that each model contained provisions for biennial sessions of the Conference of the Parties, including a participants' fund to support attendance by Contracting Parties classed as least-developed, low-income or low-middle-income countries. A one-week session of the Conference of the Parties each year would cost approximately 75% as much as a two-week session every two years, owing to the fixed costs of document production and other conference support services.

19. In response to requests for clarification, the interim secretariat explained that the term "voluntary assessed contributions" was based on the practice of international environmental conventions, whereby a scale of assessments was drawn up, but Member States had no legal obligation to pay the assessed amounts. Their contributions were therefore both assessed and voluntary. The term "voluntary indicative assessments" might better describe the situation.

20. There was no precedent for the payment of voluntary assessed contributions by non-Parties, even if they were signatories to the Convention: non-Parties could always make extrabudgetary contributions for specific programmes if they so wished.

21. It was further explained that 90% of the proposed increase in WHO's regular budget for the tobacco area of work was destined for country and regional support in implementing the Convention. The difference in the estimated financial implications of the two internalized models was due to higher staff costs, a secretariat internalized within WHO requiring six additional staff members to conduct treaty-support activities.

22. Reporting, whether to the Director-General or to the Conference of the Parties, could, at the discretion of the Conference of the Parties, be entrusted to a technical committee, as was the case, for example, in FAO. It was important to distinguish between treaty support work with Contracting Parties as performed by the permanent secretariat, on the one hand, and continued work in global tobacco control, including raising awareness of the Framework Convention and capacity building among non-Parties on the other.

23. One representative asked whether any structure similar to the tobacco-control technical committee proposed in paragraph 55 of document A/FCTC/IGWG/2/2 already existed within WHO. Another representative observed that, as the Initiative's technical work – facilitating the negotiation of the Convention – was almost finished, it should assume the more political role of supporting

implementation of the Convention. Finding the least expensive option was not the most important consideration.

24. In response to a request for a comparison between the models presented in the document and WHO's relationship to the International Agency for Research on Cancer, the interim secretariat said that the Secretariat of the Agency was closer to what was referred to in the document as an administered secretariat.

25. The Conference of the Parties would determine the arrangements for the permanent secretariat and report to the Health Assembly on its decision. It was envisaged that the permanent secretariat would have an earmarked budget and a number of posts assigned to it. Its workplan would be submitted to the Conference of the Parties for approval. If the administered model were adopted, the Conference of the Parties would nominate the head of the permanent secretariat, but the Director-General could choose not to appoint the candidate if he or she wished. Beyond a certain point, it would be impossible for WHO to support staff who were not accountable to the Director-General.

26. Some representatives noted that the three models set out in the document were not the only options: a combination of those models, or a different model, might be the answer.

27. One representative, speaking on behalf of three regional groups, stated their position. The permanent secretariat should be autonomous and transparent and work to fulfil the mandate given by the Conference of the Parties. The secretariat should be fully accountable to the Conference of the Parties. It should have a separate budget approved by the Conference of the Parties. Its mandate and working methods should not be subject to influence or interference from non-Parties. The secretariat should be an independent entity housed within WHO. There should be strong synergy with the Tobacco Free Initiative, with complementarity of functions, mutual support and as many joint programmes as possible. The head of the permanent secretariat should be appointed by the Director-General after close consultation between the Director-General and the Conference of the Parties. The secretariat should function as part of WHO's administrative structure, the administrative arrangements being defined by a Memorandum of Understanding or similar instrument. Efficiency and cost-effectiveness should be important guiding principles in deciding the structure and functions of the secretariat. The staffing structure should take into account the criteria of geographical balance, gender equity and adequate representation of developing countries. The Initiative's global tobacco-control work should be further strengthened, especially in the area of capacity building in countries and technical support for the Conference of the Parties. A new secretariat model should be designed, respecting those principles and capable of amendment in future if necessary.

28. Another regional group supported the proposal for a secretariat housed within the Tobacco Free Initiative as being the most cost-effective option and the one which made best use of the Initiative's experience as interim secretariat. The permanent secretariat would receive its instructions from the Conference of the Parties, so its autonomy would not be jeopardized. A regional economic integration organization also supported that proposal. A representative asked how the autonomy of secretariat staff would be guaranteed if they were appointed by the Director-General. Another representative suggested that the allocation of a fixed percentage of the WHO regular budget to Convention activities would preserve the independence of the secretariat.

29. Another regional group stated its position. The permanent secretariat should be housed within WHO and based in Geneva. The head of the secretariat should be nominated by the Conference of the Parties and appointed by the Director-General. All staff should be WHO staff, recruited by the head of the secretariat following WHO recruitment procedures and reporting to the head of the secretariat. WHO's administrative rules and regulations should apply. Treaty support work connected with the

implementation of the Convention should be carried out by the staff of the permanent secretariat, technical work by the Initiative in consultation with the permanent secretariat and administrative functions by the WHO Secretariat. Programmes and budgets for treaty-support activities should be approved by the Conference of the Parties and, for technical and administrative activities, by the Director-General and the Health Assembly. The budget of the secretariat should be based on the functions set out in Article 24 of the Framework Convention. The Tobacco Free Initiative should continue to perform technical functions, as set out in Annex 3 of document A/FCTC/IGWG/2/2, but duplication of activities should be avoided. At the outset, the secretariat might focus on a limited number of tasks out of those defined in Article 24 of the Framework Convention: after two or three years, the Conference of the Parties could review the situation and expand the scope of the secretariat's activities if it so wished.

30. The interim secretariat pointed out that some of those proposals might not be compatible with the secretariat forming part of WHO in so far as they would effectively mean that the Director-General was not in charge of the staff and the Health Assembly had no authority over the budget. Much would depend on the wording of any agreement reached.

31. Another regional group stated its position. The permanent secretariat should be part of WHO and be based in Geneva. The Conference of the Parties should participate in the appointment of the head of the secretariat, and the secretariat should be accountable to it. The secretariat should be autonomous, but complementarity of activities and coordination with the Tobacco Free Initiative should be ensured.

32. It was suggested by another speaker that the Conference of the Parties should meet, at most, once per year, and that the Bureau of the Conference should be added into the various models to enable the secretariat to seek guidance between sessions of the Conference if necessary.

33. Replying to questions raised, the interim secretariat said that, unless the Conference of the Parties was created as an international organization in its own right, it would not be a legal entity capable of hiring or dismissing staff. WHO could provide the institutional, legal and administrative base for the Conference's work in all three of the suggested models which would mean, inter alia, that permanent secretariat staff could be dismissed only by the Director-General or by the head of the permanent secretariat, in accordance with WHO's Staff Regulations and Staff Rules. The Director-General would, of course, pay close attention to the views expressed by the Conference. The decision taken by the Conference in respect of its permanent secretariat would require some form of approval by the Health Assembly, in view of the programme, budget and administrative implications for WHO.

34. A representative asked which model, or combination of models, would cope best in a situation in which there were insufficient resources to meet all needs. In the two internalized models, it was being suggested that the Tobacco Free Initiative should be responsible for technical activities, although in many areas they overlapped with treaty support activities.

35. The representative of the host country said that the granting of privileges and immunities to the permanent secretariat would depend to a considerable extent on the closeness of its links with WHO.

36. Given the complexity of the issues concerning the designation of the permanent secretariat, an informal open-ended working group was convened to elaborate core principles and recommendations. The output of that group, reproduced as Annex 1, was approved by the Working Group.

37. In response to the request of the Working Group, the interim secretariat presented a modified model showing lines of reporting and cooperation for a permanent secretariat, reproduced as Annex 2, and reflecting the approved core principles and recommendations, the discussions of the Working Group, and the provisions of Article 24.3 of the Framework Convention. The Tobacco Free Initiative would facilitate implementation of the Framework Convention with respect to technical matters, and other WHO departments would provide administrative support. The permanent secretariat staff would facilitate implementation of the Framework Convention with respect to treaty support and report to the head of the permanent secretariat. The Tobacco Free Initiative and the permanent secretariat would cooperate both on technical issues and treaty support. The Initiative would continue to report to the Director-General through the relevant Assistant Director-General. The head of the permanent secretariat would report directly to the Director-General on technical and administrative matters and to the Conference of the Parties on treaty matters. The Director-General, who reported directly to the Health Assembly, would collaborate with the Conference of the Parties. The Health Assembly would approve the technical and administrative budgets, and the Conference of the Parties would approve the budget for treaty support.

38. In the ensuing discussion it was generally agreed that the document to be prepared for the Conference of the Parties should also indicate options for ensuring adequate coordination between the Health Assembly and the Conference of the Parties, between the Tobacco Free Initiative and the permanent secretariat and between the permanent secretariat and the regional offices of WHO. A more detailed budget should also be provided.

39. An alternative plan for the lines of cooperation and reporting between the various bodies was presented by a representative of a regional group. Unlike the plan presented by the interim secretariat, it proposed that the Assistant Director-General responsible for the Tobacco Free Initiative would also be the head of the permanent secretariat of the Framework Convention, thus increasing synergy and avoiding duplication of effort. That person would report to the Director-General on technical and administrative matters and to the Conference of the Parties on treaty matters. The plan envisaged better coordination between the Health Assembly and the Conference of the Parties. The ways and means of furthering such coordination should be explored at the first meeting of the Conference of the Parties, but a first step would be to have a representative of the Conference of the Parties present at every Health Assembly. It also envisaged better coordination between the Initiative and the Framework Convention, and the decreasing role of the Initiative as the number of Contracting Parties increased. The Bureau should be available for consultation during intersessional periods, and a mechanism for a two- or three-year periodic review of the permanent secretariat arrangements should be established.

40. In the ensuing discussion, many representatives, while recognizing the potential usefulness of the proposals, expressed the view that the version presented by the interim secretariat more closely reflected the principles agreed upon by the informal working group. It was therefore agreed that the plan prepared by the interim secretariat should be forwarded to the Conference of the Parties, together with a more detailed budget; options for promoting cooperation between the Health Assembly and the Conference of the Parties in ways that would ensure the independence of the two bodies yet increase the synergy between them; and provisions for a periodic review.

41. Three nongovernmental organizations addressed the Working Group, stressing that the permanent secretariat should be autonomous, free from the influence of the tobacco industry and non-Parties, and securely financed.

Draft budget for the first financial period: Item 5.2 of the Agenda (Documents A/FCTC/IGWG/2/3; A/FCTC/IGWG/2/3 Corr.1; A/FCTC/IGWG/1/6; A/FCTC/IGWG/1/8 and A/FCTC/IGWG/2/INF.DOC./1)

42. The interim secretariat presented details of the expenditure in the tobacco area of work in the 2000-2001 and 2002-2003 bienniums and estimates of expenditure for 2004-2005 and 2006-2007.

43. Replying to questions raised, the interim secretariat said that the estimates in the document covered the core technical, treaty-support and administrative functions required to finance the permanent secretariat and sessions of the Conference of the Parties. Those sums would not be sufficient to meet all country needs: obligations under the Framework Convention in respect of technical cooperation, surveillance, and research, for example, would require significant further resources. The level of funding required for full implementation of the Convention had not yet been determined.

44. Representatives asked whether current WHO tobacco-control funding would be redirected to support permanent secretariat functions in future bienniums; what the balance of regular budget versus voluntary contributions to tobacco control had been in past bienniums; and whether that balance was expected to change. Details of financial and personnel resources from WHO's regular budget, which might be reallocated to the permanent secretariat, were also requested.

45. One representative asked for estimated costs for a secretariat based somewhere other than Geneva, and two representatives suggested that the secretariat should be based in a developing country. A fourth representative expressed the view that it would prove less costly for developing countries if meetings were held in Geneva, where they were likely to have a permanent mission.

46. Replying to questions raised, the interim secretariat explained that the possibility of obtaining contributions from the tobacco industry had not been considered in view of the fundamental importance of avoiding industry influence of any kind, as established in Article 5.3 of the Framework Convention. Regardless of the final structure of the permanent secretariat, the Tobacco Free Initiative would continue its global tobacco-control work in all Member States. In the Proposed programme budget 2006-2007 the figure for the tobacco area of work had been increased to reflect that fact and to ensure that Convention-related and non-Convention related tobacco-control programmes would continue to be supported and implemented to their full effect.

47. The proposed budget for supporting Framework Convention activities in the 2006-2007 biennium had increased by US\$ 3 million, most of which had been allocated to support the first session of the Conference of the Parties. The sum of US\$ 2 363 000 was intended to cover all conference organization costs at the global level for attendance by 100 countries, including a participants' fund to defray travel costs for representatives from low- and lower-middle-income countries,¹ and country and regional activities, rather than secretariat activities at headquarters.

48. One representative said that the source of many of the figures in the draft budget document was not clear. For instance, what would be the cost of implementing Article 24.3(b) of the Framework Convention on the transmission of reports under the Convention in the three models?

¹ See document A/FCTC/IGWG/2/2, paragraphs 63-65.

49. The interim secretariat, explained that document A/FCTC/IGWG/2/INF.DOC./1, produced in response to the Working Group's requests for more details on the costs and budgets of the three models, showed the interrelations between allocations to the tobacco area of work from WHO's proposed regular budget for 2006-2007, other sources and voluntary assessed contributions for the three models. It also showed the staff requirements in technical, administrative and treaty-support areas.

50. A number of representatives asked why a permanent secretariat administered by WHO, but which had less WHO involvement, would require fewer staff for direct support to the Conference of the Parties than a secretariat internalized in WHO. The differences in staff numbers did not appear to correspond to the differences in budgeted amounts. Did they correspond to differences in the quality of support that would be provided? Perhaps some of the extra personnel in the latter model would be unnecessary if better synergy were sought within the Organization.

51. One regional group emphasized the importance of avoiding duplication of effort, especially in respect of treaty support to Contracting Parties, and wondered why regions would require treaty support. The bulk of such support should go to countries. Further, it was not clear why the financial implications of treaty support to the Conference of the Parties should vary from one model to another. Why would the cost of capacity-building activities be lower in a secretariat internalized within the Initiative, for which the Initiative would be entirely responsible?

52. In response to confirmation that the "other sources" of funding referred to in the document represented voluntary contributions, the amounts of which could not be guaranteed, one representative said that it would be useful to clarify how much money would be returned to the Contracting Parties to support their tobacco-control activities in each of the models. Would the amounts be the same in all three models?

53. The interim secretariat explained that the figures shown in the document were estimates based on judgement and assumptions. The number of staff required had been given for each activity, as requested, and associated figures covered both personnel costs and activities. Increases in the total estimate for direct support to the Conference of the Parties were based on experience. Moreover, regardless of the final structure of the permanent secretariat, the Initiative would have additional responsibilities in global tobacco control.

54. The degree of duplication was difficult to judge. Treaty work in the regions would involve support to countries for intercountry activities, and cover subregional and interregional meetings and other regional activities.

55. A secretariat internalized within WHO would provide direct support to the Conference of the Parties. WHO through the Tobacco Free Initiative would continue to provide the technical support needed for tobacco-control work for both Contracting and non-Contracting Parties. The extra staff required would consist of the head of the permanent secretariat, a communications officer, and four persons to cover the multiple new tasks required by Article 24 of the Framework Convention. A permanent secretariat, administered by WHO would not require a new treaty support department head or a new communications officer, since those positions already existed in the technical support unit. However, the full complement of staff providing technical, treaty and administrative support to Contracting Parties would be required and would be financed by voluntary assessed contributions.

56. The numbers of staff required for the technical and administrative programmes were the same in all three models for the 2006-2007 biennium, as it was assumed that, initially, WHO, through the

Initiative, would conduct the same activities for non-Contracting Parties as the permanent secretariat would conduct for Contracting Parties. The situation might be different in the 2008-2009 biennium.

57. One representative proposed a further model in which the permanent secretariat would be independent, as in the administered model, but would receive considerable support from the existing WHO infrastructure, including administrative and technical support, as for a secretariat internalized within the Tobacco Free Initiative. Because the technical work programme for the treaty would be operationalized by the existing Tobacco Free Initiative, the secretariat's primary function would be to support the Conference of the Parties and only a few high-level staff would therefore be required initially. As more Contracting Parties ratified the Framework Convention, the figure for direct support for the Conference of the Parties would increase commensurately. The model would be more costly than a permanent secretariat within the Tobacco Free Initiative, at around US\$ 6.9 million, but it would be independent and avoid duplication.

58. The interim secretariat explained that there was no precedent for such an arrangement. Although there were examples of administered secretariats with varying degrees of autonomy, in no case was a technical work programme designed and approved by a Conference of the Parties but then implemented by a technical unit financed exclusively by an affiliated intergovernmental organization.¹ Rather, the technical work programme was in all cases financially supported by the treaty itself, even if the work was integrated into the larger organization's relevant department.

59. Personnel costs could be separated from activities costs, but to do so would be a departure from WHO's policy of presenting results-based budgets. In response to comments by several representatives that a results-based presentation of each model would make it easier to determine the advantages of one model over another, the interim secretariat said that a secretariat administered by WHO would provide substantially more results, in view of its higher budget, as would an independent Tobacco Free Initiative. It remained to be seen, however, whether the difference in output would be enough to justify the additional expenditure.

60. In response to requests for results-based budget projections, a budget table was presented, reproduced as Annex 3, showing budget estimates and key expected results for the biennium 2006-2007, based on the core principles approved by the Working Group.

Draft rules of procedure for the Conference of the Parties: Item 5.3 of the Agenda (Document A/FCTC/IGWG/1/8)

61. The interim secretariat said that the draft rules of procedure, as set out in the document, were based on the proposals submitted in writing during the first session of the Working Group.

Rule 1

62. It was agreed that the rule should be entitled "Applicability" rather than "Scope".

63. Following an extensive debate about the phrase "and these Rules" at the end of the paragraph, the Chair said that, as she understood it, the phrase was intended to ensure that all meetings of the

¹ See document A/FCTC/IGWG/2/2, paragraphs 29-32.

Conference of the Parties and any subsidiary bodies it might establish were conducted according to the same rules. One representative disputed that assumption.

64. One representative, stating that the words “in accordance with Article 23 of the Convention”, or similar qualifications, were unnecessary, as Rule 60 gave the Conference of the Parties the right to amend any of the Rules, suggested that Rule 1 should read “The sessions of the Conference of the Parties shall be governed by these Rules of Procedure”.

65. The text of Rule 1, as amended, was agreed.

Rule 2

66. It was agreed that the categories of “public meeting”, “open meeting” and “restricted meeting” used in Rule 7 of the Rules of Procedure of the Executive Board should be adapted by the interim secretariat and inserted in Rule 2 in square brackets. An “open-ended” meeting could be either public or open.

67. The text of Rule 2, as amended, was agreed.

Rule 3

68. It was agreed that the text could end with the word “otherwise”, as it was self-evident that appropriate arrangements would have to be made for holding a session elsewhere.

69. The text of Rule 3, as amended, was agreed.

Rule 4

70. After some discussion, it was agreed that Rule 4.1 should read “Unless otherwise decided by the Conference of the Parties, the second and third regular sessions of the Conference of the Parties shall be held yearly; thereafter, regular sessions shall be held every two years”. It would therefore be clear that the default frequency was every two years, the opening phrase giving the Conference of the Parties the necessary flexibility to alter the arrangement.

71. It was agreed that the phrase in square brackets in Rule 4.3 should be deleted, as it added little to what was already stated in Article 23.2 of the Framework Convention.

72. The text of Rule 4, as amended, was agreed.

Rule 5

73. The Group agreed to maintain the second version of Rule 5, with a notification period of sixty days in advance of a regular session.

74. The text of Rule 5, as amended, was agreed.

Rule 6

75. Although it was suggested that the permanent secretariat should consult both the President and the Bureau in drawing up a provisional agenda, it was pointed out that that purely administrative task

need not concern the President. The provisional agenda for the first regular session of the Conference of the Parties would have to be drawn up by the interim secretariat, as the Bureau of the Conference would not yet have been established.

76. The text of Rule 6, as amended, was agreed.

Rule 7

77. The Working Group agreed that the text as set out in document A/FCTC/IGWG/1/8 should be forwarded to the Conference of the Parties for further discussion.

Rule 8

78. The text of Rule 8, with the sixty-day option, was agreed.

Rule 9

79. Having agreed that the principle applied in Rule 6 with regard to consultation should also be applied to Rule 9, the Working Group decided to leave the final clause of Rule 9 in square brackets.

Rules 10-17

80. The texts of Rules 10-17 were agreed with minor editorial amendments.

Rule 18

81. Although it was suggested that the Rule should state that credentials should be presented before the opening of a conference, it was pointed out that there must be some provision for late accreditation. It was agreed that relevant authorities should be included, to cover different national legislative practices. The wording of the Rules of Procedure of the World Health Assembly appeared to be comprehensive in that respect. Many representatives emphasized that ministries of health should be mentioned specifically. The Working Group agreed on the following wording: "... by the Head of State or Government, the Minister for Foreign Affairs, the Minister of Health or any other competent government authority or, in the case of ...".

82. The text of Rule 18, as amended, was agreed.

Rule 19

83. The text of Rule 19 was agreed with minor editorial amendment.

Rule 20

84. The text of Rule 20 was agreed as it stood.

Rule 21

85. It was agreed that Rule 21.1 should state that there should be a President and five Vice-Presidents representing the five WHO regions, and that each region should be represented by one Bureau member. The footnote was deleted.

86. One representative said that Rule 21.5 should state that observers could also be invited to attend meetings of the Bureau. It was agreed that paragraph 5 would be amended to read “The Chairperson of a subsidiary body may be invited by the Bureau for a specific purpose”.

87. The text of Rule 21, as amended, was agreed.

Rule 22

88. The text of Rule 22 was agreed as it stood.

Rule 23

89. The interim secretariat explained that, in meetings of the Health Assembly and the United Nations General Assembly, Vice-Presidents were elected in an individual capacity. However, at the meetings of the Intergovernmental Negotiating Body and the Open-ended Intergovernmental Working Group, Member States had been elected and had nominated a member of their delegation for the post of Vice-President. A regional group proposed that Rules 23 and 24 should be combined, to read similarly to Rule 28 of the Rules of Procedure of the World Health Assembly. It was agreed that the words in square brackets should be deleted.

90. The text of Rule 23, as amended, was agreed.

Rule 24

91. The text of Rule 24 was agreed as it stood.

Rule 25

92. It was agreed that the words in square brackets in Rule 25.2 should be retained, and the square brackets deleted despite there being no precedent for that wording.

93. The text of Rule 25 was agreed as it stood.

Rule 26

94. The interim secretariat, replying to questions raised, confirmed that the Rule as it stood applied only to intergovernmental subsidiary bodies and not, for example, to committees of experts. The quorum referred to in Rule 26 applied to the conduct of business and to voting. Rule 33 defined the quorum for plenary sessions, while Rule 26 applied specifically to subsidiary bodies, which did not take final decisions.

95. The text of Rule 26 was agreed as it stood.

Rule 27

96. The Chair said that, as she understood it, the consensus was that sessions of subsidiary bodies should, by default, be held in public in the interests of transparency. The final decision always lay with the Conference of the Parties. Accredited nongovernmental organizations should be allowed to attend meetings in all but exceptional cases.

97. Concern was expressed that, if meetings were held in public, the status of nongovernmental organizations would be no different from that of the general public. The interim secretariat explained that accredited nongovernmental organizations enjoyed certain rights of participation that members of the public did not have. It was noted that there had been some question of screening nongovernmental organizations to ensure that they had no connection with the tobacco industry: there was surely no question of doing that for members of the public. One representative asked whether nongovernmental organizations which did have links with the tobacco industry could be excluded from a public meeting.

98. It was agreed that paragraph 2 should read “The Conference of the Parties or the subsidiary body concerned shall decide whether its meetings will be public meetings, open meetings or restricted meetings. This rule shall be implemented in conformity with Article 5.3 of the Convention”. It was further agreed that paragraph 2 should be placed in square brackets for discussion by the Conference of the Parties in relation to Rule 2.

Rule 28

99. One representative said that, as he understood it, a term of office was limited to one session of the body concerned.

100. The text of paragraph 1 of Rule 28 was agreed with deletion of the words “the Conference of the Parties”, “other than the”, and “and its Chairman”.

101. In response to requests for clarification of paragraph 2, the interim secretariat explained that it was intended to assist Chairpersons from small delegations, who might have difficulty in making available another member to vote on their country’s behalf. In normal circumstances, the Chairperson would not vote at all and would certainly not have two votes.

102. It was agreed that the text of paragraph 2 should be left in square brackets.

Rules 29 and 30

103. Representatives agreed on the importance of the participation of nongovernmental organizations. Some considered that national and regional organizations should also be allowed to participate.

104. Although it was suggested that all nongovernmental organizations that were in official relations with WHO should automatically be allowed to participate in sessions of the Conference of the Parties, it was pointed out that WHO policy had only recently begun to include screening for conflicts of interest with respect to the tobacco industry. Most nongovernmental organizations in official relations with WHO had not been screened for undue influence from the tobacco industry. WHO’s policy could therefore be used as a baseline but should be adapted for the specific needs of the Conference of the Parties, with strict reference to Article 5.3 of the Framework Convention. Organizations that were not in official relations with WHO but which dealt with matters falling within the scope of the Framework Convention should also be considered for admission. Means should be found to allow nongovernmental organizations to participate fully in sessions of the Conference of the Parties.

105. The main considerations raised during the discussions on Rules 29 and 30 were summarized by the Chair and discussed further by the Working Group.

106. It was agreed that the texts of Rules 29 and 30, as they stood, should be forwarded to the Conference of the Parties together with the Chair's summary, as amended in the course of discussion (Annex 4).

Rule 31

107. There was considerable discussion about the feasibility of implementing Article 5.3 of the Framework Convention (prevention of undue interference from the tobacco industry) in a public meeting which anyone could attend. The alternative wording "having due regard to Article 5.3" was suggested. The Working Group stressed that Rule 27.2, dealing with meetings of subsidiary bodies, and Rule 31, dealing with plenary meetings of the Conference of the Parties, must be considered in parallel. One representative was of the view that the Conference of the Parties must not be seen to be placing any limitations on attendance at public meetings. Another considered that the categories of "public", "open" and "restricted" meetings as used by the Executive Board might require further refinement for the Conference of the Parties, in view of the special risk of interference from the tobacco industry.

108. The Working Group agreed to delete the word, "Plenary", and place the entire Rule in square brackets.

Rule 32

109. The text of Rule 32 was agreed with deletion of the first sentence in square brackets and replacement of the word "President" by "Conference of the Parties".

Rule 33

110. In relation to paragraph 2, it was explained that, in some areas covered by the Framework Convention, Member States of a regional economic integration organization had ceded sovereignty to it, while in other areas national sovereignty had been retained. In the former case, the organization was entitled to cast more than one vote and count as more than one State for the purposes of determining a quorum.

111. The text of Rule 33 was agreed with deletion of the square brackets.

Rule 34

112. The text of Rule 34 was agreed with deletion of the words "no one" from paragraph 1.

Rule 35

113. Two representatives stressed that the secretariat should speak only at the invitation of the President and only to provide information.

114. The text of Rule 35 was agreed with minor editorial amendment.

Rules 36-38

115. The text of Rules 36-38 were agreed as they stood.

Rule 39

116. The text of Rule 39 was agreed with the number of speakers in favour of and against a motion set at two.

Rule 40

117. The text of Rule 40 was agreed as it stood.

Rule 41

118. The text of Rule 41 was agreed with the deletion of all text in square brackets.

Rule 42

119. The text of Rule 42 was agreed as it stood.

Rule 43

120. The text of Rule 43 was agreed with deletion of the words “to a proposal”, the second sentence and the two footnotes.

Rule 44

121. The text of Rule 44 was agreed, divided into three paragraphs, and with deletion of the footnote.

Rule 45

122. The text of Rule 45 was agreed as it stood.

Rule 46

123. Opinions in the Working Group were divided. Some representatives considered that a State which had withdrawn a motion should not be allowed to reintroduce it, although another State might do so. Others considered that a State proposing a motion was free to withdraw and reintroduce it as many times as it wished: one representative said that he could not accept the phrase “any other Party” in the text, which would restrict that right. The interim secretariat said that most United Nations bodies did not limit the number of times a motion could be reintroduced.

124. The text of Rule 46 was agreed with deletion of the word “other”.

Rule 47

125. The text of Rule 47 was agreed with deletion of the words “against the proposal”.

Rule 48

126. The text of Rule 48 was agreed with deletion of the footnote.

Rule 49

127. Although the Group agreed that it would be preferable for all decisions, budgetary and substantive, to be reached by consensus, several representatives pointed out that such a wish was probably utopian. The Conference of the Parties should therefore have the possibility of voting, if necessary. Decisions could be adopted by a simple majority, by a two thirds majority or by a three-quarters majority, depending on the significance of the issue.

128. The representative of the Member State that had proposed at the first session of the Working Group that decisions relating to Articles 7, 9, 19.3 and 26 should be taken by three-quarters majority vote withdrew that proposal.

129. The main considerations raised during the discussions on Rule 49 were summarized by the Chair and discussed further by the Working Group.

130. It was agreed that the text of Rule 49, as it stood, should be forwarded to the Conference of the Parties together with the Chair's summary as amended by the Working Group in the course of discussion (Annex 5).

Rule 50

131. The text of Rule 50 was agreed as it stood and the footnote was deleted.

Rule 51

132. Some representatives considered that sponsors of a proposal should not be allowed to speak in explanation of vote, since they would already have had ample opportunity to make their position clear.

133. The text of Rule 51 was agreed with deletion of "a representative may" and "Proposers".

Rule 52

134. The text of Rule 52 was agreed as it stood and the footnote was deleted.

Rule 53

135. In relation to paragraph 1 the Working Group agreed that, if votes in an election were equally divided after a second ballot, the President should decide between the candidates by drawing lots, as was the practice in the Health Assembly. In paragraph 3, the wording "any eligible person or Party" was agreed.

136. The text of Rule 53, as amended, was agreed.

Rules 54 and 55

137. The text of Rules 54 and 55 were agreed as they stood.

Rule 56

138. Opinion in the Working Group was divided between those who wished to list by name the six official working languages of the Health Assembly, and those who wished to leave more scope for adding further languages in the future. It was considered inadvisable to refer to the United Nations practice, since that would give control over the issue to another organization. The interim secretariat noted that, if the Conference of the Parties chose to follow the practice of another body, it would also have to comply with any decision by that body to reduce the number of languages in use. Replying to a question about financial implications, the interim secretariat said that, some years earlier, the cost of producing a single page of documentation in each of the six languages had been approximately US\$ 200 to 300: that figure excluded interpretation costs, which would be considerable.

139. A proposal to add the phrase “unless the Conference decides otherwise” found favour with a number of delegations, although others pointed out that, under Rule 60, the Conference of the Parties could change any of the Rules of Procedure at any time, and the phrase was therefore redundant.

140. After considerable discussion, the text of Rule 56 was agreed with deletion of the words “official and working languages of the United Nations organizations”.

Rule 57

141. The text of Rule 57 was agreed as it stood.

Rule 58

142. The text of Rule 58 was amended to read: “All official documents of the Conference of the Parties shall be made available in all the working languages”.

Rule 59

143. In response to a comment that the Conference of the Parties should not be bound by the Rules of Procedure of the World Health Assembly, the interim secretariat drew the Group’s attention to Rules 92 to 96 of those Rules, relating to documentation.

144. It was agreed that those Rules should be adapted and incorporated into the Rules of Procedure of the Conference of the Parties.¹

Rule 60 (renumbered Rule 65)

145. It was agreed in the light of Article 23.3 of the Framework Convention that amendments to the Rules of Procedure should also be adopted by consensus. The sentence in square brackets was therefore deleted.

146. Rule 60 (renumbered Rule 65), as amended, was agreed.

¹ New Rules 59-64.

Rule 61 (renumbered Rule 66)

147. The text of Rule 61 (renumbered Rule 66) was agreed as it stood.

148. The draft rules of procedure, as agreed by the Working Group, are attached as Annex 6.

149. Two nongovernmental organizations addressed the Working Group, emphasizing the need for mechanisms to deal with potential conflicts of interest between WHO and the Conference of the Parties. An appropriate accreditation mechanism would also be needed to ensure full participation by public-interest nongovernmental organizations, while excluding those connected with the tobacco industry.

Study of potential sources and mechanisms of assistance: terms of reference: Item 5.4 of the Agenda (Documents A/FCTC/IGWG/2/4; A/FCTC/IGWG/2/4 Rev.1 and A/FCTC/IGWG/1/8)

150. The interim secretariat, introducing document A/FCTC/IGWG/2/4, said that the interim secretariat required the Working Group's formal approval of terms of reference for the study on potential sources of voluntary funding for tobacco-related activities, which was to be submitted to the first session of the Conference of the Parties.

151. There was general acceptance of the terms of reference for the study as set out in document A/FCTC/IGWG/2/4. The study should describe the need for assistance and the uses to which it would be put, using the language of the Framework Convention as far as possible. It was agreed that the term "international institutions" in paragraph 8 should be understood to include financial institutions such as the World Bank. It was also agreed that paragraph 9 should be amended to read: "The study will not seek to make recommendations".

152. A representative suggested that the study should take into account governmental as well as multilateral and bilateral channels of assistance. It should also consider potential contributions from nongovernmental organizations, provided that they had no links with the tobacco industry.

153. The terms of reference, as amended (document A/FCTC/IGWG/2/4 Rev.1) were approved, and the interim secretariat was instructed to prepare a study for the Conference of the Parties.

Draft financial rules for the Conference of the Parties: Item 5.5 of the Agenda (Documents A/FCTC/IGWG/1/5 and A/FCTC/IGWG/1/8)

154. The interim secretariat, introducing the item, said that agreement on the Working Group's recommendations for the permanent secretariat and the draft budget for the first period had opened the way for discussion of the draft financial rules, which had been prepared on the basis of those of WHO.

155. Replying to questions raised, the interim secretariat, citing examples of programmes implemented by WHO that had their own governing bodies and budgets but were covered by the WHO Financial Regulations and Financial Rules, said that there would be no advantage to the Conference of the Parties in having financial regulations and financial rules that differed from those of WHO. Those Rules would cover the notion of voluntary assessed contributions. The Conference of the Parties would have to adopt a resolution specifying that its budget would consist of such contributions. The levels of those contributions would be assessed once the Conference of the Parties had approved its first budget. Voluntary contributions to the Conference of the Parties would not be amalgamated

with other funds but would be shown separately for the purpose for which they had been given. Any funds contributed by WHO to the Conference of the Parties would be clearly specified.

156. Internal auditing to ensure that funds were used appropriately was conducted continuously throughout WHO. The External Auditor reported annually to the Health Assembly but provided regular internal management reports to WHO headquarters and offices in the regions. The Conference of the Parties would be audited on the basis of existing mechanisms.

157. The Group agreed to recommend that the Conference of the Parties follow the Financial Regulations and Financial Rules of WHO.

CLOSURE OF THE MEETING

158. Two nongovernmental organizations addressed the Working Group, urging Member States to act quickly to combat the epidemic of tobacco use, which caused tens of thousands of medical emergencies every day, and calling for increased vigilance against the influence of the tobacco industry.

159. The Secretary announced that the first session of the Conference of the Parties was provisionally scheduled for two weeks in the period 6-24 February 2006, in Geneva. To enable Member States to participate in the Conference as full Parties, instruments of ratification must be deposited more than 90 days before the opening date of the session.

160. After the usual exchange of courtesies the Chair declared the session closed.

ANNEX 1

**CORE PRINCIPLES AND RECOMMENDATIONS FOR THE
ESTABLISHMENT OF THE PERMANENT SECRETARIAT OF THE
WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL**

**Output of the informal working group
2-3 February 2005**

1. The permanent secretariat of the WHO Framework Convention on Tobacco Control should be located in Geneva within the World Health Organization.
2. The head of the permanent secretariat should be proposed by the Conference of the Parties in consultation with the Director-General, and appointed by the Director-General, and should report to the Conference of the Parties on treaty issues and to the Director-General on technical and administrative issues.
3. All staff of the permanent secretariat should be WHO staff, and should be recruited by the head of the permanent secretariat in terms of WHO recruitment procedures.
4. The staff of the permanent secretariat should report to the head of the permanent secretariat.
5. Concerning the administrative governance, WHO's rules and regulations should apply.
6. Facilitation of the implementation of the Framework Convention, with respect to treaty support issues, should be performed by the staff of the permanent secretariat, with support from the Tobacco Free Initiative and other relevant departments of WHO.

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

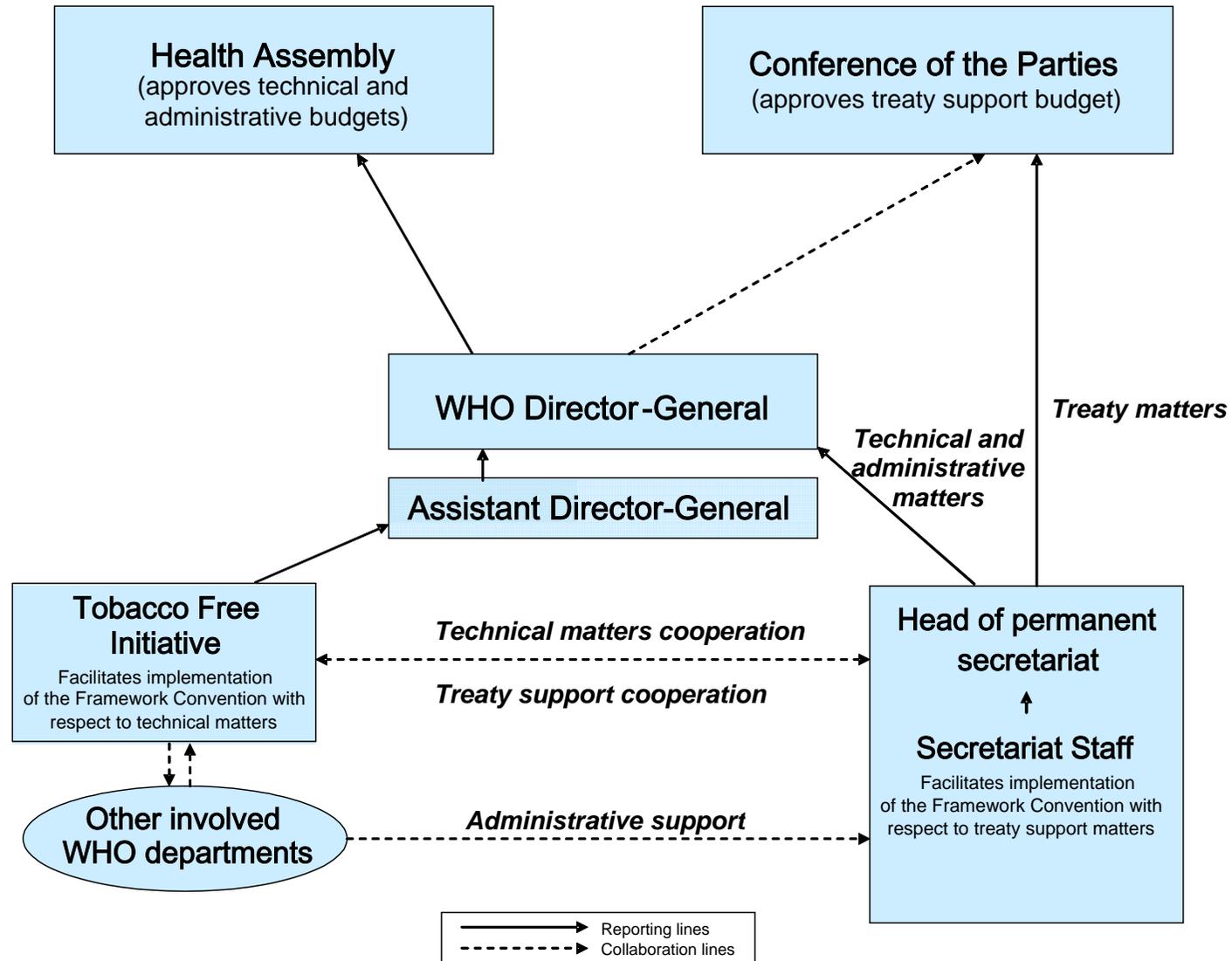
The mechanisms for such coordination would be defined by the Director-General in consultation with the Conference of the Parties.
7. The programmes and budgets should be adopted by the Conference of the Parties on treaty support issues, and approved by the Health Assembly on technical and administrative issues.
8. The budget of the permanent secretariat has to be based directly on the functions defined by Article 24 of the Framework Convention.
9. Transparency, efficiency, cost-effectiveness, and avoidance of duplication should be important guiding principles in deciding the structure and functioning of the permanent secretariat.
10. The staffing of the permanent secretariat should take into account the criteria of equitable geographical balance, gender equity, and balanced representation between developed and developing countries.

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

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

ANNEX 2

LINES OF REPORTING AND COOPERATION FOR THE PERMANENT SECRETARIAT AS OUTLINED IN ANNEX 1



ANNEX 3

PROVISIONAL BUDGET FOR THE PERMANENT SECRETARIAT FOR 2006-2007

Treaty secretariat functions (Article 24)	Intensity and quantity of work 2006-2007	Budget estimates US\$ 2006-2007	Key expected results 2006-2007
(a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;	++++	3 206 000	Successfully conclude the second session of the Conference of the Parties
(b) to transmit reports received by it pursuant to the Convention;	+++	874 000	Establish the reporting system, including the online database, and present the reports to the second session of the Conference of the Parties
(c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;	++++	1 609 000	Enable specific number of Contracting Parties, in particular developing countries and economies in transition, to compile their reports through workshops and in-country assistance
(d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;	++	665 000	Report of the Secretariat for biennium 2006-2007 submitted to the second session of the Conference of the Parties
(e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;	++	698 000	In collaboration with the Tobacco Free Initiative, ¹ establish working relationships with competent organizations

¹ Also Secretariat for the United Nations Ad Hoc Interagency Task Force on Tobacco Control.

Treaty secretariat functions (Article 24)	Intensity and quantity of work 2006-2007	Budget estimates US\$ 2006-2007	Key expected results 2006-2007
(f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and	+	479 000	Identification of administrative or contractual arrangements needed, and discussions commenced with the relevant entities
(g) to perform other secretariat functions specified by the Framework Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.	+	479 000	Funding sources identified, negotiations ongoing, and database established
Total budget		8 010 000	
Alternative budget breakdown Staff requirements (head of permanent secretariat, 7 professional and 2 general service staff) Activities requirement		3 943 000 4 067 000	
Total budget		8 010 000	

ANNEX 4

DRAFT RULES OF PROCEDURE FOR THE CONFERENCE OF THE PARTIES¹

Chair's summary of the discussions of the Open-ended Intergovernmental Working Group on Rules 29 and 30 of the draft rules of procedure for the Conference of the Parties

The following considerations were raised during the discussion on Rules 29 and 30.

1. The process for affording observer status to interested Member States that are not Parties to the WHO Framework Convention on Tobacco Control at sessions of the Conference of the Parties and the rights afforded to those Member States as a result of their observer status shall reflect a spirit of inclusiveness and openness towards Member States of the United Nations, [any of its specialized agencies and other relevant intergovernmental organizations].
2. The process for affording observer status to interested intergovernmental organizations at sessions of the Conference of the Parties and the rights afforded to those intergovernmental organizations as a result of their observer status shall reflect a general spirit of inclusiveness and openness.
3. Nongovernmental organizations, whether regional, national or international, will be eligible for designation as observers.
4. Specific rules or mechanisms should be articulated for accrediting nongovernmental organizations as observers at sessions of the Conference of the Parties. Some delegations suggested that the rules used by WHO to accredit nongovernmental organizations could be used as a basis for drafting these rules. Other delegations suggested that the rules should contain sufficient flexibility to reflect the following considerations specific to the WHO Framework Convention on Tobacco Control:
 - (a) the principles of preambular paragraphs 17 and 18, Article 5.3 of the Convention regarding protection of tobacco control policies from the vested interests of the tobacco industry, and the need to avoid conflicts of interest should guide all decisions regarding relations with nongovernmental organizations; and
 - (b) nongovernmental organizations with specific relevance to the Convention (for example, which operate in the area of tobacco control) which may not otherwise have had reason to establish official relations with WHO should also be considered as eligible for observer status at the Conference of the Parties.
5. Some delegates considered that, regardless of whether a nongovernmental organization has been admitted into official relations with WHO, each nongovernmental organization applying for observer status at sessions of the Conference of the Parties should be accredited anew in accordance with rules

¹ See document A/FCTC/IGWG/1/8 and paragraphs 103-106 of this report.

and mechanisms to be established by the latter. Other delegates considered that nongovernmental organizations already in official relations with WHO should be automatically entitled to participate in the sessions of the Conference of the Parties as observers, whereas other nongovernmental organizations would have to be admitted anew.

6. The term “accreditation” should be used in the final form of the rules to describe the process by which nongovernmental organizations are afforded observer status.

7. A clear articulation of the rights afforded to nongovernmental organizations to participate or to speak at sessions of the Conference of the Parties should be included in Rule 30.

ANNEX 5

DRAFT RULES OF PROCEDURE FOR THE CONFERENCE OF THE PARTIES¹

Chair's summary of the discussions of the Open-ended Intergovernmental Working Group for Rule 49 of the draft rules of procedure for the Conference of the Parties

The following considerations were raised during the discussion on Rule 49.

1. Consensus is the optimal way to make decisions and all efforts should be made to achieve consensus when making decisions.
2. Achieving consensus can be extremely difficult even after great effort has been expended. There are some categories of decision that may have to be resolved by vote if it is determined that consensus on the issue cannot be reached. Some delegations requested that their position be recorded, namely that the Conference of the Parties should take all decisions of a financial or substantive nature by consensus, unless otherwise provided in the WHO Framework Convention on Tobacco Control.
3. There should be some identification and categorization of decisions or issues that may be resolved by vote in the event that consensus cannot be reached.
4. For the different categories of decisions or issues to be decided by vote when consensus cannot be reached, the majority required to make the decision (for example, a simple majority or a two thirds majority) should be specifically ascribed to each category and should correspond to the relative significance to the Parties of the category of decisions or issues.
5. A proposal made during the first session of the Open-ended Intergovernmental Working Group regarding the requirement of a three-quarters majority for deciding specified issues was withdrawn.
6. It was clarified that consensus does not imply that any single Party has veto power with respect to any decision.

¹ See document A/FCTC/IGWG/1/8 and paragraphs 127-130 of this report.

ANNEX 6

DRAFT RULES OF PROCEDURE FOR THE CONFERENCE OF THE PARTIES¹

(Square brackets denote text requiring further discussion. Bold face denotes language or brackets proposed during the first session of the Working Group. Only those proposals that were submitted to the interim secretariat in writing during the session have been included.)

APPLICABILITY

Rule 1

The sessions of the Conference of the Parties shall be governed by these Rules of Procedure.

DEFINITIONS

Rule 2

For the purposes of these Rules:

1. “Convention” means the WHO Framework Convention on Tobacco Control, adopted at Geneva on 21 May 2003;
2. “Parties” means Parties to the Convention;
3. “Conference of the Parties” means the Conference of the Parties established by Article 23 of the Convention;
4. “session” means any regular or extraordinary session of the Conference of the Parties convened in accordance with Article 23 of the Convention and these Rules;
5. “regional economic integration organization” means an organization as defined in Article 1(b) of the Convention;
6. “President” means the President of the Conference of the Parties elected in accordance with Rule 21, paragraph 1 of these Rules;
7. “Secretariat” means the Secretariat established by Article 24, paragraph 1, of the Convention;
8. “subsidiary body” means any body established pursuant to Article 23, paragraph 5(f) of the Convention;

¹ As agreed by the Working Group at its second session.

9. “Parties present and voting” means Parties present at the meeting in which voting takes place and casting a valid affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

[10. “public” sessions or meetings means sessions or meetings that can be attended by Parties, States and regional economic integration organizations that are not Parties, the Secretariat, intergovernmental and nongovernmental organizations accredited by the Conference of the Parties pursuant to Rule 30 and members of the public.]

[11. “open” sessions or meetings means sessions or meetings that can be attended by Parties and by States and regional economic integration organizations that are not Parties and the Secretariat.]

[12. “restricted” sessions or meetings held for a specific purpose and under exceptional circumstances, means sessions or meetings that can be attended by Parties and essential Secretariat staff.]

SESSIONS

Rule 3

The sessions of the Conference of the Parties shall be held at the seat of the Secretariat, unless the Conference of the Parties decides otherwise.

Rule 4

1. Unless otherwise decided by the Conference of the Parties, the second and third regular sessions of the Conference of the Parties shall be held yearly; thereafter, regular sessions shall be held every two years.

2. At each regular session, the Conference of the Parties shall decide on the date and duration of the next regular session. The Conference of the Parties should endeavour not to hold such a session at a time which would make the attendance of a significant number of delegations difficult.

3. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one third of the Parties.

4. Extraordinary sessions held at the written request of a Party, shall take place not more than sixty days after the date at which the request is supported by at least one third of the Parties in accordance with paragraph 3 above.

Rule 5

The Secretariat shall notify all Parties of the dates and venue at least sixty days in advance of a regular session, and at least thirty days in advance of an extraordinary session.

AGENDA

Rule 6

In consultation with the Bureau, the Secretariat shall prepare the provisional agenda for each session.

Rule 7

The provisional agenda for each regular session shall include, as appropriate:

(a) items arising from the Articles of the Convention, including those [specified in its Article 23] / **[items proposed by one or more Parties and received by the Secretariat prior to circulation of the provisional agenda];**

(b) items the inclusion of which has been decided at a previous session;

(c) items referred to in Rule 13;

(d) the proposed budget and all questions pertaining to the accounts and financial arrangements;

[(e) the reports of the Parties, which shall be presented in accordance with Article 21 of the Convention;

(f) [the] reports of / [from] the subsidiary bodies; and]

[(e)] / [(g)] [any item] / [any other item relevant to the implementation of the Convention] proposed by a Party and received by the Secretariat prior to circulation of the provisional agenda.

Rule 8

For each regular session, the provisional agenda, together with other conference documents, shall be distributed in the official languages by the Secretariat to the Parties, and to observers invited to attend the session in accordance with Rules 29 and 30, at least sixty days before the opening day of the session.

Rule 9

The Secretariat shall, in consultation with the Bureau, include in a supplementary provisional agenda any item proposed by a Party which reaches the Secretariat between the dispatch of the provisional agenda for a regular session and ten days before the opening day of the session[, provided that it falls within the scope of Rule 7(a) to (d) of the Rules of Procedure.]

Rule 10

The Conference of the Parties shall examine the provisional agenda together with any supplementary provisional agenda. When adopting the agenda for a regular session, the Conference of the Parties may decide to add, delete, defer or amend items.

Rule 11

The provisional agenda for each extraordinary session shall include only those items proposed for consideration by the Conference of the Parties at a regular session or in a Party's written request for the holding of the extraordinary session. It shall be distributed to the Parties at the same time as the notification of the extraordinary session.

Rule 12

1. The Secretariat shall report to the Conference of the Parties on the administrative, financial and budgetary implications of all substantive agenda items submitted to the session, before they are considered by the Conference.
2. Unless the Conference of the Parties decides otherwise, no such substantive agenda item shall be considered until at least forty-eight hours after the Conference of the Parties has received a report from the Secretariat on its administrative, financial and budgetary implications.

Rule 13

Any item on the agenda of a regular session, that has not been considered or completed at the session, shall automatically be included in the provisional agenda of the next regular session, unless otherwise decided by the Conference of the Parties.

SECRETARIAT

Rule 14

1. The Head of the Secretariat, or the representative of the Head of the Secretariat, shall act in that capacity in all sessions of the Conference of the Parties and of its subsidiary bodies.
2. The Head of the Secretariat shall arrange for the provision of staff and services required by the Conference of the Parties and its subsidiary bodies, within available resources, and shall manage and direct such staff and services and provide appropriate support and advice to the Bureau of the Conference of the Parties and its subsidiary bodies.

Rule 15

In addition to the functions specified in the Convention, in particular in Article 24, the Secretariat shall, in accordance with these Rules:

- (a) arrange for interpretation at the session;
- (b) collect, translate, reproduce and distribute the documents of the session;

- (c) publish and distribute the official documents of the session;
- (d) prepare and keep the records of the session;
- (e) arrange for the custody and safekeeping of the documents of the session; and
- (f) perform all other tasks that may be required by the Conference of the Parties.

REPRESENTATION AND CREDENTIALS

Rule 16

Each Party participating in a session shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as it may require.

Rule 17

An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

Rule 18

The credentials of representatives, as well as the names of alternates and advisers shall be submitted to the Secretariat if possible no later than twenty-four hours after the opening of the session. Any subsequent change in the composition of the delegation shall also be submitted to the Secretariat. Credentials shall be issued by the Head of State or Government, the Minister for Foreign Affairs, the Minister of Health, or any other competent government authority or, in the case of a regional economic integration organization, by the competent authority of that organization.

Rule 19

The Bureau shall examine the credentials and report thereon to the Conference of the Parties.

Rule 20

Representatives shall be entitled to participate provisionally in the session, pending a decision by the Conference of the Parties to accept their credentials.

OFFICERS

Rule 21

1. At the first regular session of the Conference of the Parties, a President and five Vice-Presidents, one of whom shall act as Rapporteur, shall be elected from among the representatives of the Parties present at the session. These officers shall constitute the Bureau of the Conference of the Parties. Each region of the World Health Organization (WHO) shall be represented by one Bureau member. The President and Vice-Presidents shall remain in office until the closure of the second regular session of the Conference of the Parties, including for any intervening extraordinary session.

2. Before the end of the second and subsequent regular sessions of the Conference of the Parties, officers shall be elected from among the Parties to constitute the Bureau for the following session. These officers shall commence their term of office at the closure of the session and shall serve until the closure of the following regular session of the Conference of the Parties, including for any intervening extraordinary session.
3. The offices of the President and Rapporteur shall be subject to rotation among the WHO regions.
4. The President shall participate in sessions of the Conference of the Parties in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative to represent the Party in the sessions and to exercise its right to vote.
5. The Chairperson of a subsidiary body may be invited by the Bureau for a specific purpose.

Rule 22

1. In addition to exercising the powers which are conferred upon him or her elsewhere by these Rules, the President shall declare the opening and closing of the session, preside over the meetings, ensure observance of these Rules, accord the right to speak, put questions to the vote and announce decisions. He or she shall rule on points of order and, subject to these Rules, shall control the proceedings and maintain order thereat.
2. The President may propose to the Conference of the Parties the closure of the list of speakers, a limitation of the time to be allowed to each speaker and of the number of times a representative may speak on a question, the adjournment or closure of the debate and the suspension or adjournment of a meeting.
3. The President, in exercising the functions of that office, remains subject to the authority of the Conference of the Parties.

Rule 23

1. The President, if temporarily absent from a session or any part thereof, shall designate a Vice-President to act as President in his or her place. A Vice-President so designated shall not at the same time exercise the rights of a representative of a Party.
2. A Vice-President acting as President shall have the same powers and duties as the President.

Rule 24

1. If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or perform the functions of that office, a representative of the same Party shall be designated by the Party concerned in his or her place for the remainder of the original term of office.
2. If the President is unable to act during the intersessional period, one of the Vice-Presidents shall act in his or her place. The order in which the Vice-Presidents shall be requested to serve shall be determined by lot at the session at which the election takes place.

SUBSIDIARY BODIES

Rule 25

1. In accordance with Article 23.5(f) of the Convention, the Conference of the Parties may establish such subsidiary bodies as are necessary to achieve the objective of the Convention.
2. The Conference of the Parties shall determine the matters to be considered by each such subsidiary body, including its mandate, objectives, duration and budget, and may authorize the President, upon the request of the Chairperson of a subsidiary body, to make appropriate adjustments in the allocation of work.
3. Except as provided in Rules 26-28, these Rules shall apply *mutatis mutandis* to the proceedings of any subsidiary bodies, subject to any modifications decided by the Conference of the Parties.

Rule 26

When a subsidiary body is not open ended, a majority of the Parties designated by the Conference of the Parties to participate therein shall constitute a quorum. When the subsidiary body is open ended, one quarter of the Parties shall constitute a quorum.

Rule 27

1. The Conference of the Parties shall decide the dates and venue of the sessions of the subsidiary bodies, with due regard for the desirability of holding such sessions in parallel with the sessions of the Conference of the Parties.
- [2. The Conference of the Parties or the subsidiary body concerned shall decide whether its meetings will be public meetings, open meetings or restricted meetings. This rule shall be implemented in conformity with Article 5.3 of the Convention.]

Rule 28

1. Unless the Conference of the Parties decides otherwise, the Chairperson of a subsidiary body shall be elected by that subsidiary body. Each subsidiary body shall elect its own officers with due regard for the principle of equitable geographical representation, balanced representation of developing and developed countries and gender balance. Officers shall not serve for more than two consecutive terms.
- [2. The Chairperson of a subsidiary body may exercise the right to vote.]

OBSERVERS

Rule 29

[Any Member State of WHO which is not a Party to the Convention, any Associate Member of WHO, or any State which is neither a Party to the Convention nor a Member State of WHO but is a Member State of the United Nations or of any of its specialized agencies or of the International Atomic Energy Agency shall, upon a request communicated to the Head of the Secretariat, be invited

to attend sessions of the Conference of the Parties and its subsidiary bodies as an observer. It may submit memoranda and participate in discussions without a vote.]

or

[Any Member State of the United Nations, of its specialized agencies, or of the International Atomic Energy Agency not Party to the Convention may attend meetings as observers. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting, unless at least one third of the Parties present at the meeting object.]

or

[1. Any Member State of WHO which is not a Party to the Convention or any Associate Member of WHO may attend sessions of the Conference of the Parties as an observer.

2. Any Member State of the United Nations, of its specialized agencies, or of the International Atomic Energy Agency not Party to the Convention may attend sessions of the Conference of the Parties as an observer.

3. Observers under this Rule shall have the right to speak after the Parties and to participate without the right to vote.]

or

[Subject to prior written notification to the Secretariat, any State or regional economic integration organization signatory to the Convention may attend meetings of the Conference of the Parties as an observer. It may submit its views in writing and participate in discussions without the right to vote.

Rule 29bis

Any other State or regional economic integration organization that has not signed the Convention or relevant intergovernmental organization may apply to the Secretariat for observer status, which shall be accorded by the Conference of the Parties. If accorded observer status, the State or organization concerned may, without taking part in the adoption of decisions on substantive or procedural matters:

- (a) attend plenary meetings of the Conference of the Parties;**
- (b) after consultations between the President and the other members of the Bureau leading to an invitation by the President, make oral statements at such meetings;**
- (c) submit its views to such meetings in writing.]**

Rule 30

[1. Subject to paragraph 2 below, the Head of the Secretariat, taking into account guidance given by the Conference of the Parties, may invite global and regional intergovernmental organizations and [international] nongovernmental organizations to attend sessions of the Conference of the Parties in an observer capacity.

2. Participation of intergovernmental and [international] nongovernmental organizations in the work of the Conference of the Parties and the relations between the Conference of the Parties and such organizations shall be governed by the relevant provisions of the Constitution of the World Health Organization, the Rules of Procedure of the World Health Assembly, and by other decisions adopted by the Health Assembly in respect of relations with such organizations.]

or

[1. Any body or agency, whether national, international, governmental or nongovernmental, which is [engaged] / **[qualified]** in matters covered by the Convention and which has informed the Secretariat of its wish to attend a meeting as an observer, may be so admitted unless at least one third of the Parties present at the meeting object.]

2. Such observers may, upon the invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent, unless at least one third of the Parties present at the meeting object.]

or

[1. Intergovernmental organizations may be invited to attend sessions of the Conference of the Parties as observers.

2. Observers under this Rule shall have the right to speak after observers under Rule 29 and to participate without the right to vote.

Rule 30bis

1. Nongovernmental organizations [in official relations with WHO], competent in matters falling within the purview of the Convention, and whose aims and activities are in conformity with the spirit, purposes and principles of the Convention may, taking into account guidance given by the Conference of the Parties, be invited to attend sessions of the Conference of the Parties as observers.

2. Observers under this Rule shall have the right to speak after observers under Rule 30 and to participate without the right to vote.]

or

[Any nongovernmental organization whose activities are in keeping with the spirit, purposes and principles of the Convention may, after informing the Secretariat of its desire to attend sessions as an observer, be invited to attend sessions of the Conference of the Parties. For their accreditation, the Conference of the Parties shall take into account the 17th and 18th preambular paragraphs and Article 5.3 of the Convention.]

or

[1. The Head of the Secretariat, in accordance with the guidelines provided by the Conference of the Parties, may invite:

- (a) global and regional intergovernmental organizations;**

(b) international nongovernmental organizations not affiliated with or working on behalf of the tobacco industry; and

(c) national nongovernmental organizations, whose credentials have been certified by the representative national governments and who are not affiliated to or working on behalf of the tobacco industry;

to attend sessions of the Conference of the Parties and its subsidiary bodies, provided such organizations have established relations with WHO or have been independently permitted accreditation by the Conference of the Parties.

2. Such observers may, upon the invitation of the President, participate without the right to vote, in the proceedings of any meetings of the Conference of the Parties or any of its subsidiary bodies, in matters of direct concern to the body or agency they represent, unless at least one third of the Parties at the meeting object.]

or

[Relevant nongovernmental organizations may also apply to the Secretariat for observer status, which shall be decided by the Conference of the Parties. If accorded observer status, the organization may, without taking part in the adoption of decisions on substantive or procedural matters:

(a) attend plenary meetings of the Conference of the Parties;

(b) upon invitation by the President and subject to the approval by the Conference of the Parties, make oral statements at such meetings;

(c) submit its views to such meetings in writing.]

CONDUCT OF BUSINESS

Rule 31¹

[Sessions of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise. This rule shall be implemented in conformity with Article 5.3 of the WHO Framework Convention on Tobacco Control.]

Rule 32

Proposals and amendments to proposals shall normally be introduced by the Parties in writing, in one of the official languages, and handed to the Secretariat, which shall circulate copies to delegations. Proposals and amendments shall not be considered if they have been circulated less than twenty-four hours before the meeting. The Conference of the Parties may, however, permit the discussion and consideration of proposals, amendments to proposals or procedural motions, even

¹ The final text of Rule 31 should take into account the final text of Rule 27.

though such proposals, amendments to proposals or motions have not been circulated, or have been circulated only the same day.

Rule 33

1. A majority of the States Parties shall constitute a quorum for the conduct of business at plenary meetings of the Conference of the Parties. The presence of two thirds of the States Parties shall be required for any decision to be taken.
2. For the purposes of determining a quorum for a decision to be taken on a matter within the competence of a regional economic integration organization, that organization shall be counted to the extent of the number of votes it is entitled to cast in accordance with Article 32.2 of the Convention.

Rule 34

1. No representative may address a session without having previously obtained the permission of the President. Subject to Rules 35, 37 and 41, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall maintain a list of speakers. The President may call a speaker to order if his or her remarks are not relevant to the subject under discussion.
2. During the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. The President may, however, accord the right of reply to any representative if a speech delivered after the list has been closed makes this desirable.
3. The Conference of the Parties may, on a proposal by the President or by any Party, limit the time allowed to each speaker and the number of times a representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against the proposal to set such limits. When a limit has been set, and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.

Rule 35

1. The Chairperson or Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that subsidiary body.
2. The Head of the Secretariat or any member of the Secretariat designated by him or her may upon the invitation of the President make either oral or written statements concerning any question under consideration in order to provide information and clarification or explanation.

Rule 36

The right of reply shall be accorded by the President to any representative who requests it. Representatives should in exercising this right attempt to be as brief as possible and preferably deliver their statements at the end of the meeting at which this right is requested.

Rule 37

During the discussion of any matter, a representative may at any time raise a point of order, on which the President shall immediately rule in accordance with these Rules. A representative may appeal against the ruling of the President. Such appeal shall immediately be put to the vote and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative raising a point of order may not speak on the substance of the matter under discussion.

Rule 38

1. During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.
2. For the purpose of these Rules, “suspension of the meeting” means the temporary postponement of the business of the meeting and “adjournment of the meeting” the termination of all business until another meeting is convened.

Rule 39

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two speakers may speak in favour of, and two against, the motion, after which the motion shall immediately be put to the vote.

Rule 40

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified the wish to speak. If request is made for permission to speak against closure, it may be accorded to not more than two speakers, after which the motion shall immediately be put to the vote. If the Conference of the Parties decides in favour of closure, the President shall declare the debate closed. The Conference of the Parties shall thereafter vote only on proposals moved before the closure.

Rule 41

The following motions shall have precedence in the order indicated below over all other proposals or motions, except a point of order:

- (a) to suspend the meeting;
- (b) to adjourn the meeting;
- (c) to adjourn the debate on the question under discussion;
- (d) to close the debate on the question under discussion.

Rule 42

Subject to Rule 41, any motion calling for a decision on the competence of the Conference of the Parties to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before a vote is taken on the proposal or amendment in question.

Rule 43

A representative may move that parts of a proposal or of an amendment shall be voted on separately. If an objection is made to the request for division, the President shall permit two representatives to speak, one in favour of and the other against the request, after which it shall be put immediately to the vote. The President may limit the time allowed to each speaker. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 44

When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, the Conference of the Parties shall first vote on the amendment deemed by the President to be furthest removed in substance from the original proposal, and then on the amendment next removed therefrom, and so on, until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote.

If one or more amendments are adopted, the amended proposal shall then be voted upon. If an amendment to a proposal has been accepted by the original proposer, such an amendment shall be deemed to be an integral part of the original proposal and no separate vote shall be required thereon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

A motion which constitutes a substitution for a proposal shall be considered as a proposal.

Rule 45

If two or more proposals relate to the same question, the Conference of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Conference of the Parties may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 46

A proposal or motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the proposal or motion has not been amended. A proposal or motion thus withdrawn may be reintroduced by any Party.

Rule 47

When a proposal has been adopted or rejected, it may not be reconsidered at the same session, unless the Conference of the Parties, by a two thirds majority of the Parties present and voting, so

decides. Permission to speak on a motion to reconsider shall be accorded only to the proposer, to one speaker in favour of and two speakers opposing the motion, after which it shall immediately be put to a vote. The correction of a clerical or arithmetical error in any document concerning a proposal which has already been adopted shall not be considered as requiring the reopening of the debate on such a proposal by a two thirds majority vote.

VOTING

Rule 48

1. Each Party shall have one vote, except as provided for in paragraph 2.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Rule 49

[1. The Parties shall make every effort to reach agreement by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions on matters of substance **[except budgetary issues which should be decided only by consensus]** shall, as a last resort, be taken by a two thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, by the financial rules referred to in Article 23.4 therein, or by these Rules.¹] **[However, decisions of the Conference of the Parties on matters relating to Articles 7, 9, 19.3, and 26 shall be taken by consensus.] / [However, decisions of the Conference of the Parties on matters relating to Articles 7, 9, 19.3, and 26 shall be taken by a three-quarters majority vote of the Parties present and voting, if all efforts to reach consensus have been exhausted and no agreement has been reached.**

or

- [1. The Parties shall make every effort to reach agreement by consensus.**
 - 2. If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions on matters of substance shall, as a last resort, be taken by a two thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, by the financial rules referred to in Article 23.4 therein, or by these Rules.**
- 2.bis If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions on matters of procedure shall be taken by a majority of the Parties present and voting.]**

¹ Majorities required for matters of substance are the subject of debate in a number of multilateral environmental agreements adopted under the auspices of UNEP. The Rules of Procedure of the World Health Assembly and of the Executive Board of WHO (limited to decisions on important questions) and the Rules of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993) and the WIPO Copyright Treaty (1996) provide for a two thirds majority.

2. Decisions of the Conference of the Parties on matters of procedure shall be taken by a majority vote of the Parties present and voting.
3. The President shall rule on any question of whether a matter is procedural or substantive. Any appeal against this ruling shall immediately be put to the vote. The President's ruling shall stand unless overruled by a majority of the Parties present and voting.
4. If a vote is equally divided on a matter other than an election, **[a second vote shall be taken. If this vote is also equally divided,]** the proposal shall be regarded as rejected.

Rule 50

1. Voting, except for elections, shall normally be by show of hands. A roll-call vote shall be taken at the request of any Party. The roll-call shall be taken in the English alphabetical order of the names of the Parties. The name of the Party to vote first shall be determined by lot.
2. The Conference of the Parties may vote on any matter by secret ballot if it has previously so decided by a majority of the Parties present and voting, provided that no secret ballot may be taken on budgetary questions. A decision under this Rule whether or not to vote by secret ballot may only be taken by a show of hands; if the Conference of the Parties has decided to vote on a particular question by secret ballot, no other mode of voting may be requested or decided upon.
3. When the Conference of the Parties votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call.
4. The vote of each Party participating in a roll-call or recorded vote shall be included in the records of the session.

Rule 51

1. After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting.
2. After the voting has been completed, the President may permit Parties to make a brief statement, consisting solely of an explanation of vote. A sponsor of a proposal shall not speak in explanation of vote thereon, except if it has been amended. The President may limit the time to be allowed for such explanations.

Rule 52

Elections shall be held by secret ballot, except that, in the absence of any objection, the Conference of the Parties may decide to proceed without taking a ballot on an agreed candidate or list of candidates. Where a ballot is required, two tellers appointed by the President from among the delegations present shall assist in the counting of votes.

Rule 53

1. When only one person or one Party is to be elected and no candidate obtains in the first ballot a majority of the votes cast by the Parties present and voting, a second ballot restricted to the two

candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining in the first ballot the largest number of votes and a majority of the votes cast by the Parties present and voting shall be elected.

3. If the number of candidates obtaining such majority is less than the number of persons or Parties to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or Party.

4. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 54

In an election each representative, unless he or she abstains, shall vote for that number of candidates equal to the number of elective places to be filled. Any ballot paper on which there are more or fewer names than there are elective places to be filled shall be null and void.

Rule 55

If during an election one or more elective places cannot be filled by reason of an equal number of votes having been obtained by two or more candidates, a ballot shall be held among such candidates to determine which of them will be elected. This procedure may be repeated if necessary.

LANGUAGES AND RECORDS

Rule 56

Arabic, Chinese, English, French, Russian and Spanish shall be both the official and the working languages of the Conference of the Parties.

Rule 57

1. Statements made in an official language shall be interpreted into the other official languages.
2. A representative of a Party may speak in a language other than an official language if the Party provides for interpretation into one of the official languages. Interpretation into the other official languages by interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 58

All official documents of the Conference of the Parties shall be made available in all the working languages.

Rule 59

Verbatim records of the sessions of the Conference of the Parties and summary records of the sessions of subsidiary bodies shall be made in the six working languages by the Secretariat.

Rule 60

Recordings of the meetings of the Conference of the Parties, and, whenever possible, of the subsidiary bodies, shall be kept by the Secretariat.

Rule 61

[The summary records referred to in Rule 59 shall be sent as soon as possible to delegations, who shall inform the Secretariat in writing not later than forty-eight hours thereafter of any corrections they wish to have made.]

Rule 62

[As soon as possible after the close of each session, copies of all verbatim and summary records, resolutions, recommendations and other formal decisions adopted by the Conference of the Parties shall be transmitted by the Head of the Secretariat to Parties and to States and regional economic integration organizations invited to attend the sessions.¹ The records of private meetings shall be transmitted to the participants only.]

Rule 63

[Verbatim and summary records of public meetings and the reports of all subsidiary bodies shall be published.]

Rule 64

[The Head of the Secretariat shall issue for the convenience of participating delegations and organizations, in the form of a daily *Journal* of the session, such summary account of the proceedings of plenary meetings, committees and subcommittees as he or she may consider practicable.]

¹ Rule 62 has been adapted for the Conference of the Parties from Rule 94 of the Rules of Procedure of the World Health Assembly. Language regarding other organizations in effective relations with WHO has been removed. If the Conference of the Parties has an independent legal personality, it may establish effective relations on its own and language reflecting this could be added to this rule. Alternatively, if the Conference of the Parties does not have an independent legal personality, it is not clear from WHO's basic documents that all organizations in effective relations with WHO would require or would be appropriate recipients of copies of the records of the proceedings of the Conference of the Parties.

AMENDMENT OF RULES OF PROCEDURE

Rule 65

These Rules of Procedure may be amended by consensus by the Conference of the Parties.

OVERRIDING AUTHORITY OF THE CONVENTION

Rule 66

In the event of any conflict between any provision of these Rules and any provision of the Convention, the Convention shall prevail.

ANNEX 7

**OFFICERS OF THE INTERGOVERNMENTAL WORKING GROUP ON THE
WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL**

Officers

Chair

Mr L.F. de Seixas Corrêa (Brazil) (31 January)

Ms P. Lambert (South Africa) (31 January to 4 February)

Vice-Chairs

SOUTH AFRICA (Ms P. Lambert)

UNITED STATES OF AMERICA (Mr D.E. Hohman)

INDIA (Mr J.V.R. Prasada Rao)

TURKEY (Mr H. Kivanç)

ISLAMIC REPUBLIC OF IRAN (Mr P. Seadat)

JAPAN (Mr S. Sumi)

Secretary

Dr B.P. Kean, Director, Department of Governance

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