



F C T C

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

FCTC/COP/3/REC/3

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

THIRD SESSION

DURBAN, SOUTH AFRICA, 17–22 NOVEMBER 2008

**SUMMARY RECORDS OF COMMITTEES
REPORTS OF COMMITTEES**

**GENEVA
2009**



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PREFACE

The third session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control was held in Durban, South Africa, from 17 to 22 November 2008. The proceedings are issued in three volumes, containing, in addition to other relevant material:

Decisions and ancillary documents – document FCTC/COP/3/REC/1

Verbatim records of plenary meetings – document FCTC/COP/3/REC/2

Summary records of committees, reports of committees – document FCTC/COP/3/REC/3

The documentation, including the list of participants, is accessible on the following web site:
<http://www.who.int/fctc>

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PART I

**SUMMARY RECORDS OF
COMMITTEE MEETINGS**

COMMITTEE A

FIRST MEETING

Tuesday, 18 November 2008, at 12:05

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda

Elaboration of a protocol on illicit trade in tobacco products. Report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12)): Item 4.1 of the Agenda (Document FCTC/COP/3/4)

The CHAIR, having thanked participants for the trust they had placed in him in electing him as Chair of the Committee,¹ invited the Chairperson of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products to report on the progress of work.

Mr WALTON-GEORGE (Chairperson, Intergovernmental Negotiating Body), summarizing key points of document FCTC/COP/3/4, said that the presence of more than 130 Parties in each session of the Intergovernmental Negotiating Body established their firm commitment to a protocol to combat illicit trade. The involvement of customs, trade and justice ministries had contributed significantly to progress, adding to the importance of a public health protocol. Continued intersectoral cooperation would be vital in future work on the protocol.

The first session of the Intergovernmental Negotiating Body in February 2008 had established the need for a protocol that contained strong obligations and comprehensive provisions in order to secure the supply chain of tobacco products, enhance capacity for law enforcement, and ensure minimum standards for offences, and strong sanctions and penalties. Essential elements in the draft protocol would include: international cooperation; a cautious examination of delicate areas, such as extradition and mutual legal assistance, in order to maintain coordinated progress; coordination with existing treaties and international agreements, in order to avoid conflict and learn from best practice.

During the second session, held in Geneva in October 2008, the Intergovernmental Negotiating Body had based discussions on the first version of the Chairperson's text and had negotiated first in plenary, then in committees and in a working group. Progress had resulted from commitment, technical and legal skills, and trade knowledge. That must continue.

Representatives had specifically requested expert examination and legal advice in several areas: the feasibility of an international system for the tracking and tracing of tobacco products and how that would be effective in regard to countries with fewer resources; sales of tobacco products on the Internet; the relationship between illicit trade and duty-free sales; the relationship of the protocol with other international instruments; and the scope of the protocol in respect of manufacturing equipment and key inputs. Parts IV and V of the draft protocol relied heavily on provisions in the United Nations Convention against Transnational Organized Crime. Close liaison with its Secretariat would be essential.

¹ Decision FCTC/COP3(5).

The proposed third session of the Intergovernmental Negotiating Body should be held in Geneva for an extended period from 28 June to 5 July 2009. A revised Chairperson's text would take into account expert studies, legal advice and the views expressed during the second session. He requested the Conference of the Parties to endorse the proposed dates; to provide guidance on possible future work; and to schedule the negotiations on the draft protocol, particularly if the work were not completed at that third session.

He emphasized two points. First, the goal should be to obtain the strongest protocol, signed by as many Parties as possible, with a realistic timetable rather than a rushed process. Secondly, additional funding requirements should be considered by the Parties for activities, to include the extended third session; consultation meetings, possibly with all six Regions; for follow-up work to the third session; and the cost of a potential fourth session. Committee A should recommend to Committee B that the budget should take into account a likely fourth session, at the beginning of 2010.

He sought clear guidance from the Conference of the Parties regarding the term of office of officers of subsidiary bodies; an election would be held at the beginning of the third session of the Intergovernmental Negotiating Body.

Dr ISRA SARNTISART (Thailand), speaking on behalf of the Parties to the Convention in the WHO South-East Asia Region, endorsed the call for the provision of sufficient resources, including budgetary allocations, to ensure the adoption of a strong and effective protocol on illicit trade.

Mrs CHAMORRO (European Community) affirmed that Committee B, when discussing the budget and workplan for the future, should take into consideration the comments of the Chairperson of the Intergovernmental Negotiating Body. With regard to the ambiguity concerning the term of office of the officers, the guidance given by WHO's Legal Counsel should be followed; the length of the term should be the period between two sessions of the Conference of the Parties.

Dr AMANKWA (Ghana), speaking on behalf of the Parties in the WHO African Region, emphasized the concerns of countries over the growing illicit trade in tobacco products, its effects on health and on struggling economies. Evidence suggested that smuggling took place in at least 40 of the 54 African countries, including those with the largest populations. Cigarette smuggling deprived African governments of customs revenue and thus weakened their economic development. Some States Parties had adopted minimum measures or entered into bilateral agreements with neighbouring countries for the sharing of information and provision of technical cooperation. Those steps would be enhanced by the development of an internationally legally binding instrument. However, in negotiating the protocol, regard should be given to the different levels of technological advancement in the countries' monitoring and implementation. Parties must also commit to technical cooperation, support and capacity building for the global implementation of the protocol.

The Parties in the African Region welcomed the work to be undertaken by the intersessional expert review group; the legal advice being sought on the tracking and tracing mechanism, in particular for countries with lower resources; and consideration for cooperation with other agencies in the United Nations system. They endorsed the call for additional resources to be made available for the work of the intersessional expert group, the convening of regional consultations, and the possibility of a fourth session of the Intergovernmental Negotiating Body.

Ms ALI-HIGO (Djibouti), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, supported the proposals to hold an extended third session of the Intergovernmental Negotiating Body and, if necessary, a fourth session. Committee A should support the request for additional resources, and communicate its decision to Committee B. WHO's Legal Counsel could provide guidance on the term of officers; however, the same officers should remain in position for the third and fourth sessions of the Intergovernmental Negotiating Body.

Dr QOTBA (Qatar) asked the Chairperson of the Intergovernmental Negotiating Body to clarify the need for a fourth session and consequent implications.

Mr REGALADO PINEDA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, suggested that the report of the Chairperson of the Intergovernmental Negotiating Body should be submitted in advance of the 60 days stipulated in the Rules of Procedure. Thus all countries could formulate recommendations and include important items in their plans.

Dr LEÓN CHEMPEN (Peru) emphasized bilateral agreements, technical cooperation, and the provision of resources for poorer countries for the control of illicit trade. Contraband cigarettes from more than 35 different sources were sold across Peru, and a protocol on illicit trade would be essential for her country.

The meeting rose at 12:40.

SECOND MEETING

Tuesday, 18 November 2008, at 15:15

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of a protocol on illicit trade in tobacco products. Report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12)): Item 4.1 of the Agenda (Document FCTC/COP/3/4) (continued)

Mr WALTON-GEORGE (Chairperson, Intergovernmental Negotiating Body), responding to a question at the previous meeting on the need for a fourth session of the Intergovernmental Negotiating Body, said that, despite the progress made, much remained to be done. Some work would be undertaken before the third session but completion of the text by them would be almost impossible. Further expert advice and regional meetings might be needed after the third session. If the process of reaching the strongest possible text were rushed, the text submitted to the Conference of the Parties would very likely be diluted and weak.

Mr BURCI (WHO Legal Counsel) said that the problem regarding the term of office of the officers of the Intergovernmental Negotiating Body had arisen because Rule 28 of the Rules of Procedure of the Conference of the Parties stated that officers of subsidiary bodies could not serve for more than two consecutive terms, but failed to define the word "term". For the second session of the Intergovernmental Negotiating Body, the Secretariat had prepared a document containing two possible interpretations: first, that the word "term" should be understood to be synonymous with "session"; and second, that the term of office of the officers should be aligned with the particular nature of the decision of the Conference of the Parties establishing that body.

In the case of the Intergovernmental Negotiating Body, in view of the reporting requirements, the Secretariat had proposed that the current officers be allowed to serve for two initial sessions as their first term, and be able to stand for re-election for a second term to cover the third and, possibly, fourth session of the Intergovernmental Negotiating Body. The Intergovernmental Negotiating Body had endorsed the second option at its session in October 2008, but, noting the ambiguity arising out of the Rules of Procedure, had decided to refer the matter back to the Conference of the Parties for final clarification and decision.

The Conference of the Parties needed to decide whether it endorsed the Intergovernmental Negotiating Body's interpretation. Also, since the issue would arise again if the Conference of the Parties were to establish other subsidiary bodies, the Conference of the Parties might wish to delete the sentence reading "Officers shall not serve for more than two consecutive terms" from Rule 28.1 of the Rules of Procedure, leaving it to each subsidiary body to determine the duration of its officers' term of office.

Elaboration of guidelines for implementation of Article 5.3 of the Convention (decision FCTC/COP2(14)): Item 4.2 of the Agenda (Document FCTC/COP/3/5)

Mr DRAIJER (Netherlands) recalled that elaboration of the guidelines for implementation of Article 5.3 had started after the second session of the Conference of the Parties, and had led to a sense

of ownership of the draft guidelines among Parties. Article 5.3 addressed Parties' own responsibilities and governments as a whole. Therefore the guidelines should be: written in clear, concise neutral language; aligned with the text of the Framework Convention; acceptable to all Parties despite their differing cultural, social, political and economic circumstances, traditions and systems; serve those Parties wishing to establish regulations and policies for preventing interference from the tobacco industry; and establish a reference point for those countries with such regulations and policies in place. He urged Parties to ensure a positive outcome of the efforts of the working group and Key Facilitators.

Mr CABRERA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, maintained that the guidelines must be approved during the present session of the Conference of the Parties. He suggested that an informal working group be established to review the text and propose specific changes in the wording.

Dr NOBOA (Ecuador) said that use of the terms "legal" or "illegal" could give rise to ambiguity. Guiding principle 1 should highlight the irreconcilable contradictions between the tobacco industry and public health, rather than strengthen the notion that tobacco was a legal product. With regard to recommendation 6, Article 5.3 should clearly point out that activities described as "corporate social responsibility" by the tobacco industry were an insidious form of advertising that should not be allowed.

Dr MAINA (Kenya), speaking on behalf of the Parties in the WHO African Region, said that governments must take firm policy positions to protect their people from the harmful effects of tobacco use. The Region would welcome strong clear guidelines on implementation of Article 5.3. As guiding principle 1 could be seen to endorse tobacco products, he proposed that the phrase "tobacco is legal but lethal" should be replaced with "tobacco products are lethal products".

The tobacco industry used its activities as a marketing and public relations strategy. Therefore, any provision for corporate social responsibility would contradict the requirements of Article 13 of the Framework Convention which called for a comprehensive ban on all tobacco advertising, promotion and sponsorship. On the issue of transparency and accountability, interaction between governments and the tobacco industry should be minimal and the date and venue of their meetings publicized. With regard to enforcement mechanisms, provision should be included that required Parties to take legal action against any form of interference in the formulation and implementation of tobacco control policies. To that end, paragraph 28 of the draft should be amended to read: "Parties should introduce and apply criminal, civil and administrative sanctions that are effective, proportionate and dissuasive to support their laws and regulations implementing Article 5.3". The draft guidelines should be strengthened and clarified, and adopted at the earliest opportunity.

Dr ABASCAL (Uruguay) agreed that the guidelines should be made clearer and stronger. Trade in tobacco, although legal, had lost legitimacy owing to the damage it inflicted. Recommendation 2.2 in paragraph 17 was not an issue of transparency and should be amended; the tobacco industry should simply not be involved in any development of public health policy. The payments, gifts and services from the tobacco industry, referred to in paragraph 20, did create conflicts of interest and were often illegal, as they were in his own country. Parties must endeavour to prohibit any sponsorship, promotion or assistance from the industry, which must be categorically banned in writing.

Dr MORI (Japan), referring to paragraph 17, said that the guidelines should not obligate Parties to eliminate all contact or association with the tobacco industry; in some cases, relations between a government and the tobacco industry might be appropriate, such as in efforts to reduce illicit trade in tobacco products. With regard to recommendation 3 under paragraph 33, efforts should focus on formulating the guidelines and on establishing their effectiveness, rather than on elaborating a new protocol.

It was extreme to postulate that all activities of corporate social responsibility were tantamount to advertising, although clearly some should be restricted. For his delegation, the question was one of

conflict of interest. His Government was a shareholder in the tobacco companies and would therefore be unable to comply with some of the recommendations made in the document. It was important to ensure transparency and accountability rather than impose outright prohibition. He requested that those concerns should be taken up by the Bureau and discussed during the current session. He agreed to the proposal to form a working group.

Mr GUO Xiaofeng (China) said that the draft guidelines would contribute to implementation of the Framework Convention. However, they contained ambiguities and the suggested working group would achieve a clearer, more balanced text. His delegation would propose its specific amendments during the discussions in the working group.

Ms ROA RODRÍGUEZ (Panama), having emphasized improving the content of the guidelines, said that the concept of legality included as a principle had no validity since it was not a principle addressed in the Framework Convention. She also questioned the interpretation of good governance. Referring to paragraph 11, she said that the engagement of the Parties should be with public health and not with the tobacco industry. Regarding recommendation (4), conflicts of interest with public institutions should also be avoided, whereas with recommendation (6), the objective was to ban the actions by the tobacco industry referred to in Article 13 of the Framework Convention, not to “denormalize” or “regulate” them. The terminology used elsewhere in the draft guidelines could be confusing and consensus would be swifter if the language of the Framework Convention was retained. She supported the suggestion for further discussion of the text.

Ms MOODLEY (South Africa) proposed the following amendments to the draft guidelines. In the introduction, the order of paragraphs 1 and 2 should be reversed, because paragraph 2 set the policy framework of Article 5.3. The word “indicates” in the first line of current paragraph 2 should be replaced by “states”. Throughout the draft guidelines, the word “countries” should be replaced with “Parties or non-Parties”. The words “unlawful or unethical” in the second sentence of paragraph 8 should be deleted and the text should read “... aim at protecting against interference not only by ...”. For purposes of clarity, the words “accountable and transparent”, which were not precisely defined, should be deleted from principle 2 (paragraph 11) and some other formulation found. In principle 4 (paragraph 13), the words “privileged treatment” should be replaced with “incentives”, and the word “companies” replaced with “entities”. In recommendation (5), the words “collected from” should be replaced with “provided by”, and the word “transparent” should be replaced with “comprehensive”. In paragraph 28 (Enforcement) the words “or to the extent possible” in the first line and “and these guidelines” at the end should be deleted. The paragraph would then read: “Parties should put in place enforcement mechanisms and use existing enforcement mechanisms to meet their obligations under Article 5.3 of the Convention.”

Ms ALI-HIGO (Djibouti) said that the Parties in the WHO Eastern Mediterranean Region agreed that further discussion and amendments would be required and supported the idea of establishing a working group. The Parties’ proposals would be submitted in writing.

The CHAIR confirmed that delegates should submit any suggested amendments in writing.

Dr ABOU AL ZAHAB (Syrian Arab Republic) expressed concern about the heading of principle 1, which could be used by the tobacco industry to its own benefit. Alternative wording should indicate that, although tobacco products were allowed in certain countries, smoking was lethal.

Dr ISRA SARNTISART (Thailand) said that the Parties in the WHO South-East Asia Region supported stringent guidelines and welcomed the suggestion to establish a working group.

Mr BRUNET (France), speaking on behalf of the Parties in the European Union, said that the adoption of guidelines for implementation of Article 5.3 would provide all Parties with access to

instruments to ensure that public health policies were no longer influenced by the tobacco industry. The draft constituted a good basis, although certain points required amendment. The European Union sought to move swiftly towards adoption of the draft. In that case, should the entire text be reopened for discussion or could a certain number of points be improved? Was a working group necessary to perform a task already done by the rapporteurs? The European Union supported in principle the Chair's proposals that consideration could be given to the reworking of certain parts and to deciding how best to reach the consensus required for adoption of the draft guidelines at the current session.

Mr CABRERA (Mexico) suggested that the most practical way of addressing concerns and questions regarding the draft guidelines and recommendations would be to establish a working group in which representatives from the WHO regions would examine the document, including any discrepancies between the English and Spanish versions.

The CHAIR said that it might be premature to enter into a procedural debate on achieving the common objective of adoption of the draft guidelines. He therefore proposed that, once all views had been received, he would consult the regional groups and the Bureau, take into account views, content and procedure, and then submit a proposal.

Mr SALAGAÏ (Russian Federation) said that he had no objection to the establishment of a working group and would propose some amendments to the text in writing, in particular to recommendation (4), together with suggestions regarding terminology. Concerning conflict of interest, a principle should cover the situation of persons who joined a tobacco company after having worked within government in defining and implementing public health policies.

Mr MALOBOKA (Namibia) said that Parties should exercise caution in discussions on health with the tobacco industry. Once the concerns regarding the text had been resolved, the draft guidelines should be urgently adopted in order to protect vulnerable people, particularly the disadvantaged rural masses, a target for the lethal strategies of the tobacco industry. The tobacco industry must also be made responsible for damage to health and the environment.

Mr DORADO MAZORRA (Corporate Accountability International), speaking at the invitation of the CHAIR, said that the tobacco industry constituted the major obstacle to control of the supply and demand of tobacco products. Guidelines must be approved that would ensure that the industry was not involved in the design of public health policies. He suggested that the text should be strengthened for the following purposes: to prevent the tobacco industry from meddling in government; to ensure transparency in any interaction between governments and the tobacco industry; to highlight the basic conflict existing between the tobacco industry and public health; to reject so-called "corporate social responsibility"; and to impose penalties for non-compliance.

The CHAIR suggested that further consideration of the agenda item should be deferred pending discussion with the regional groups and the Bureau.

It was so agreed.

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

Elaboration of guidelines for implementation of Articles 9 and 10 of the Convention (decision FCTC/COP2(14)). Progress report of the working group: Item 4.3 of the Agenda (Document FCTC/COP/3/6)

Mr CHOINIÈRE (Canada), introducing the report, said that the working group had held two meetings since the second session of the Conference of the Parties. The latter had extended the mandate to Article 10, to include product characteristics. Important points included: the financing of

tobacco product regulation programmes would require further examination; testing and measuring should be undertaken in approved laboratories; three contents of tobacco products had been identified for which methods for testing and measuring should be validated as a priority; and, for measuring the emissions of tobacco products, four methods should be validated as a priority.

Information to be collected from the tobacco industry regarding tobacco product disclosures should include contents and emissions, ingredients, factors influencing attractiveness and addiction, product characteristics and market data. Further work was required on a global data repository. Product characteristics had been divided into three groups: characteristics for which no testing or measurement was necessary for disclosure; design features that could be tested or measured with existing standardized methods and readily available equipment; and characteristics for which no standardized methods existed, and for which no equipment was readily available.

The working party could develop an initial set of guidelines by the fourth session of the Conference of the Parties. It proposed to continue to monitor certain areas and to continue examining the creation of a global data repository. It recommended that the Conference of the Parties, through the Convention Secretariat, request WHO's Tobacco Free Initiative to validate the analytical chemical methods concerning contents and emissions; identify best practices in reporting to regulators and in informing the public; collect information on legal cases; monitor scientific progress; and, where appropriate, design and validate methods for testing and measuring product characteristics.

Ms VESTAL (WHO Secretariat) said that the WHO Secretariat would be pleased to work with the Convention Secretariat in the scientific areas identified. It would endeavour to validate the seven methods identified for contents and emissions in five years and to deliver on the other areas before the fourth session of the Conference of the Parties.

Dr NDYANABANGI (Uganda), speaking on behalf of the Parties in the WHO African Region, commended the working group and the Key Facilitators and expressed support for the principles outlined in the document. The Conference of the Parties should allow the working group to prepare guidelines for implementation of Articles 9 and 10 for discussion by the Conference of the Parties at its fourth session. She thanked WHO's Tobacco Free Initiative for agreeing to provide the scientific organization for completion of the guidelines.

Mr OOKA (Japan) expressed appreciation of the working group's efforts. With regard to validation of methods, he recalled that the decision of the second session of the Conference of the Parties (decision FCTC/COP2(14)) referred to the possibility of collaboration with the third-party institution, the International Organization for Standardization. Paragraphs 14, 37 and 39 of the progress report contained in document FCTC/COP/3/6, referring to method validation, should therefore be amended accordingly. With reference to paragraph 8, each Party should be able to decide for itself how to finance tobacco product regulation programmes. The scope of the elements listed in paragraphs 25 and 31 on information disclosure was too broad. In identifying items to be disclosed, fair competition, national confidentiality regulations, and the availability of such information needed to be taken into account. Paragraph 27 on confidentiality of information should also be examined carefully with respect to national regulations on data protection.

Mr RYU Ho-young (Republic of Korea) said that the validity and objectivity of the methods identified should be examined, and weaknesses rectified in collaboration with the International Organization for Standardization, before adoption of the draft guidelines.

Mr CABRERA (Mexico) said that the Parties in the WHO Region of the Americas welcomed the document and the fruitful collaboration with WHO's Tobacco Free Initiative. He reported that a laboratory was being built in Brazil for the analysis of tobacco products.

Mr CHOINIÈRE (Canada) emphasized that the document before the Committee was merely a progress report, and did not constitute draft guidelines. He thanked representatives for their comments, which would be taken into account by the working group should its mandate be extended.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) praised the scientific quality of the work produced by the working group, but expressed reservations about expensive tests unless those clearly advanced health. Tests should be limited or reduced to essentials, and unnecessary costs should be avoided. He observed that the new laboratory in Brazil could serve both as a reference point and for personnel training.

Ms ALI-HIGO (Djibouti), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, commended the efforts of the working group. The Parties would be interested in a similar study on water-pipe tobacco products, widely used in the Region.

Ms LINDBAK (Norway) said that, as one of the Key Facilitators, Norway had listened carefully to the discussions. A draft decision on the agenda item had been prepared, based on the recommendations contained in the progress report, for subsequent consideration by the Committee.

The CHAIR said that, if he heard no objection, he would take it that the Committee wished to take note of the progress report and recommended that the Conference of the Parties extend the mandate of the working group to the three areas identified until the fourth session of the Conference of the Parties.

It was so agreed.

(For continuation of the discussion and approval of a draft decision, see summary record of the fifth meeting.)

**Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14)):
Item 4.4 of the Agenda (Document FCTC/COP/3/7)**

Ms HART (Australia), introducing the draft guidelines, said that they were intended to assist Parties in meeting their obligations under Article 11 of the Framework Convention, and to increase the effectiveness of the Parties' packaging and labelling measures. Article 11 requirements might be seen as a minimum standard: the draft guidelines proposed that Parties should consider other measures, going beyond the requirements of the Framework Convention.

The use of pictorial health warnings on tobacco product packaging had grown considerably since the Convention's adoption. Warnings that combined colour pictures and text outperformed text-only warnings on almost every measure. Pictorial health warnings had public support, and the draft guidelines proposed the inclusion of pictorial health warnings in full colour. They also suggested that Parties consider product-specific health warnings.

With regard to packaging and labelling requirements, the draft guidelines suggested that Parties should also consider product categories, types of packaging, and the requirements of different population subgroups.

The draft guidelines included measures to restrict packaging and labelling, covering issues such as the use of the descriptors "light" and "mild", the printing of yield levels, and plain packaging. No Party was obligated to implement the option on plain packaging, although it was suggested in the draft guidelines. With regard to constituents and emissions, the WHO Study Group on Tobacco Product Regulation had recommended a descriptive or qualitative statement, which would be more meaningful to consumers than yield levels. Legal measures, enforcement, monitoring and evaluation, and international cooperation were all provisions that could affect the overall impact of a health warning system.

She recommended that the Conference of the Parties adopt the draft guidelines.

Ms SABISTON (Canada) proposed that the Conference of the Parties request the Convention Secretariat to make research and reference material related to the guidelines on Article 11 accessible to the Parties. The reporting instrument used by Parties under Article 21 should be enhanced in order to take into consideration the adoption of the Article 11 guidelines.

Mr CABRERA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, thanked the Key Facilitators, endorsed the proposal made by Canada, and expressed support for the adoption of the draft guidelines.

Mrs CHAMORRO (European Community) said that the draft guidelines would be very useful to Parties in implementing their obligations and developing national legislation, and should be adopted without change. International cooperation would be essential. Therefore, the Conference of the Parties should adopt a resolution providing the Parties with access, free of royalties, to the libraries of textual and pictorial health warnings of other Parties. The Convention Secretariat should be mandated to facilitate that process.

Ms BEGUM (Bangladesh), speaking on behalf of the Parties in the WHO South-East Asia Region, commended the Key Facilitators and Partners, and proposed that the draft guidelines be adopted without revision.

Dr FARIAS ALBURQUEQUE (Peru) agreed that the Conference of the Parties should request WHO's Tobacco Free Initiative, through the Convention Secretariat, to establish and maintain a database of the images and text used by countries in implementing Article 11.

Mr OOKA (Japan) said that it was his understanding that implementation of some of the measures, such as the introduction of plain packaging, would be left to the discretion of each Party. Other measures, such as the introduction of graphic warnings and the use of some descriptors should, in principle, also be determined by each Party.

Ms ALI-HIGO (Djibouti), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, welcomed the detailed draft. She expressed satisfaction that water-pipe tobacco (shisha) had been taken into consideration in the draft guidelines, and called for the use of adhesive labels on shisha bottles. Illustrating the importance of cooperation for the transfer of knowledge and skills, Parties in the Region had worked successfully with Australia, Canada and the European Community in obtaining pictorials.

Speaking on behalf of her own country, she requested clarification of the minimum period necessary for positioning pictorials on cigarette packets and tobacco products.

Mr PADILLA (Philippines) suggested the addition in the guidelines of two new provisions: that the Conference of the Parties, through the Convention Secretariat, should request WHO's Tobacco Free Initiative to establish a system of copyright permission between Parties for pictures and texts relating to all health messages; and to establish and maintain an international database of copyright-free pictures and texts for use by Parties; and that at its fifth session, the Conference of the Parties consider undertaking a review of the guidelines.

Mr CHOINIÈRE (Canada), responding to the question raised by the representative of Djibouti, said that the time required for the positioning of pictorials would depend on each country's circumstances. He would be pleased to meet interested Parties to discuss the matter further.

Mr ALLEN (New Zealand) said that the draft guidelines were realistic, evidence-based and practical, and should be adopted without change. New Zealand would be pleased to make available those packaging images for which it held copyright and supported the proposal to establish a database of such images.

Ms LINDBAK (Norway) said that she supported the adoption of the guidelines without change.

Ms MOODLEY (South Africa) said that the Parties in the WHO African Region supported the adoption of the draft guidelines.

Dr ABASCAL (Uruguay) expressed support for the draft guidelines. In Uruguay the tobacco industry had circumvented the prohibited use of descriptors on tobacco product packaging, such as “light”, “ultra-light” and “mild”, by colour coding its products. Uruguayan regulations provided that each brand must be packaged in one way only, and the industry had entered into litigation with the State.

Mr YÜRKSKEL (Turkey), commending the Key Facilitators, said that the guidelines should be adopted without change.

Mr GUO Xiaofeng (China) supported the establishment of guidelines but said that the scope of Article 11 should not be enlarged indefinitely. The draft guidelines, as they currently stood, added obligations. That would create difficulties for Parties, such as China, that had already promulgated administrative orders concerning Article 11. Paragraph 46 concerning plain packaging could give rise to legal issues relating to brand names and intellectual property rights, and should be deleted. Consistency with the terms used in the Convention, the words “health authority” in paragraph 48 should be replaced by “competent authority”.

Ms HART (Australia) reiterated that the draft guidelines merely suggested that Parties consider provisions, including those relating to plain packaging; no Party was obligated to implement the options.

Mr GUO Xiaofeng (China) said that Article 11.1(b)(iv) of the Convention specified a range of display areas for health warnings and messages on tobacco products whereas paragraph 12 of the draft guidelines suggested that they cover more than 50% of the principal display areas. The guidelines should be consistent with the Convention. China did not object to the principle of such pictorials but their use, which might provoke cultural difficulties, should be left to the discretion of each Party. Qualitative statements on constituents and emissions should be displayed in the area occupied by health warnings and messages.

Mr RYU Ho-young (Republic of Korea) said that health-promotion authorities should be responsible for regulating the tobacco industry, and reflect each Party’s situation. Supplementary measures were required in order to prevent misleading information that lower levels of tar and nicotine content were less harmful to health.

Dr MAHAMAT SALEH (Chad) proposed that the draft guidelines should be adopted without change.

The meeting rose at 18:00.

THIRD MEETING

Wednesday, 19 November 2008, at 10:30

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14)): Item 4.4 of the Agenda (Document FCTC/COP/3/7) (continued)

Mr MATSOGA (Botswana) said that the pictorials used on tobacco product packaging should depict local settings to ensure that they resonated with people. Messages and warnings should appear in all the official languages used in each country. The impact of a particular message should be assessed over at least five years. He called for cooperation between health ministries in formulating messages to promote health education.

Mr SIBETCHEU (Cameroon) expressed support for the draft guidelines. Provisions should be included to assist Parties in determining and enforcing a minimum size for messages relative to the size of the packaging. He favoured the imposition of a minimum 12-month period for rotation of messages and drew attention to the potential difficulties in implementation for countries such as his own.

Dr INSISIENGMAY (Lao People's Democratic Republic) expressed his support for the draft guidelines on Article 11. Developing nations, such as his own, would benefit from strong pictorial health warnings that were cost-effective and educational.

Mr OTTO (Palau), speaking on behalf of the Pacific island Parties, said that the draft guidelines were clear, would assist Parties in meeting their obligations under the Framework Convention, and should be adopted without change.

Ms ALI-HIGO (Djibouti), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region said that, in the light of the views expressed, she would accept the draft guidelines as they stood.

Dr RAHMAN (Malaysia) endorsed the draft guidelines in full. Clear and truthful warnings must be given to everyone at risk of harm from cigarettes. The proposed recommendations concerning packaging and labelling were consistent with the findings of national studies. Misleading descriptors, such as "slim", "super" and "number one", should be banned. The tobacco industry's circumvention of restrictive provisions, through colours, shades and numbers to differentiate their products, might be overcome by making plain packaging obligatory.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) emphasized that labelling should include information on batch numbers, country of origin and the date of manufacture in order to combat illicit trafficking, counterfeiting and smuggling. The draft guidelines should be concise and easy to use.

Mr MALOBOKA (Namibia) supported the draft guidelines without change.

Mr PANCHOO (Mauritius) said that Mauritius was complying with its obligations under the Framework Convention. Rotation of existing health messages and warnings had been introduced, to be followed by pictograms covering 65% of the surface area of each side of the packaging.

Mr YÜKSEL (Turkey), speaking on behalf of the Parties in the WHO European Region, said that the draft guidelines should be accepted without amendment. However, the language used with respect to plain packaging in Articles 11 and 13 must be consistent.

Dr ABOU AL ZAHAB (Syrian Arab Republic), referring to paragraph 38 of the draft guidelines, said that pregnant women were among those population subgroups that should be targeted.

Dr LEWIS-FULLER (Jamaica) said that it would make no sense to withhold the guidelines as many countries were already taking action with respect to the implementation of Article 11. The guidelines did not appear to address the tobacco industry's use of misleading phrases concerning the expiry date, such as "best before" or "good until", against which her country had been battling for some time. The guidelines should be reviewed periodically to take into account any new tactics developed by the tobacco industry.

Mr CHOINIÈRE (Canada) pointed out that paragraph 45 of the draft guidelines dealt with the issue of expiry dates.

Dr FANNING (Observer, United States of America)¹ said that his country supported making public health policy independent of the tobacco industry. Furthermore, the reduction of smoking-related illnesses and deaths was a key public health objective. The draft guidelines were part of a global effort to prevent future death and disease; however, she registered concern regarding some of the provisions as they would restrict the use of trademarks and therefore have potential legal impediments in the United States.

Mr CUNNINGHAM (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, said that the well-drafted guidelines would be of assistance to all Parties. They should be adopted without change.

Dr GAHUNGU (Burundi) agreed that the objective of the draft guidelines was to assist Parties to implement Article 11, rather than to enlarge the article's field of application. Therefore the draft guidelines should make the requirement regarding the size of the messages and health warnings explicit and obligatory. African countries would be grateful for financial and technical assistance to implement measures on colour printing and rotation of messages. He joined previous speakers in emphasizing the sharing of best practices.

Mr RYU Ho-young (Republic of Korea) said that his Government had recently revised its legislation in order to label cancer-causing substances, such as nickel, cadmium and naphthalene, on the front and back of packages. Helpful comments from the Convention Secretariat on tobacco warning pictures had assisted the drafting of a bill that had been submitted to his country's National Assembly.

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

Dr SELIN (Convention Secretariat), referring to the comments of Burundi, said that the specification of the size of lettering of health warnings had been taken from the Framework Convention itself.

Dr AL-LAWATI (Oman) requested clarification from WHO's Legal Counsel regarding the legal implications in some countries of plain packaging.

Mr BURCI (WHO Legal Counsel) said that restricting or eliminating registered trademarks might be seen in some jurisdictions as an infringement of those trademark rights. The situation was not the same in all countries, since it depended on national law and the international obligations of the State concerned. In some countries, for example, there were ample possibilities to limit intellectual property rights for public health reasons.

The CHAIR congratulated the Key Facilitators, Partners and all involved in the preparation of the draft guidelines. An overwhelming majority of delegates was in favour of adopting the text without change, and he would work with delegations in order to address concerns raised.

Ms HART (Australia) said that Australia, as one of the Key Facilitators, offered to formulate the draft decision. It would appreciate assistance in that regard from other Key Facilitators or Partners.

Mrs CHAMORRO (European Community) said that, as a Partner, the European Community would like to assist in preparing the draft decision.

Mr PADILLA (Philippines) said that the Philippines, as a Key Facilitator, would like to participate in the formulation of the draft decision.

Ms SABISTON (Canada), Mr HOSHINO (Japan) and Ms BASTOS de ANDRADE (Brazil) said that their countries wished to be involved in preparing the draft decision.

Ms TSETSEGDARI (Mongolia) said that Mongolia had legislated on the use of pictorial health warnings in February 2008 but tobacco companies had delayed their use until 2010. Reference in the guidelines to interaction with WTO, particularly in relation to enforcement, would be beneficial.

Ms HART (Australia) said that the guidelines under consideration had been elaborated in response to a decision by the Conference of the Parties; each country would need to legislate, or regulate changes required, in order to implement the guidelines, since they were advisory in nature and not binding.

Dr PRASAD (India) said that India had been implementing packaging and labelling requirements. However, those had been reduced from 50% of the display area to 40%, and pictorial warnings had been toned down, following legal challenges. India looked forward to sharing its experience and working on the draft decision.

Dr LEWIS-FULLER (Jamaica) and Ms ALI-HIGO (Djibouti) said that they wished to participate in the group drafting the decision.

Mr GAO Yanmin (China) said that China was ready to continue working towards the adoption of the draft guidelines, and to participate in formulating the decision.

Following a request for clarification from Mr ALLEN (New Zealand), the CHAIR said that the intent was to draft a decision acknowledging the high degree of consensus on the adoption of the draft guidelines, not to establish a drafting group on the guidelines themselves. He believed that the concerns expressed on the draft guidelines by one delegation could be accommodated in the decision.

Dr POLISHCHYK (Ukraine) said that his country would be modifying national legislation on smoking, an historically significant event, in line with the Framework Convention. He urged other nations to do the same.

The CHAIR invited the Key Facilitators and interested delegations to draft a decision concerning the draft guidelines for implementation of Article 11 of the Framework Convention.

It was so agreed.

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

Elaboration of guidelines for implementation of Article 5.3 of the Convention (decision FCTC/COP2(14): Item 4.2 of the Agenda (Document FCTC/COP/3/5) (continued from the second meeting)

The CHAIR said that he had consulted with the Bureau and regional groups and proposed that a working group be established to further review the draft guidelines for implementation of Article 5.3. It would focus essentially on the problems already identified. Ideally, the working group would be composed of two representatives from each regional group, or more if necessary, and one Key Facilitator.

Mr CABRERA (Mexico) welcomed the Chair's suggestion and said that Mexico and Panama would represent the Parties in the WHO Region of the Americas in the working group.

Mr YÜKSEL (Turkey), speaking on behalf of the Parties in the WHO European Region, welcomed the Chair's suggestion and an early start to the activities of the working group. Representatives from the Region would be identified in due course.

Dr BAM (Nepal), having expressed support for the establishment of an informal working group, said that the Maldives, Sri Lanka and Thailand would be representing the Parties in the WHO South-East Asia Region. Expert representatives from the nongovernmental organizations and WHO's Tobacco Free Initiative should also participate in the working group.

Ms HART (Australia) said that the Parties in the WHO Western Pacific Region agreed with the proposed arrangements. China, Japan, Malaysia, New Zealand and Palau would represent the Region, with Palau also participating on behalf of the Marshall Islands and the Philippines. The Republic of Korea would submit a written statement to the working group.

Dr MAINA (Kenya) said that Benin, Kenya, Mauritius and Nigeria would represent the Parties in the WHO African Region. Representatives from civil society and nongovernmental organizations should also be involved in the working group.

Ms ALI-HIGO (Djibouti), having welcomed the suggestion to convene an informal working group, said that Djibouti, Oman and Saudi Arabia would represent the Parties in the WHO Eastern Mediterranean Region.

The CHAIR said that the sensitivity of issues relating to the role and realm of governments made it preferable to confine membership of the working group to States Parties. Nongovernmental organizations could convey their views to the working group either through him or through a participating delegation.

Mr CABRERA (Mexico) endorsed that approach. Ideally, there should be two representatives from each region, with a compromise text elaborated before the closure of the session.

Mr GUO Xiaofeng (China) said that China could accept the establishment of a working group on two conditions: first, there should be no restriction on the number of representatives; and second, participants should be free to raise any questions during the discussions.

The CHAIR, responding to a request for clarification from Professor PRAKIT VATHESATOGKIT (Thailand), said that since the Tobacco Free Initiative was part of the WHO Secretariat, the working group could call upon WHO experts. Following a question from Dr FANNING (Observer, United States of America),¹ he said that delegations not taking part in the working group discussions could communicate their views through members of the working group in written or oral form.

Responding to the comments from China, he said it would not be practical to establish an open-ended working group at that time. Although delegations could draw attention to a particular issue, the objective was for the working group to focus on the specific concerns identified during the Committee's discussions.

Mr PADILLA (Philippines) recalled that the Framework Convention referred to the special contribution of nongovernmental organizations and civil society not affiliated with the tobacco industry. He asked whether representatives from those organizations might participate in the working group.

Dr NOBOA (Ecuador) said that nongovernmental organizations had an important role to play in implementing the Framework Convention. Strong guidelines concerning Article 5.3 must be developed and all contributors to that end should be involved. Accordingly, nongovernmental organizations should be able to act as observers in the working group.

The CHAIR said that the working group could request information from nongovernmental organizations, if necessary.

Dr AL-BEDAH (Saudi Arabia) said that participation of nongovernmental organizations in the working group would ease consultation.

Ms ALI-HIGO (Djibouti) said that nongovernmental organizations had spoken out courageously about the interference of the tobacco industry. In the spirit of the Framework Convention, one or two of the most relevant associations should be allowed to participate in the working group.

The CHAIR said that there was merit in the suggestion from Djibouti. The working group should hold its first meeting, following which he would work to find solutions to issues of participation. The Committee should not get sidetracked from the main point which was the development of the guidelines, not the participation of nongovernmental organizations.

Dr AL-LAWATI (Oman) said that the work of nongovernmental organizations was beneficial to the Framework Convention, and stressed that they should be allowed to participate in the working group.

Following a question from Mr YÜKSEL (Turkey) concerning established practice on the involvement of nongovernmental organizations, the CHAIR said that drafting and negotiation work

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

was usually undertaken by States Parties. However, there was nothing to prevent States Parties from calling on nongovernmental organizations to provide information and assistance.

Dr AL-BEDAH (Saudi Arabia) said that he was not convinced of the justification given regarding the participation of nongovernmental organizations. If such organizations were not invited to take part, Saudi Arabia would withdraw its participation from the working group.

The CHAIR reiterated that if, after its first meeting, the working group decided that the participation of nongovernmental organizations would be advisable, he would work to find a solution satisfactory to all.

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

Elaboration of guidelines for implementation of Article 12 of the Convention (decision FCTC/COP2(14)) – Progress report of the working group: Item 4.5 of the Agenda (Document FCTC/COP/3/8)

Mrs KIRSCHBAUM (Germany), introducing the progress report, recalled that, at its second session, the Conference of the Parties had decided to establish a working group to elaborate guidelines for implementation of Article 12 of the Framework Convention.¹ The working group, which consisted of four Key Facilitators and 26 Partners, had held its first meeting in February 2008 in Berlin. Article 12, which dealt with education, communication, training and public awareness, was critical to the implementation of the Framework Convention. The working group had aimed to draft guidelines that were universally applicable, cost-effective, affordable, based on best practice, and sufficiently detailed. It had found consensus on the purpose, objectives, guiding principles and definition, and had outlined the main contents of the draft guidelines.

Ms HAGLUND (Sweden) said that the working group had agreed on underlying considerations, and that the draft guidelines should be based on human rights treaties; framed around the right to life, health and education; and protect those fundamental rights and freedoms. She highlighted the strengthened capacities needed by Parties to meet the obligations of Article 12: a comprehensive multisectoral approach; independence from the tobacco industry; international collaboration; mutually supportive sharing of information and technical capacity. Key points to be addressed included: education; communication; training and public awareness; obligations under the Framework Convention; the role of governments; ethical responsibilities; issues of influence, particularly towards vulnerable populations; and tailoring messages to reach all groups. All methods for delivering education and training should be proven, and potential partners should be proposed.

If the working group's mandate were extended, it would begin collection of case studies and the drafting of guidelines for submission to the fourth session of the Conference of the Parties.

Mr YÜKSEL (Turkey) emphasized research-based evidence, international cooperation and independence from the tobacco industry.

Ms CAVALCANTE (Brazil) said that Articles 17 and 18 of the Framework Convention might also be included in the progress report as those areas could benefit from activities concerning education, training and the provision of information.

Dr MORI (Japan) agreed with the purpose of the draft guidelines, namely to assist Parties in promoting the highest attainable standard of health. However, the draft guidelines should not be

¹ Decision FCTC/COP2(14).

binding and should recognize the diverse social, economic and political background of Parties. The word “denormalization” was too aggressive and lacked clarity, and alternative wording should be used. The Key Facilitators should take into account the current session’s discussions on corporate social responsibility.

Mr BRUNET (France) said that the European Union and its 27 Parties looked forward to continued excellence from the working group with submission of the draft guidelines to the fourth session of the Conference of the Parties.

Professor PRAKIT VATHESATOGKIT (Thailand) endorsed those comments.

Ms ROA RODRÍGUEZ (Panama) agreed that the working group should continue its work and submit recommendations to the next session of the Conference of the Parties. The text should include guidance on the evaluation processes to be used in developing educational activities.

Mr QIN Geng (China) expressed support for the first draft of the draft guidelines.

Mr MUNSHI BIN ABDULLAH (Malaysia) said that his country was creating a comprehensive programme for education, training and raising public awareness concerning the effects of tobacco use. The Health Promotion Board supported healthy lifestyle activities, including tobacco control. He recommended that the work of developing draft guidelines should continue, with a view to submitting a text to the fourth session of the Conference of the Parties.

Mr PADILLA (Philippines) commended the working group. He endorsed the views of Brazil regarding the need to include a reference to other articles, such as Article 17, in the text.

Mr PANCHOO (Mauritius), expressing support for Article 12, said that Mauritius was investing in media campaigns, community interventions and school health programmes. Smoking was prohibited in public buildings and on public transport and, as a result of the Government’s promotion of information, education, sport and leisure, many households in Mauritius were tobacco free.

Ms ALI-HIGO (Djibouti) said that Parties in the WHO Eastern Mediterranean Region shared many views expressed in the progress report, notably in relation to public education and awareness-raising. The Conference would allow the working group to continue its work.

Dr MALEFOASI (Solomon Islands) said that the Pacific island Parties supported the draft guidelines, which complemented measures in other articles, and was in line with the healthy islands lifestyle initiative.

Mr OOKA (Japan) trusted that the comments made during the discussions would be taken into account in any future consideration and examination of the draft guidelines.

The CHAIR invited the Key Facilitators to prepare a procedural draft decision on the continuation of the mandate of the working group.

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

Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8)): Item 4.6 of the Agenda (Document FCTC/COP/3/9)

Mr MAUNU (European Community), introducing the item, recalled the two-fold mandate given to the working group by the Conference of the Parties at its second session: to elaborate draft

guidelines on the implementation of both domestic and cross-border elements of Article 13 of the Framework Convention; and to present recommendations on a protocol on cross-border advertising promotion and sponsorship. The working group consisted of three Key Facilitators, the European Community, Finland and India, and 21 Parties. The draft guidelines and recommendations had been elaborated over two meetings attended by experts, representatives of civil society and WHO's Tobacco Free Initiative. The draft guidelines and recommendations, made available to Parties for comment in May 2008, had incorporated suggested changes without compromising the positions developed during the discussions.

Annex 1 to document FCTC/COP/3/9 contained the draft guidelines. In drafting the text, the working group had considered the legal nature of guidelines vis-à-vis that of a protocol. The guidelines aimed to assist Parties to implement Article 13, notably in regard to the broad definitions of advertising, promotion and sponsorship in the Convention. The draft guidelines did not introduce any new obligations, and provided a comprehensive set of recommendations for Parties to introduce a complete ban on advertising. The Key Facilitators had suggested one minor textual realignment, on plain packaging, with that in the draft guidelines for implementation of Article 11. The change could be agreed upon without reopening discussion.

The recommendations contained in Annex 2 to document FCTC/COP/3/9, on key elements of a protocol on cross-border advertising, promotion and sponsorship, referred to areas more appropriately addressed in a legally binding international instrument. No decision had been made to draft such a protocol, and Annex 2 constituted little more than a vision for the future.

The recommendations in Annex 3 to document FCTC/COP/3/9 set out measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship, including identification of national contact points and a web site for sharing information.

He trusted that the Conference of the Parties, in a spirit of compromise, could adopt all those recommendations.

The meeting rose at 12:50.

FOURTH MEETING

Wednesday, 19 November 2008, at 16:15

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8)): Item 4.6 of the Agenda (Document FCTC/COP/3/9) (continued)

Dr NAING (Myanmar), speaking on behalf of the Parties in the WHO South-East Asia Region, congratulated the working group on guidelines that would help to protect citizens from the harmful marketing and communication strategies used by the tobacco industry. The current text of the guidelines should be adopted without change.

Mr HOSHINO (Japan) commended the draft guidelines. Nonetheless, certain concerns should be addressed before adoption of the text. His country would have difficulty complying with the guidelines on displays at points of sale, including vending machines, which appeared to exceed the scope of the Framework Convention; and in complying with a total ban on Internet sales because of its current legal and administrative system. Regarding corporate social responsibility, which could have positive effects, such as financial contributions following natural disasters, he said that any ban should be limited to promotional activities.

The issue of plain packaging could constitute an infringement of trademark or intellectual property rights. Furthermore, a ban on the depiction of tobacco in the entertainment media might infringe constitutional rights of freedom of expression. Lastly, regarding the language in Annex 2, the content of a protocol should not be anticipated before commencement of its negotiations.

Dr ANDRIANOMENJANAHARINIRINA (Madagascar), speaking on behalf of the Parties in the WHO African Region, said that less than one third of countries prohibited cross-border advertising, and only half the Parties banned all forms of tobacco advertising, promotion and sponsorship. Hence the draft guidelines were timely. They should be adopted, with only the minor amendments proposed by the Key Facilitators, to align the relevant text with the language of Article 11. He also supported the recommendations on measures to facilitate international cooperation with a view to eliminating cross-border advertising, promotion and sponsorship.

Ms ALI-HIGO (Djibouti) said that the concerns of the Parties in the WHO Eastern Mediterranean Region, with particular regard to cross-border advertising and a comprehensive ban, were fully reflected in the draft guidelines. The Parties in the Region endorsed the recommendations continued in Annex 3. The draft guidelines should be adopted as they stood.

Mr YÜKSEL (Turkey), speaking on behalf of the Parties in the WHO European Region, supported the draft guidelines. He trusted that the proposal by the Key Facilitators would provide Parties with the suggested new wording. The adoption of the guidelines without other further changes would constitute a major step forward for tobacco control.

Mr PADILLA (Philippines) reported that his Government was defending a lawsuit filed by the tobacco industry relating to outdoor advertisements. It therefore appreciated the comprehensive ban on advertising set out in the guidelines. It also welcomed the recommendation concerning the ban on Internet advertising and sales. The Philippines did not believe the tobacco industry to be capable of any genuine activities of corporate social responsibility, since it was free to perform any philanthropic activities anonymously. He supported the adoption of the guidelines in their entirety.

Dr RAHMAN (Malaysia) endorsed the draft guidelines and the recommendations on further measures. The comprehensive ban should include: visibility of tobacco products at points of sale; advertising and promotion through product packaging; Internet sales of cigarettes; brand stretching and sharing; and publicity of any activities labelled as “corporate social responsibility”. Tobacco advertising within international territories, such as airline brochures offering in-flight sales of cigarettes, might also be addressed.

Dr MALEFOASI (Solomon Islands), speaking on behalf of the Pacific island Parties, expressed support for the draft guidelines with the minor amendment suggested by the Key Facilitators to align the wording concerning plain packaging with that in Article 11.

Mr ZHAO Jian (China) said that China had further banned or limited advertising linked to tobacco products through legislative or administrative measures. Commending the working group’s efforts, he said that the guidelines were an important reference for Parties with little experience in banning the advertising of tobacco products and for those such as China, with more experience.

The discussions on the draft guidelines must aim to help Parties to meet, rather than expand, their obligations under the Framework Convention. In the implementation of the Framework Convention, China had always insisted that national legislation should be respected. He agreed to most of the text of the draft guidelines; however, certain paragraphs gave rise to different interpretations. Given the concerns expressed by other delegations, broader consensus was needed.

Dr MAINA (Kenya) said that his country was implementing tobacco legislation banning all forms of advertising, promotion and sponsorship, based on the principles of the Framework Convention. It faced the same challenges as the Philippines. He endorsed the recommendations and proposed that the draft guidelines be adopted during the current session, with the minor amendment suggested by the Key Facilitators.

Mr BEDJA ABDOU (Comoros) reiterated his country’s commitment to implementing the Framework Convention. He sought a global ban on advertising, promotion and sponsorship that could also be implemented in developing countries. He supported most of the provisions but considered that the recommendation to ban the display of tobacco products at points of sale would encourage illicit trade. It would make it harder for authorities to distinguish between legal and contraband products if both were placed out of sight. The display of products with clear warnings, in line with the provisions set out in document FCTC/COP/3/9, would help to achieve objectives.

Mr CABRERA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, said that they supported the draft guidelines as presented. Suggestions to clarify or align wording were acceptable provided that they did not change the meaning of the text.

Dr KANGOYE (Burkina Faso) said that the efforts to control tobacco by countries such as his were often hampered by a tobacco industry itself supported by weak legislation and regulation. The draft guidelines and recommendations for implementation of Article 13 would greatly assist countries in the African Region and should be adopted.

Dr DLAMINI (Swaziland) said that a comprehensive ban on tobacco advertising, promotion and sponsorship would alter public perceptions of the health risks of tobacco and facilitate political decision-making. The comprehensive draft guidelines should be adopted, with the minor changes proposed by the Key Facilitators.

Mr PANCHOO (Mauritius) supported the draft guidelines concerning Article 13. Mauritius had included some of the provisions in the new Public Health Act (Restriction on Tobacco Products) 2008 which prohibited the advertisement of tobacco products; the promotion of any trade or brand name associated with such products; and the provision of scholarships or sponsorships linked to them.

Mr ALLEN (New Zealand) said that certain areas of the draft guidelines posed a challenge to some countries. However, they were intended to be a “gold standard”, to be worked towards over time in order to impose the comprehensive ban on tobacco advertising, promotion and sponsorship required under the Framework Convention. Measures would become easier to implement as more countries took the necessary steps. He trusted that the draft guidelines could be adopted with the minor amendment suggested by the Key Facilitators.

Dr DIARRA (Mali) said that since 1996 there had been no cigarette advertising on Malian television and radio, nor any sponsorship activities. A new draft law covering advertising, promotion and sponsorship was currently before the National Assembly. Mali welcomed the draft guidelines, which would assist countries in enacting enforceable legislation.

Dr ABDULLAH (Brunei Darussalam) said that his country had a comprehensive ban on tobacco-related sponsorship and advertising on local media. Its recent Tobacco Order included Article 13 of the Framework Convention. The draft guidelines should be adopted in their entirety.

Dr YEARWOOD (Trinidad and Tobago) said that the promotion of plain packaging might raise constitutional issues regarding trademark infringement. However, the guidelines were not legally binding and should aim to set maximum standards, as encouraged in Article 13.5. He therefore supported the draft guidelines and recommendations, with the amendment suggested by the Key Facilitators.

Dr AL-HALWACHI (Bahrain) suggested that the draft guidelines should also apply to substitute electronic cigarettes, which should be covered by legislation governing promotion, advertising and sponsorship.

Ms JOHN (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, said that the draft guidelines were strong, comprehensive, helpful to all Parties and should be adopted by the Conference of the Parties without amendment. The Alliance fully supported the recommendations on measures to facilitate international cooperation and called for their broad application.

Dr NOBOA (Ecuador) stressed that any amendment or alignment of paragraphs 15, 16 and 17 concerning packaging and product features, as suggested by the Key Facilitators, should not dilute the essence of those paragraphs.

Dr ABOU AL ZAHAB (Syrian Arab Republic) said that the draft guidelines covered two of the three methods of advertising used by the tobacco industry. He suggested that the ban should cover the advertising of components of tobacco products. He asked whether a legal method existed to regulate the increasingly widespread trade of electronic cigarettes.

Dr INSISIENGMAY (Lao People's Democratic Republic) said that his country had recently drafted its tobacco control law, which banned tobacco advertising, including sponsorship and corporate social responsibility, for parliamentary approval in 2009. Smoking in sports venues and all public places had already been prohibited and the South-East Asian Games, to be held in his country in 2009, had already been declared smoke-free. He strongly supported the draft guidelines to be adopted without change.

Mr UNG Phyrun (Cambodia) said that his country had experienced problems associated with tobacco advertising, promotion and sponsorship. Tobacco consumption had risen, in particular among those who were the targets of such advertising and promotion. The Interministerial Committee on Tobacco Control had recently approved draft legislation banning all tobacco advertising, promotion and sponsorship. The draft guidelines would assist countries in meeting their obligations and should be adopted without change.

Dr TARFANI (Algeria) said that his country was implementing the Framework Convention through regulatory texts that would ban all forms of advertising. It had also initiated health warnings on cigarette packets. He recommended that the draft guidelines should be adopted in full.

Dr LEÓN CHEMPEN (Peru) said that the draft guidelines would assist countries like hers to implement Article 13, to frame legislation and to align constitutional principles with the Framework Convention. Noting the Convention's overall objective, she said that the consequences of tobacco were borne not only by the consumers but also by the State, which spent resources on those suffering from the effects of tobacco. Having drawn attention to the environmental consequences of tobacco consumption, she called for the approval of the guidelines without further modification.

Dr KITTI GUNPAI (Thailand) said that Thailand had been pursuing public advocacy campaigns but faced challenges arising from all the advertising, promotion and sponsorship tactics of the tobacco industry. The draft guidelines would help his country to deal with those challenges and he endorsed the text as it stood.

The CHAIR expressed his satisfaction at the general support for the draft guidelines, even from delegations that had expressed concern regarding specific paragraphs.

Mr MAUNU (European Community), speaking on behalf of the Key Facilitators, thanked representatives for their contributions and their support of the text. The technical alignments proposed by the Key Facilitators were the following: in order to bring the wording into line with that used in Article 13, the word "prohibition" in the first line of paragraph 17 of Annex 1 to document FCTC/COP/3/9 should be replaced by "restriction", and the second sentence of the recommendation should be replaced with the following text: "Parties should consider adopting plain packaging requirements to eliminate the effects of advertising or promotion on packaging". The Key Facilitators undertook to meet bilaterally with delegations to discuss their concerns regarding the draft guidelines.

Mr SIBETCHEU (Cameroon) said that his country had legislated in 2006 on advertising and promotion of tobacco products and on banning sponsorship. The draft guidelines would enable his country to refine its legislation on smoking and they should be adopted in their entirety.

Mr HOSHINO (Japan) welcomed the offer of bilateral dialogue with the Key Facilitators.

The CHAIR said that a draft decision would be produced for the Committee's consideration.

It was so agreed.

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

The meeting rose at 17:40.

FIFTH MEETING

Thursday, 20 November 2008, at 10:30

Chair: Mr S.SHAKERIAN (Islamic Republic of Iran)

later: Dr M. ANIBUEZE (Nigeria)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of a protocol on illicit trade in tobacco products. Report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12)): Item 4.1 of the Agenda (Document FCTC/COP/3/4) (continued from the second meeting)

Mr WALTON-GEORGE (Chairperson, Intergovernmental Negotiating Body) drew attention to a draft decision on elaboration of a protocol on illicit trade in tobacco products, which read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(12);

Taking note of the report of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products contained in document FCTC/COP/3/4;

Acknowledging in particular the requests made by the Intergovernmental Negotiating Body concerning the continuation of its work including intersessional activities;

Noting that the present formulation of Rule 28.1 of the Rules of Procedure of the Conference of the Parties may give rise to ambiguities concerning the duration of the term of office of officers of subsidiary bodies of the Conference,

1. DECIDES:

(1) that the third session of the Intergovernmental Negotiating Body shall be held from 28 June to 5 July 2009 in Geneva;

(2) that the Intergovernmental Negotiating Body may decide to hold a fourth session in 2010, if necessary, for the purpose of submitting the text of a draft protocol on Illicit Trade in Tobacco Products to the fourth session of the Conference of the Parties;

(3) to agree with the proposal of the Intergovernmental Negotiating Body that regional consultation meetings be held before the third session;

(4) to encourage Parties to provide extrabudgetary contributions to allow the Convention Secretariat to organize expert reviews, regional consultation meetings and to extend the third session from six, as currently budgeted, to eight working days;

(5) to request the Convention Secretariat:

(a) to make the necessary arrangements, including budgetary arrangements, for the performance of the work of the Intergovernmental Negotiating Body, noting also that the activities referred to in paragraph 1.4 would be delivered subject to the availability of funds provided through extrabudgetary contributions in addition to those envisaged for the Intergovernmental Negotiating Body in the budget and workplan 2008–2009 adopted in decision FCTC/COP2(11);

(b) to facilitate the participation of low-income and lower-middle income Parties in the Intergovernmental Negotiating Body;

2. ALSO DECIDES that Rule 28.1 of the Rules of Procedure of the Conference of the Parties be amended by deleting its last sentence, to read as follows:

“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.”

Mr BURCI (WHO Legal Counsel) said that, following consultation with the Bureau, he proposed to insert in paragraph 1(2) of the draft decision, after the words “Conference of the Parties”, the phrase “with the date and venue to be decided by the Bureau of the Conference of the Parties”. That would bring the draft decision into line with the practice followed by the Conference up to that point.

The CHAIR said that, following discussions with the Head of the Convention Secretariat and the WHO Legal Counsel, he proposed that paragraph 2 be removed from the draft decision and handled separately under the agenda item. The Legal Counsel had argued convincingly that the draft decision should address only the issue of the Intergovernmental Negotiating Body, since a similar issue might arise in relation to future subsidiary bodies of the Conference.

In response to a question from Mr PADILLA (Philippines), he confirmed that his suggestion would mean that no decision would be taken at the current session on the proposed amendment to Rule 28.1 of the Rules of Procedure.

Ms CHAMORRO (European Community) said that the Parties in the European Union supported the proposal to consider paragraph 2 separately for the sake of future intergovernmental negotiating bodies and clarity of process.

The European Union urged that, when the draft decision was transmitted to Committee B, it should be stressed that the Conference of the Parties must continue the negotiating process, with standards and commitments, and prioritized over other processes, whether or not those were already under way.

The CHAIR said that, once the Committee had reached consensus on the draft text, he would be in favour of informing Committee B that Committee A attached priority to the issue and encouraging Committee B to address it fully from a budgetary point of view. He was seeking support in the Committee for the draft decision and also general agreement that it concerned a procedural issue rather than a substantive one.

Mr CABRERA (Mexico), supported by Dr GHAFARI (Islamic Republic of Iran), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, endorsed the Chair’s suggestion.

Ms CAVALCANTE (Brazil) said that, if paragraph 2 were removed from the draft text, as she believed it should be, then the last preambular paragraph should also be deleted.

The CHAIR concurred with the point made by the representative of Brazil.

Mr YÜKSEL (Turkey), supported by MR GAMKRELIDZE (Georgia), said that he supported the proposed changes to the draft text.

Dr ISRA SARNTISART (Thailand), speaking on behalf of the Parties in the WHO South-East Asia Region, said that they unanimously supported continuing the work of the Intergovernmental Negotiating Body, without a break in momentum, especially since its Chairperson would have to produce a second draft of the protocol in early 2009. However, before adopting a regional stance on the draft decision, the Parties requested clarification from the Convention Secretariat or the WHO Legal Counsel as to whether other options might exist; for example, instead of deleting the provisions

mentioned, a stipulation might be added that would allow the Conference of the Parties to extend the terms of office of the officers of subsidiary bodies subject to criteria, such as the substantive nature of that work and whether extensions would be in the interest of that work.

Mr BURCI (WHO Legal Counsel), in reply, said that the proposal to delete the last sentence of Rule 28.1 of the Rules of Procedure had been made because the meaning of the word “term” in the sentence was ambiguous. That problem was not specific to the existing Intergovernmental Negotiating Body, but might recur: in some situations the priority might be to ensure continuity of work through retention of the same Bureau members, while in others, it might be desirable to have a rotation of officers, and the subsidiary body could then decide to elect its officers for just one or two sessions. Thus, deleting the last sentence of Rule 28.1 would empower a subsidiary body to adapt the terms of office according to the circumstances.

The CHAIR requested the Chairperson of the Intergovernmental Negotiating Body to convey to Committee B that Committee A was ready to approve the draft decision, pending Committee B’s consideration of the budgetary aspects, and that it regarded the issue as a priority.

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

Elaboration of guidelines for implementation of Article 12 of the Convention (decision FCTC/COP2(14)). Progress report of the working group: Item 4.5 of the Agenda (Document FCTC/COP/3/8) (continued from the third meeting)

Ms HAGLUND (Sweden), speaking on behalf of the Key Facilitators, introduced the draft decision on elaboration of guidelines for implementation of Article 12 of the Convention, which read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(14) establishing a working group to elaborate guidelines for implementation of Article 12 of the WHO Framework Convention on Tobacco Control;

Noting the report of the working group to the third session of the Conference of the Parties on the progress of its work (document FCTC/COP/3/8);

Mindful of the discussions on the report during the third session of the Conference of the Parties,

1. DECIDES to request the working group established by decision FCTC/COP/2(14) to continue its work and to submit draft guidelines to the Conference of the Parties for consideration at its fourth session;
2. ALSO DECIDES, in accordance with decision FCTC/COP2(14):
 - (1) to request the Convention Secretariat to provide assistance and to make the necessary arrangements, including budgetary arrangements, for the working group to complete its work and to ensure, in consultation with the Bureau, that Parties have access to the draft text, for example, via a protected web site, and can provide comments before the circulation of the draft guidelines to the Conference of the Parties;

(2) to adopt the timeline set out below:

Timeline:	
To make the draft guidelines, as requested, accessible by the Parties for their comments	At least six months before the fourth session of the Conference of the Parties
For submission to the Convention Secretariat for editing and translation	At least three months before the fourth session of the Conference of the Parties
For circulation to the Conference of the Parties	At least 60 days before the fourth session of the Conference of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)

Ms VIREM (France), speaking on behalf of the Parties in the European Union, highlighted issues of prevention and communication. She commended the work of the Key Facilitators and was in favour of the working group continuing its work on Article 12; it would be for Committee B to decide on allocation of the resources for that purpose.

Ms BEGUM (Bangladesh), speaking on behalf of the Parties in the WHO South-East Asia Region, supported by Mr CABRERA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, and by Dr ABOU AL ZAHAB (Syrian Arab Republic), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, supported the draft decision.

The draft decision on elaboration of guidelines for implementation of Article 12 of the Convention was approved.¹

Elaboration of guidelines for implementation of Articles 9 and 10 of the Convention (decision FCTC/COP2(14)). Progress report of the working group: Item 4.3 of the Agenda (Document FCTC/COP/3/6) (continued from the second meeting)

Ms LINDBAK (Norway), reporting as one of the Key Facilitators for the working group established to prepare guidelines for implementation of Articles 9 and 10 of the Convention, introduced a draft decision, which read:

The Conference of the Parties,
 Recalling its decisions FCTC/COP1(15) and FCTC/COP2(14) on the elaboration of guidelines for implementation of Articles 9 and 10 of the WHO Framework Convention on Tobacco Control; and
 Noting the information contained in the report of the working group to the third session of the Conference of the Parties on the progress of its work (document FCTC/COP/3/6),

1. DECIDES to mandate the working group to:
 - (1) continue its work, elaborating guidelines in a step-by-step process, and to submit a first set of draft guidelines to the Conference of the Parties for consideration at its fourth session;

¹ Transmitted to the Conference of the Parties in the Committee's first report and adopted as decision FCTC/COP3(11).

- (2) continue to monitor the areas set out in its previous progress report (FCTC/COP/2/8), which include dependence liability and toxicology;
 - (3) continue to examine the challenges and potential approaches to setting up a global data repository;
2. REQUESTS the Convention Secretariat to invite WHO's Tobacco Free Initiative to undertake the following work:
- (1) submit a report for consideration by the Conference of the Parties at its fourth session which:
 - (a) identifies best practices in reporting to regulators as regards contents, emissions and product characteristics, including electronic systems;
 - (b) identifies best practices in informing the public;
 - (c) collects information on legal cases and analyses the legal issues related to tobacco product disclosures;
 - (2) validate, within five years, the analytical chemical methods for testing and measuring the cigarette contents and emissions identified as priorities in the progress report of the working group (FCTC/COP/3/6), using the two smoking regimens set out in paragraph 18 of that report, and to inform the Conference of the Parties through the Convention Secretariat on a regular basis of the progress made,
 - (3) monitor scientific progress; when appropriate, design and validate methods for testing and measuring the product characteristics identified in paragraph 33 of the progress report of the working group; and inform the Conference of the Parties, through the Convention Secretariat, on a regular basis of the progress made.

The draft decision included minor changes. It had also been proposed to insert paragraphs 2(1) and 2(2) of the draft decision on elaboration of guidelines for implementation of Article 12 of the Framework Convention into the draft decision currently under consideration, in order to align it with previous decisions of the Conference of the Parties.

Mr CABRERA (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, supported the proposal to insert paragraph 2(2) of the draft decision on elaboration of guidelines for implementation of Article 12 of the Framework Convention, which concerned the timeline, at the end of the text.

Mr OOKA (Japan) said that, as proposed by the representative of Norway, paragraph 2(1), of the draft decision on elaboration of guidelines for implementation of Article 12 of the Convention, which provided for the Parties to have access to the draft text of the guidelines via a protected web site before it was circulated to the Conference of the Parties, should be incorporated into the draft decision at the end of paragraph 1(1).

He suggested that the phrase "in collaboration with a third party, such as the International Organization for Standardization (ISO)" should also be inserted in the draft decision.

Mr CHOINIÈRE (Canada) said that his country had been a Key Facilitator in preparing the draft decision under consideration. He understood from prior discussions with WHO's Tobacco Free Initiative that it had a relationship with the International Organization for Standardization through one of its technical committees. He therefore requested the Chair to give the floor to a representative of the Tobacco Free Initiative in order to clarify those working arrangements.

Ms SCHWERDTFEGER (WHO Secretariat) said that, since 2004, WHO's Tobacco Free Initiative had been a non-voting member of the International Organization for Standardization's Technical Committee 126, and had a plan to involve the Committee in testing all seven methods. She explained that the Conference of the Parties had 161 States Parties and the ISO Technical Committee

126 had 33 voting members, of which only 20 were Parties to the Framework Convention. Therefore, the proposal by the representative of Japan would affect only 20 Parties.

All 20 of the ISO voting members that were also Parties to the Framework Convention planned to use industry laboratories to validate the test that would be applied for them. For the time being, WHO had agreed to take on the task of validating the seven methods; three for contents and four for emissions. That process would last about five years. As soon as a minimum of eight of the top laboratories had internationally validated one method – and it was hoped that that for tobacco-specific *N*-nitrosamines testing would be completed by 2009 – the results would be forwarded to ISO Technical Committee 126 so that it could perform the entire validation with industry laboratories. That process would take about 18 months, assuming that ISO agreed to take on the task.

Mr OOKA (Japan) accepted that clarification. The working group should decide whether to insert a phrase on collaboration with ISO and he would abide by its decision. However, he maintained his first proposal concerning the insertion of a provision enabling the Parties to make comments on the draft guidelines.

The CHAIR said that incorporating paragraph 2(1) of the draft decision on elaboration of guidelines for implementation of Article 12 into the draft decision would address the concern of the representative of Japan.

Ms CHEAH Nuan Ping (Singapore) expressed support for the working group and the recommendations it had made concerning its future activities. Singapore was also interested in joining the working group.

The draft decision on elaboration of guidelines for implementation of Articles 9 and 10 of the Convention, as amended, was approved.¹

Elaboration of guidelines for implementation of Article 5.3 of the Convention (decision FCTC/COP2(14)): Item 4.2 of the Agenda (Document FCTC/COP/3/5) (continued from the third meeting)

Dr FANNING (Observer, United States of America)² requested permission for her delegation to attend the meeting of the working group on item 4.2 of the Agenda, as an observer.

The CHAIR said that, as he saw no objection, he took it that the Committee agreed to that request.

It was so agreed.

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

¹ Transmitted to the Conference of the Parties in the Committee's first report and adopted as decision FCTC/COP3(9).

² Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

Report on tobacco dependence and cessation (in relation to Article 14 of the Convention) (decision FCTC/COP2(14)): Item 4.7 of the Agenda (Document FCTC/COP/3/10)

Dr SZILAGYI (Convention Secretariat) introduced the report contained in document FCTC/COP/3/10.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties in the WHO African Region, said that they were still facing challenges in tabling tobacco legislation and building the capacity and coordination required for implementation of the Framework Convention. He noted the global consultation to identify priorities for smoking-cessation services in developing countries, to be held in Geneva in December 2008, and progress made in South-South cooperation, especially the pilot programme on tobacco cessation developed in Brazil. Bilateral reviews of country-specific assistance, held with Parties in the WHO African Region, would place programmes for treatment of tobacco dependence high on the priority list.

Tuberculosis, alcohol consumption and HIV/AIDS compounded the morbidity and mortality due to tobacco use, and were straining government budgets. Treatment centres for alcohol and drug addiction, as well as tobacco dependence, were all lacking.

In developing tobacco treatment and cessation programmes, the following should be prioritized: national infrastructures to address local needs; inclusion of diagnosis and treatment of tobacco addiction into national programmes; availability of comprehensive guidelines for diagnosis, counselling and treatment; capacity-building and training for health practitioners, social workers and community counsellors; accessible and affordable treatment, notably for pregnant women, children and youth, for people with disabilities and those addicted to smoking; availability of cessation programmes in settings such as the workplace, educational and religious institutions, and community centres; and recruitment of traditional healers to strengthen local cessation programmes.

Parties should consider making the tobacco industry responsible for the suffering experienced by individuals, in accordance with Article 19 of the Framework Convention.

Dr AMANKWA (Ghana), referring to paragraph 1 of document FCTC/COP/3/10, said that national surveys showed a high prevalence of tobacco use among young people and adults, particularly in rural populations. Ghana's programmes and activities included the World No Tobacco Day and "Quit and Win". He endorsed the report and its conclusions on the need for internationally agreed guidance for cessation of tobacco use and treatment of tobacco dependence.

Mr GENG Qin (China) agreed with the report and with its purpose in guiding smoking cessation services. Referring to paragraph 10 of the report, on the establishment of a supporting infrastructure, he emphasized the role of pharmacies. In China and other countries, medicines could be obtained directly from pharmacies without prescription. Therefore his country provided specific training for pharmacists to help people to stop smoking, a method that he believed was worth trying.

Mr RYU Ho-young (Republic of Korea) drew attention to the recommendation in paragraph 36 of the report, concerning increased coverage of cessation services to provide for vulnerable groups. Low rates of smoking cessation had been reported among vulnerable groups even when equal opportunities existed. Therefore, special programmes should be developed. He proposed that the text be amended to read: "provide fair opportunities to vulnerable groups".

Dr MALEFOASI (Solomon Islands), referring to the recommendation in paragraph 36, proposed that the phrase "specialist support should also be offered free and after working hours" be amended to read: "specialist support should also be offered free during and after working hours" in order to eliminate any ambiguity.

Dr MEJÍA DE RIVERA (Honduras) emphasized that, in order to reflect the fact that alcohol and tobacco were both drugs, the reference to “alcohol and drug control” in paragraph 10 of the report should be replaced by the phrase “control of alcohol and other drugs”.

The document should also mention that testing could be carried out through primary health care in order to inform patients of their addiction level and enable them to seek advice or treatment. Her country was developing such a test as part of a project to reduce alcohol consumption.

Intercity transport could also be used as a medium for information about harm caused by tobacco use and where to find treatment.

Ms CAVALCANTE (Brazil), noting that the report highlighted the importance of cessation programmes in achieving the objectives of the Framework Convention, said that the Southern Common Market (MERCOSUR) had been developing a database on generic medicines, including those to treat tobacco dependence, aimed at increasing the accessibility and affordability of cessation services.

Mr MATSOGA (Botswana) said that the best smoking cessation programme was one that prevented young people from acquiring the habit. He emphasized linked efforts to prevent both tobacco use and alcohol consumption. His Government favoured the banning of films on television that glamorized smoking, although no such law currently existed in Botswana.

Dr ABOU AL ZAHAB (Syrian Arab Republic), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, drew attention to paragraph 10 of the report wherein private enterprises were encouraged, if appropriate, to participate in drawing up guidelines for cessation and treatment plans. It was important to specify that such enterprises should not be involved in the tobacco industry.

Mr OOKA (Japan) requested that the words “denormalization” and “denormalizing”, which appeared in paragraphs 8 and 21, be replaced by language that was more appropriate to a formal report.

Dr DIARRA (Mali) said that an organization had been working effectively in his country’s schools on tobacco cessation, and had designed a project for a counselling centre to tackle tobacco, alcohol and drug use. Mali had incorporated the project into its strategic plan and with sufficient support it would help children to stop smoking.

Dr ABASCAL (Uruguay), speaking on behalf of the Chair, said that guidelines were needed on the issue; Uruguay had drafted guidelines to accompany tobacco legislation. Medical schools should consider tobacco dependence as a disease and not just as a risk factor and medical curricula could be modified along those lines. Both public and private providers of primary health care should be required to include all elements relating to tobacco dependence in a patient’s clinical history.

Dr Anibueze took the Chair.

Dr PRASAD (India) said that best practices were not well known in many developing countries resulting in lower success rates for cessation programmes. Information sharing and international exchange of experience was needed since most of the evidence was available in developed countries, whereas most of the deaths occurred in low-income countries. A technical working group might transmit some of that learning so that developing countries could integrate cessation programmes into existing community health-care, thus lowering costs and reducing the economic and health burdens caused by tobacco use.

Dr AL-TARKAIT (Kuwait) emphasized the role of specialized centres, medical training for doctors and other health workers to treat tobacco dependence, and of nicotine replacement therapy to be made accessible and affordable to all in tackling tobacco dependence and cessation.

Dr GAHUNGU (Burundi), supporting the statements made by the representatives of Ghana, India and Kuwait, said that developing countries needed consistent and effective cessation programmes. His delegation wished to participate in a working group on the topic if one were established.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) endorsed the statements by Botswana, Burundi and Ghana. Following an awareness-raising programme in 2005, based on a survey linking drug use to AIDS, many of the participating youth retained their addiction to tobacco and drugs. His country had the infrastructure to treat people living with AIDS, but none to treat drug addiction. Consumption of alcohol and drugs increased dependence on tobacco by four or five times, and therefore treatment should take into account drug addiction. A clinic specialized in the care of tobacco victims was planned, as well as a toxicological and chemical laboratory to determine which substances were responsible for their dependence.

His country wished to take part in a working group on the issue.

Dr DIARRA (Mali) said that his country too would like to participate in a working group, should one be established.

Dr LEWIS-FULLER (Jamaica) said that her country focused on health promotion and prevention but also needed cessation strategies. The Global Youth Tobacco Survey showed that 70% of young smokers wished to give up, and many adult smokers had expressed the need for help in doing so. Jamaica was training doctors, nurses and other health practitioners in primary health care to identify tobacco use and offer help with tobacco cessation when individuals sought treatment of any kind. The drawback to that approach was the cost of nicotine replacement therapy and other pharmaceutical treatments.

A further rationale for a stop-smoking initiative was that it might reduce marijuana smoking, which was endemic in her country.

Mr YÜKSEL (Turkey) said that his country had experience with smoking cessation programmes. Turkey would like to take part in a possible working group. It was his understanding that the report would also be discussed in Committee B because of its budgetary implications.

Dr GHAFFARI (Islamic Republic of Iran) and Ms MOODLEY (South Africa) said that their countries would also like to participate in a working group on smoking cessation activities.

Dr NOBOA (Ecuador), referring to paragraph 67 of the report, emphasized detailed guidance on the status, challenges and opportunities for cessation of tobacco use and treatment of tobacco dependence. He shared the concerns of other speakers on the difficulty of accessing nicotine replacement therapies. WHO and other organizations should assist countries in gaining access to safe, preferably generic, medicines as had been done in respect of vaccines and medicines to treat serious illnesses such as HIV/AIDS and tuberculosis.

Dr LEÓN CHEMPEN (Peru) said that the report had highlighted prevention and treatment: prevention was less costly and could be promoted by society or through primary health care; treatment was more costly, both in human lives and to States, which had to budget for tobacco cessation services. Her country had lowered the cost of medicines through collective purchasing, which could be replicated at the regional level through WHO. She agreed with the views expressed by Ecuador: rotating funds for the purchase of vaccines and other medicines were used in combating HIV/AIDS,

tuberculosis and other diseases. WHO could contribute to more accessible and affordable treatments in low-income countries if a similar purchasing system were set up to fight tobacco dependence.

Ms LIKIBI-BOHO (Congo) said that in her country a significant proportion of young people were smokers. Many of them wished to give up smoking, but questioned why they should pay for treatment when pregnant women and children under five years of age received free treatment for HIV/AIDS, tuberculosis and malaria. The current meeting should also consider how to combat the combined use of tobacco and alcohol among young people.

Dr HABASHNEH (Jordan) said that smoking affected 27% of the population of his country, including 50% of men and 12% of women, and large numbers used waterpipes. Studies had shown that 67% of smokers wished to quit but his country did not have the means to help them. Jordan had begun training doctors in smoking cessation counselling, had opened several clinics specializing in tobacco cessation and had achieved success with nicotine replacement therapies.

Ms VIREM (France), speaking on behalf of the Parties in the European Union, stressed the importance that the European Union attached to smoking cessation. However, a decision on whether to set up a working group should be taken in the light of the outcome of Committee B's work.

Dr LAKHANA TERMSIRIKULCHAI (Thailand) suggested that the report should include a recommendation on compulsory licensing for nicotine replacement therapies. Thailand wished to be a member of a working group on the issue.

Mr RYU Ho-young (Republic of Korea), referring to paragraph 36 of the report, on sustainable funding of cessation interventions, said that his country administered smoking cessation programmes through 253 public clinics. Those clinics also provided services to the military, schools and workplaces in collaboration with anti-smoking organizations. However, smoking cessation services were not covered by the national health insurance system. Clear, strong guidelines would increase the availability of treatment to vulnerable groups.

His country wished to join a working group on the issue.

Mr ALLEN (New Zealand) said that his country would also like to participate in any working group that might be established to elaborate relevant guidelines.

Dr AL HALWACHI (Bahrain) said that major oil companies in his country had taken the initiative to establish smoking cessation clinics, an example that might be followed in other countries.

Mr CABRERA (Mexico) said that the importance of tobacco dependence necessitated the setting up of a working group that could benefit from fullest international experience.

Dr MBATIA (United Republic of Tanzania) said that his delegation wished to join a working group to represent the interests of low-income countries which lacked experience in tackling tobacco-related problems. Such efforts should be linked to the broader programmes control of noncommunicable diseases.

Dr MUENZER (Framework Convention Alliance), speaking at the invitation of the CHAIR, said that the Alliance supported the establishment of a working group to elaborate guidelines for the implementation of Article 14. Tobacco was hazardous, not only because it contained 4000 chemicals, of which 50 caused cancer, but also because it contained nicotine, a powerful psychoactive agent in tobacco dependence. Failure to address the biological, behavioural and social process of tobacco dependence could defeat the best-laid plans to end the epidemic of death, disease and disability caused by tobacco.

Implementation of Article 14 of the Framework Convention offered to extend treatment to all tobacco users who wanted to quit. Internationally agreed guidelines on the status, challenges and opportunities for cessation of tobacco use and treatment of tobacco dependence would engage health care sectors, practitioners, traditional healers, counsellors.

The CHAIR said that he took it that the Committee endorsed the report and wished to establish a formal working group with a mandate to develop guidelines on the implementation of Article 14.

Ms CHAMORRO (European Community) said that the European Community and its Member States would like to have feedback from Committee B on the workplan and budget discussions before deciding whether to establish a new working group.

The CHAIR said that a draft decision would be prepared for consideration by the Committee and the Conference of the Parties. In the absence of further comment, consideration of the item had been completed.

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

Study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) (decision FCTC/COP2(13)): Item 4.8 of the Agenda (Document FCTC/COP/3/11)

Mr CABRERA (Mexico), speaking on behalf of the study group on economically sustainable alternatives to tobacco growing, which had held its second meeting in June 2008, introduced the report contained in document FCTC/COP/3/11. It was proposed that the study group be converted into a working group; a draft decision on the subject would be presented at a later meeting.

The meeting rose at 12:50.

SIXTH MEETING

Thursday, 20 November 2008, at 15:25

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

later: Dr M. ANIBUEZE (Nigeria)

later: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention (decision FCTC/COP2(13)): Item 4.8 of the Agenda (Document FCTC/COP/3/11) (continued)

Ms CAVALCANTE (Brazil) and Mr PAREDES VALVERDE (Costa Rica) endorsed the proposal made by Mexico at the previous meeting to convert the study group into a working group, and expressed their willingness to help to prepare the draft decision.

Dr Anibueze took the Chair.

Dr GAHUNGU (Burundi) said that the Parties in the WHO African Region had noted the specific conclusions set out in the document and recommendations that could ease implementation of Articles 17 and 18. The working group should continue to prepare broader guidelines relating, inter alia, to the objectives set out in paragraph 53 of the report, which might be adopted by the Conference of the Parties at its fourth session. The Convention Secretariat and WHO's Tobacco Free Initiative should follow up with emphasis on identification of best practices, awareness raising, identification of economically viable alternatives, and sustainable funding sources for implementation of the guidelines. He supported the suggestion by Mexico to convert the study group into a working group.

Dr PRASAD (India) expressed support for the establishment of a more technical than political working group. Widened discussions could examine sustainable alternative livelihoods for millions of workers. His delegation would be pleased to work with Brazil and Mexico in preparing the draft decision and to join the working group.

Dr DIARRA (Mali) said that his country's manufacture of tobacco products had become an important source of revenue. Finding viable, economically sustainable alternatives was a problem; he would therefore like to join the potential working group.

Dr ZARIHAH BINTI MOHAMMAD ZAIN (Malaysia) expressed support for the findings in the report. The study group should continue its good work in order to assist Parties in promoting sustainable alternative livelihoods for tobacco farmers. Malaysia offered to participate in future study group meetings and share its advanced experience in substituting tobacco cultivation.

Mr PADILLA (Philippines) said that the Philippines' tobacco industry was using the concerns of tobacco farmers to undermine the Government's tobacco control efforts. Tobacco farmers who were living in poverty were unable to shift from tobacco farming, often owing to a lack of understanding of

the options available. He commended the study group and emphasized the need to promote sustainable alternatives to tobacco growing and to develop cooperation with competent international organizations. He supported the Mexican proposal to establish a working group.

Dr MAHAMAT SALEH (Chad) said that developing countries, such as his own, attached great importance to research on alternatives to tobacco growing. The group should continue its useful work.

Mrs CHAMORRO (European Community) welcomed recognition in the report of the need to approach tobacco growing from an intersectoral and developmental perspective. Serious reflection should also be given to the relationship between the Framework Convention and existing development agencies and to coordination with international agencies. A complete review of existing sources of information would be useful before the creation of the database recommended in paragraph 55. Before the creation of a working group, she would prefer to receive feedback on the discussions in Committee B regarding the workplan and budget.

Mr YÜKSEL (Turkey) said that Turkey, a major tobacco producing country, welcomed the excellent report and the proposal to convert the study group into a working group, in which it wished to participate.

Mr NYIRENDA (Zambia) said that the provision of alternatives to tobacco growing was crucial and his country would like to participate in the working group.

Mr CABRERA (Mexico) thanked delegates for their support. Although the budget issue would be considered in Committee B, changing the study group into a working group would have minimal impact on the budget. A draft decision was being prepared.

Dr AMANKWA (Ghana) said that, if the working group were established, Ghana would like to participate.

Dr ABOU AL ZAHAB (Syrian Arab Republic) said that the Parties in the WHO Eastern Mediterranean Region were in favour of transforming the study group into a working group. He was pleased that the report had taken into account the economic dimension and the provision of support to farmers during the five-year transition period.

Dr DLAMINI (Swaziland) agreed that the study group could be converted into a working group to assist Parties in promoting sustainable, alternative livelihoods for tobacco growers. The measures should take into account protection of the environment and health of those engaged in tobacco cultivation, and reducing the demand for tobacco products, the main objective of the Framework Convention.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that in the Eastern Province of his country, a combination of poverty, rich soils and the protracted internal conflict had increasingly encouraged farmers to grow tobacco. A meeting in the province in 2007 had raised awareness of the environmental consequences of tobacco, and how its cultivation depleted the soil through the use of pesticides and fertilizers. Cassava, a principal crop in the region, had once taken six months to grow, and now took between 12 and 18 months. That could lead to poverty, to the search for alternative land to cultivate, and could result in land disputes that would perpetuate the war. Crop substitution was essential but the suggested crops needed to be attract the growers and produce high yields. He supported the suggestion to convert the study group into a working group and would like to participate in its work.

Mr GHAFFARI (Islamic Republic of Iran) and Dr GAHUNGU (Burundi) said that their delegations supported the Mexican proposal and would like to be members of the working group.

Mr SIBETCHEU (Cameroon) said that many people in the east of his country worked in tobacco farming. Raising awareness of crop substitution had not always had the desired effect, and further assistance would be appreciated, for the fight against poverty also depended on improved living conditions of tobacco farmers. Cameroon would therefore like to be part of the potential working group.

Mr LU Zhikun (China) said that studies on alternative crops had been carried out in China. Having thanked the Governments of Brazil and Mexico for their support to the study group. He endorsed the suggestion to establish a working group. China would contribute to its work, as it had to the study group.

The CHAIR, noting apparently overwhelming support for the work of the study group, and for the proposal to transform it into a working group, invited the delegations of Mexico and Brazil to prepare a draft decision on the matter.

It was so agreed.

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

**The meeting was suspended at 16:00 and resumed at 17:20,
with Mr Shakerian in the Chair.**

Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8)): Item 4.6 of the Agenda (Document FCTC/COP/3/9) (continued from the fourth meeting)

Mr MAUNU (European Community) introduced two draft decisions relating to document FCTC/COP/3/9. The first, relating to Annex 1 of that document concerned the elaboration of guidelines for the implementation of Article 13 (Tobacco advertising, promotion and sponsorship), and had been drawn up in cooperation with the Chinese and Japanese delegations. It read:

The Conference of the Parties,
Taking into account Articles 7 and 13 of the WHO Framework Convention on Tobacco Control;
Reaffirming the eleventh preambular paragraph of the Convention;
Emphasizing that these guidelines are to assist Parties in meeting their obligations under Article 13 of the WHO Framework Convention on Tobacco Control and to provide guidance for the implementation of this Article,

ADOPTS the guidelines for the implementation of Article 13 (Tobacco advertising, promotion and sponsorship) of the WHO Framework Convention on Tobacco Control contained in the Annex to this decision.

The second draft decision, relating to recommendations on key elements of a protocol on cross-border advertising, promotion and sponsorship, read:

The Conference of the Parties,
Taking into account Article 13.8 of the WHO Framework Convention on Tobacco Control;
Recalling its decisions FCTC/COP1(16) and FCTC/COP2(8);
Recognizing the work undertaken by the expert group on cross-border advertising, promotion and sponsorship established pursuant to decision FCTC/COP1(16);

Recognizing the work undertaken by the working group on Article 13 established by decision FCTC/COP2(8),

DECIDES to take note of the recommendations of the working group on key elements of a protocol on cross-border advertising, promotion and sponsorship of tobacco products as annexed to this decision, which would be complementary to the guidelines for implementation of Article 13.

Since no decision had been taken on the development of such a protocol, nor was one likely to be taken at the current session, it might be preferable to insert the word “possible” after “protocol” in the operative paragraph.

It was so agreed.

Mr MIYASHITA (Japan) said that his delegation had discussed its concerns on the draft guidelines with Key Facilitators from the European Community and a consensus text had been found. Japan was ready to accept the draft guidelines, which it was to be hoped would be adopted by consensus by the Conference of the Parties. Japan was committed to working for an effective, worldwide system of tobacco control under the Framework Convention.

The CHAIR, having thanked Japan for demonstrating its flexibility and cooperation, said that the Committee appeared to be in favour of the draft decision concerning the elaboration of guidelines for the implementation of Article 13. The text would be approved, subsequent to being made available in all the official languages.

It was so agreed.

Mrs TACHÉ (France), speaking on behalf of the Parties in the European Union, welcomed the draft decision and thanked China and Japan for their spirit of compromise. Advertising was a key issue, and the Parties must agree on a text that was so important for the effective implementation of the Framework Convention.

The CHAIR, noting that there were no comments on the draft decision relating to recommendations on a protocol on cross-border advertising, promotion and sponsorship, suggested that the text should be approved by the Committee once it had been made available in all the official languages.

It was so agreed.

Mr MAUNU (European Community) said that no Party had voiced any real concerns regarding Annex 3, and he took it that the general consensus was to adopt the text as a draft decision. He drew attention to paragraphs 2(2) and 2(4) which did not specify the institutions that should perform the tasks identified.

Dr ANIBUEZE (Nigeria) said that the Convention Secretariat should set up the web site and knowledge hub, and earmark resources to that end. Further regional consultations would be necessary before identifying the institutions to perform the tasks set out in paragraph 2(4).

Following a request for clarification from Ms ALI-HIGO (Djibouti) concerning the revisions to the reporting instrument referred to in paragraph 2(1), Mr BURCI (WHO Legal Counsel) said that the recommendations still had to be considered, and it was unclear whether the Conference of the Parties was ready to approve them at the current session. If the recommendations were adopted before the

work in Committee B was completed, there might still be time to consider amending the questionnaire; if not, it might have to be amended at a later stage.

(For approval of the draft decisions, see summary record of the seventh meeting.)

Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14)): Item 4.4 of the Agenda (Document FCTC/COP/3/7) (continued from the third meeting)

The CHAIR said that he would circulate the English version of the draft decision to the coordinators of the regional groups for preliminary consideration.

It was so agreed.

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

The meeting rose at 17:50.

SEVENTH MEETING

Friday, 21 November 2008, at 10:50

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of a protocol on illicit trade in tobacco products. Report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12)): Item 4.1 of the Agenda (Document FCTC/COP/3/4) (continued from the fifth meeting)

The CHAIR drew attention to a draft decision containing a proposal to amend Rule 28.1 of the Rules of Procedure of the Conference of the Parties, which read:

The Conference of the Parties,

Noting that the present formulation of Rule 28.1 of the Rules of Procedure of the Conference of the Parties may give rise to ambiguities concerning the duration of the term of office of officers of subsidiary bodies of the Conference,

DECIDES that Rule 28.1 of the Rules of Procedure of the Conference of the Parties be amended by deleting its last sentence, to read as follows:

“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.”

Mr PADILLA (Philippines) said that the Conference of the Parties could suspend, amend, replace or delete a portion or portions of any rule in accordance with its Rules of Procedure. The draft decision proposed to delete the last sentence of Rule 28.1 which read: “Officers shall not serve for more than two consecutive terms.” Drawing from experience in his country, he said that new blood infused into any organization almost always augured well, serving to promote meritocracy and opportunity. An exception to the rules in relation to specific sessions would be acceptable; however it would not be advisable to change the rules for all future meetings.

Dr ISRA SARNTISART (Thailand), speaking on behalf of the Parties in WHO’s South-East Asia Region, said that the decision as currently drafted did not reflect the Parties’ position and the last sentence of the decision should not be deleted. Other means should be found to accommodate the concern reflected in the decision, perhaps by giving a different interpretation to the phrase “two consecutive terms”, or by asking the WHO Legal Counsel to provide other options.

The CHAIR, in reply to the representative of the Philippines, said that in a multilateral organization, there were circumstances under which the extension of a term of office, for the chairmanship of a subsidiary body, for example, could be justified. When the proposed amendment had first been introduced at the Committee’s fifth meeting, objections had not been apparent.

Mr PADILLA (Philippines) said that, while he respected the views expressed by the Chair, the rationale for the proposal at the current session of the Conference of the Parties was different from that given after the second session of the Intergovernmental Negotiating Body. At that time the explanation had been that there was some confusion or ambiguity regarding the definition of the word “term”. At the current session, however, the Legal Counsel had put forward a different justification for deleting the last sentence of Rule 28.1. Since the first sentence of that rule read: “Unless the Conference of the Parties decides otherwise,” it could simply be decided to extend the term of office of the current Chair, rather than deleting the provision in question.

The CHAIR requested the representative of the Philippines to clarify whether his delegation could or could not go along with the draft decision.

Mr PADILLA (Philippines) said that his delegation would prefer not to amend the Rules of Procedure. However, if the draft decision had been presented by the Chair, and no other Parties objected to it, the Philippines would not stand in the way of its adoption.

Dr PRASAD (India) supported the proposal by the representative of the Philippines. The Rules of Procedure should not be amended as it would defeat the principles of equitable geographical representation and gender balance if officers were allowed to preside indefinitely. Given that Mr Walton-George was doing an outstanding job, the Committee should consider, exceptionally, how best to renew his tenure for the following two sessions of the Intergovernmental Negotiating Body, with the assistance of the Legal Counsel if necessary.

Mr BURCI (WHO Legal Counsel) explained that the problem had emerged during a previous session of the Intergovernmental Negotiating Body where it had been satisfactorily resolved, all Parties having agreed on the interpretation of the duration of the term of office of officers given in the Rules of Procedure. However, the same issue could occur in relation to future subsidiary bodies and therefore he had proposed deleting the last sentence of Rule 28.1, not in order to retain the same officers indefinitely, but in order to give subsidiary bodies the flexibility to decide on the term of office of their officers.

The CHAIR suggested that the issue be put aside for the time being while he consulted with various delegations.

(For conclusion of the discussion, see summary record of the eighth meeting.)

Report on tobacco dependence and cessation (in relation to Article 14 of the Convention) (decision FCTC/COP2(14)): Item 4.7 of the Agenda (Document FCTC/COP/3/10) (continued from the fifth meeting)

The CHAIR drew attention to a draft decision on elaboration of guidelines for implementation of Article 14 of the Convention which read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(14) which requests the Convention Secretariat to elaborate, in consultation with Parties particularly interested in the issue, a first report on tobacco dependence and cessation in relation to Article 14 of the WHO Framework Convention on Tobacco Control; and

Noting the report on tobacco dependence and cessation presented by the Convention Secretariat for consideration by the Conference of the Parties at its third session (document FCTC/COP/3/10),

1. DECIDES:
 - (1) to establish a working group for the elaboration of guidelines for the implementation of Article 14 of the WHO Framework Convention on Tobacco Control for consideration by the Conference of the Parties at its fourth session;
 - (2) to request the working group to take into account the report presented by the Convention Secretariat for consideration by the Conference of the Parties at its third session (document FCTC/COP/3/10);
 - (3) to request the Convention Secretariat to invite relevant organizations with specific expertise in this area to actively participate and contribute to the work of the working group;
 - (4) to establish initial membership of the working group as follows:
 - Key facilitators: Iran (Islamic Republic of), Uruguay;
 - Partners: Burundi, Ghana, India, Mali, Mexico, Namibia, New Zealand, Republic of Korea, South Africa, Thailand, Turkey, Uganda, United Republic of Tanzania;
 - (5) to set 31 December 2008 as the deadline for other Parties to announce to the Convention Secretariat their participation as a partner in the working group;

2. ALSO DECIDES, in accordance with decision FCTC/COP2(14):
 - (1) to request the Convention Secretariat to provide assistance and to make the necessary arrangements, including budgetary arrangements, for the working group to complete its work and to ensure, in consultation with the Bureau, that Parties have access to the draft text, for example, via a protected web site, and can provide comments before the circulation of the draft guidelines to the Conference of the Parties;
 - (2) to adopt the timeline set out below:

To make the draft guidelines, as requested, accessible by the Parties for their comments	At least six months before the fourth session of the Conference of the Parties
For submission to the Convention Secretariat for editing and translation	At least three months before the fourth session of the Conference of the Parties
For circulation to the Conference of the Parties	At least 60 days before the fourth session of the Conference of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)

Dr ABASCAL (Uruguay) proposed to amend subparagraph 1(3) of the draft decision, which referred only to “relevant organizations” and align it with decision FCTC/COP2(14) by making a reference to intergovernmental and nongovernmental organizations. The paragraph would then read: “to request the Convention Secretariat to invite relevant intergovernmental and nongovernmental organizations with specific expertise in this area to actively participate and contribute to the work of the working group”.

The CHAIR said that he considered that the term “relevant organizations” would cover nongovernmental organizations; however, that was for the Committee to decide.

Ms VIREM (France), speaking on behalf of the Parties in the European Union, fully supported the continuation of the working group, as set out in the draft decision. However, taking into account

the time constraints and the need to submit a report six months before the fourth session of the Conference of the Parties, she proposed that paragraph 1(1) be amended to read: “to establish a working group for the elaboration of a progress report or, if possible, guidelines for the implementation of Article 14 for consideration by the Conference of the Parties at its fourth session”.

She said that Germany and the United Kingdom of Great Britain and Northern Ireland wished to be included in the working group.

The CHAIR requested the representative of France to submit her proposal in writing.

Dr MALEFOASI (Solomon Islands) said that he supported the draft decision and would like to be a member of the working group.

Mr YÜKSEL (Turkey), speaking on behalf of the Parties in the WHO European Region, expressed support for the amendment proposed by the European Union. He reiterated Turkey’s interest in participating in the working group.

Dr ABOU AL ZAHAB (Syrian Arab Republic) said that his country, too, would like to participate in the working group.

He proposed that the deadline for Parties to announce to the Convention Secretariat their participation as a Partner in the working group, set out in paragraph 1(5) of the draft decision, be extended from 31 December 2008 to 31 January 2009.

Ms CAVALCANTE (Brazil) supported the creation of a working group and the comments made by the Chair. Her country wished to join the Partners in the working group.

Mr MATSOGA (Botswana) proposed that in paragraph 1(3) the words “and institutions” be inserted after “relevant organizations”. He requested that the deadline in paragraph 1(5) be extended to 31 March 2009. Botswana also wished to become a member of the working group.

The CHAIR said that many countries had holidays in January and February. However, if the deadline was continually extended, the working group would not have time to complete its work.

As the term “institutions” did not have a clear definition in law, adding “intergovernmental and nongovernmental organizations” might address the point raised by Botswana.

Dr ANIBUEZE (Nigeria) supported the draft decision. Nigeria would like to participate in the working group.

Dr KANGOYE (Burkina Faso) supported the proposal to postpone the deadline for participation to 31 January 2009. Burkina Faso wished to take part in the working group.

Ms SHEVYREVA (Russian Federation), welcoming the decision to establish a working group, said that her country was ready to take part in it.

The CHAIR requested the representative of the Convention Secretariat to read out the proposal by the European Union, which had been incorporated in the text of the draft decision.

Dr SZILAGYI (Convention Secretariat) said that, with the proposed amendment by the European Union, paragraph 1(1) would read: “to establish a working group for the elaboration of guidelines for the implementation of Article 14 of the WHO Framework Convention on Tobacco Control. The working group shall present a progress report or, if possible, draft guidelines for consideration by the Conference of the Parties at its fourth session;”. The first box in paragraph 2(2) would also be amended to read: “to make the progress report and, if possible, the draft guidelines accessible ...”.

The CHAIR said that, as he saw no objection, he would take it that the Committee wished to adopt the draft decision as orally amended by the representatives of France, the Syrian Arab Republic, and Uruguay.

The draft decision, as amended, was approved.¹

Study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) (decision FCTC/COP2(13)): Item 4.8 of the Agenda (Document FCTC/COP/3/11) (continued from the sixth meeting)

The CHAIR drew attention to a draft decision on the study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention), which read:

The Conference of the Parties,

Taking into account Articles 17, 18, 20.1(a), 22.1(b) and 26.3 of the WHO Framework Convention on Tobacco Control;

Recalling its decision FCTC/COP/1(17) on the establishment of a study group on alternative crops and its decision FCTC/COP/2(13) on the continuation of this work by the study group on economically sustainable alternatives to tobacco growing;

Noting the report of the study group on economically sustainable alternatives to tobacco growing (document FCTC/COP/3/11);

Considering that the pursuit of alternative livelihoods to tobacco growing must be addressed from a development perspective, as it involves health, social, environmental and economic aspects beyond substitution of one economic activity for another;

Reaffirming the commitment of Parties to article 5.3 of the WHO Framework Convention on Tobacco Control;

Mindful of the important work being undertaken under the umbrella of the United Nations Ad Hoc Interagency Task Force on Tobacco Control, and especially the broad range of agencies that have recognized expertise in this area, including the United Nations Food and Agriculture Office, the United Nations Development Programme, the United Nations Environment Programme and the World Bank, among others,

DECIDES:

(1) to establish a working group on economically sustainable alternatives to tobacco growing that replaces the study group established by the Conference of the Parties in its decisions FCTC/COP/1(17) and FCTC/COP/2(13). The working group shall have the following mandates:

(a) to develop a standardized methodological framework for comprehensive assessment of the viability and sustainability of tobacco growing and alternative livelihoods, including but not limited to alternative cropping systems, taking into account health, social, environmental and economic factors;

(b) to standardize terminology, instrument and variables utilized in this topic for the purpose of the WHO Framework Convention on Tobacco Control in line with international standards and practices;

(c) to promote the development of studies on the effects of tobacco growing on health, the environment and the social structure in developing Country Parties and Parties with economies in transition;

¹ Transmitted to the Conference of the Parties in the Committee's first report and adopted as decision FCTC/COP3(15).

- (d) to identify and actively promote the exchange of information and experiences between countries undertaking initiatives to assist farmers in migrating to alternative livelihoods to tobacco growing;
- (e) to develop an international database on information, research, experiences, best practices and regulations, covering the status of tobacco growing, employment and the role of the tobacco industry;
- (f) to identify and develop mechanisms and areas of cooperation with relevant intergovernmental organizations, in particular, the members of the United Nations Ad Hoc Interagency Task Force on Tobacco Control, including the International Labour Organization, the United Nations Food and Agricultural Organization, the World Bank, United Nations Development Programme and the United Nations Office on Drugs and Crime; and nongovernmental organizations with relevant expertise in the promotion of sustainable alternative livelihoods, including among others alternative cropping systems, to tobacco growing;
- (2) that the working group will primarily consist of Parties that have previously participated in the work of the study group, Parties that are amongst the largest producers of tobacco, as well as those countries with relatively high impact of tobacco growing on their economies;
- (3) to request the working group to present a progress report to the Conference of the Parties at its fourth session;
- Key facilitators: Brazil, India, Mexico ...*
- Partners: ...*
- (4) to set 31 December 2008 as the deadline for Parties to announce to the Convention Secretariat their participation as a partner in the working group;
- (5) to request the Convention Secretariat to make the necessary arrangements, including budgetary arrangements, for the working group to undertake its work and to ensure, in consultation with the Bureau, that Parties have access to the draft text, for example, via a protected web site, and can provide comments before the circulation of the progress report to the Conference of the Parties;
- (6) to adopt the timeline set out below:

Timeline:	
To make the progress report, as requested, accessible by the Parties for their comments	At least six months before the fourth session of the Conference of the Parties
For submission to the WHO Framework Convention on Tobacco Control Secretariat for editing and translation	At least three months before the fourth session of the Conference of the Parties
For circulation to the Conference of the Parties	At least 60 days before the fourth session of the Conference of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)

Mr CABRERA (Mexico) appreciated the support from 21 countries for the proposal to convert the study group into a working group. The Key Facilitators, Brazil, India, and Mexico, had agreed on two proposals that would clarify and strengthen the draft decision: to add a paragraph 1(g) that would read: "To elaborate, based on the above, policy options and recommendations for implementation of Articles 17 and 18 of the Framework Convention for consideration by the Conference of the Parties"; and to amend paragraph 3 as follows: "To request the working group to present a progress report to the Conference of the Parties at its fourth session, which will include a first set of policy options and recommendations for implementation of Articles 17 and 18 of the Framework Convention".

Ms TACHE (France), speaking on behalf of the European Union, said that she would have liked stronger preambular paragraphs on the development of demand. She had questions regarding the international database mentioned in paragraph 1(e). Referring to paragraph 1(f), she stressed the need to avoid duplication and to develop synergy. Paragraph 2 could be deleted, as it restricted participation in the group which should be open to all interested parties. The European Union would circulate written proposals.

Dr ABOU AL ZAHAB (Syrian Arab Republic) said that his country would like to take part in the working group in order to contribute to environmental protection, women's health and labour. In paragraph 4, he proposed to change the deadline to 31 January 2009, in accordance with the decision taken under the previous agenda item.

Dr PEERAMON NINGSANOND (Thailand) said that his country would like to take part in the working group. It would circulate a written proposal to amend the draft decision in order to invite relevant intergovernmental and nongovernmental organizations to participate in the group.

The CHAIR, recalling the need to adopt the draft decision at the current meeting, encouraged delegations wishing to propose amendments to provide them in writing.

Mr PADILLA (Philippines) said that his country also wished to participate in the working group. Like Thailand, the Philippines proposed to insert a new paragraph between paragraphs 4 and 5 that would read as follows: "to request the Convention Secretariat to invite relevant intergovernmental and nongovernmental organizations with specific expertise in these matters to actively participate and contribute to the work of the working group".

Mr HOSHINO (Japan), endorsing the statement by the representative of France said that Japan could support the adoption of the draft decision only if the budgetary implications of establishing the working group, and its stipulated workload, were duly taken into account by Committee B.

Mr CABRERA (Mexico) said that the budgetary implications of the draft decision were being studied by Committee B, a budget had been prepared, and the implications would be minimal.

The coordinating group of Parties in the WHO Region of the Americas had discussed the amendment proposed by the Philippines and Thailand and concluded that the draft decision provided for the participation of intergovernmental and nongovernmental organizations, and that that was made clear in paragraph 1(f). Hence the proposed additional paragraph would be redundant.

Mr MATSOGA (Botswana), supporting the statements by the representatives of France and Japan, agreed that paragraph 2 should be deleted. As no entities were listed under "Partners" he suggested that they should be included.

Mr YÜKSEL (Turkey) said that his country would like to take part in the working group.

Ms CHAMORRO (European Community), speaking on behalf of the Parties in the European Union, expressed appreciation for the comments by the representative of Mexico. The European Union was prepared to explain its proposals, either to the Committee as a whole or to the delegation concerned.

Dr DIARRA (Mali), speaking on behalf of the Parties in the WHO African Region, endorsed the European Union's proposal regarding paragraph 2. His delegation had already expressed interest in joining the working group and he was further interested in having a list of the countries wishing to take part.

Dr INSISIENGMAY (Lao People's Democratic Republic) said that, as his delegation had taken part in the study group, it would be pleased to be a member of the working group.

Dr MBATIA (United Republic of Tanzania) said that his country wished to participate in the working group. His country had the political goodwill to explore economically sustainable alternatives to its existing tobacco farming.

Ms BEGUM (Bangladesh) said that her country wished to be a member of the working group.

The CHAIR said that the Secretariat was taking note of all the delegations that had expressed interest in the issue.

Mr LIEBERMAN (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, wanted clarification from WHO's Legal Counsel about the proposal by the Philippines and Thailand. He expressed concern that paragraph 1(f) did not refer to the actual functioning of the working group. In other decisions that established working groups, a paragraph dealt specifically with the participation of intergovernmental and nongovernmental organizations; paragraph 1(f) did not adequately cover the matter. The Alliance wished to avoid any argument arising from whether the working group had a mandate to invite not only intergovernmental but also nongovernmental organizations to take part in its deliberations.

The CHAIR invited the previous speaker to consult with WHO's Legal Counsel. It was his understanding that the issues raised by various delegations were easily reconcilable. He encouraged the Parties to resolve their differences following the conclusion of the morning meeting so that all draft decisions could be approved at the afternoon meeting

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

Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14)): Item 4.4 of the Agenda (Document FCTC/COP/3/7) (continued from the sixth meeting)

The CHAIR introduced the draft decision on elaboration of guidelines for the implementation of Article 11 of the Convention, which read:

The Conference of the Parties,

Recalling Article 7 of the Convention, which states that the Conference of the Parties shall propose appropriate guidelines for the implementation of Articles 8 to 13; and

Recalling its decision to establish a working group to elaborate guidelines on the implementation of Article 11 of the Convention, and to present draft guidelines to the Conference of the Parties at its third session (FCTC/COP2(14));

Emphasizing that the aim of these guidelines is to assist Parties to meet their obligations under Article 11 of the Convention and that these are not intended to increase Parties' obligations under this Article,

DECIDES:

(1) to adopt the guidelines for the implementation of Article 11 of the Convention (packaging and labelling of tobacco products) contained in the Annex of document FCTC/COP/3/7;

(2) to request the Convention Secretariat to make accessible, via a website, studies, research and other reference material used in the development of the guidelines for implementation of Article 11;

- (3) to request the Convention Secretariat, under the guidance of the Bureau, to modify the reporting instrument used by Parties to fulfil their reporting obligations under Article 21 of the Convention to take into consideration the guidelines for implementation of Article 11;
- (4) to request the Convention Secretariat to invite WHO's Tobacco Free Initiative to establish and maintain a central, international database of pictorial health warnings and messages, which are either copyright-free, or for which a license is required, including those that are granted free of charge. Where a license is required, it is expected that WHO's Tobacco Free Initiative would transmit the request to the Convention Secretariat or the relevant Party;
- (5) to request the Convention Secretariat to facilitate the granting of licenses for the use of pictorial health warnings and messages on behalf of those Parties who request it;
- (6) to request each Party, taking into account its obligations under Article 22 of the Convention, to include in its periodic reports on its implementation of the Convention any action it has taken under paragraph (4) and (5) of this decision;
- (7) to consider at its fifth session whether to initiate a review of these guidelines.

Minor drafting changes had been agreed by the Key Facilitators, the Convention Secretariat and other interested delegations: in paragraph 1 the words “of document FCTC/COP/3/7” should be deleted and replaced by “to this decision”, and in paragraph 6, the word “request” should be replaced by “encourage”.

In the course of consultations, it had become clear that paragraph 3 needed to be redrafted. Regarding paragraph 48 of the draft guidelines contained in document FCTC/COP/3/7, it had been agreed that the word “health” in the expression “relevant health authority” would be deleted the first time the expression occurred in paragraph 48, but retained the second time it occurred. It had also been agreed that the final phrase of the paragraph, which read: “and have the power to issue final approval”, would be deleted, so that there should be a full stop after “label specifications”. Those changes having been made, it was proposed to amend paragraph 3 of the draft decision as follows: “to request the Convention Secretariat to take into consideration the guidelines for implementation of Article 11 of the Convention when elaborating a draft of the Group 3 questions of the reporting instrument used by the Parties to fulfil their reporting obligation under Article 21 of the Convention”.

Dr PRASAD (India) said that the Parties in the WHO South-East Asia Region supported adoption of the guidelines and wished to amend paragraph 4 of the draft decision to read: “to request the Convention Secretariat to invite WHO's Tobacco Free Initiative to assist the Convention Secretariat to maintain a central, international database ...”. In order to strengthen the role of the Convention Secretariat, it was also proposed to delete the last sentence of paragraph 4 and to amend paragraph 5, to read: “Where a licence is required, Parties may request the Convention Secretariat to facilitate the granting of licences ...”.

Mr CHOINIÈRE (Canada) said that he wished to explain the thinking behind paragraph 4 as currently drafted, so that the proposal by the Parties in the WHO South-East Asia Region would be clear to all Parties. The database referred to in the paragraph would have two functions: the first would be to collect copyright-free material that Parties were willing to make widely available and accessible to all WHO's Member States; the second would be to facilitate the transmittal of requests by both Parties and non-Parties to Canada. In order to make that possible, all those elements needed to be in paragraph 4.

He favoured allowing non-Party Member States of WHO access to the database and encouraging them to become Parties to the Convention. However, the Convention Secretariat could not offer a service to non-Parties, given the existing budgetary pressures. Nonetheless, Canada understood that offering such a service was the purpose of WHO's Tobacco Free Initiative. Accordingly, having one database that served everyone would avoid duplication without placing increased strain on the resources of the Convention Secretariat.

The CHAIR ascertained from Mr CHOINIÈRE (Canada) that he believed that the proposal by the Parties in the WHO South-East Asia Region would limit the ability of the database to serve non-Parties; and that the addition of the phrase “to assist” would place increased demand on the Convention Secretariat to develop the database. He suggested therefore that the two delegations should consult the Key Facilitators to resolve their differences.

It was so agreed.

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

Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8)): Item 4.6 of the Agenda (Document FCTC/COP/3/9) (continued from the sixth meeting)

The CHAIR invited the Committee to resume its consideration of the draft decision entitled “Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship)”.

The draft decision was approved.¹

The CHAIR invited the Committee to resume its consideration of the draft decision on recommendations on key elements of a possible protocol on cross-border advertising, promotion and sponsorship. After discussion with the Key Facilitators and the Legal Counsel, he proposed to place the word “possible” in the title in front of the word “key”. The title would then read: “Recommendations on possible key elements of a protocol on cross-border advertising, promotion and sponsorship”. The same amendment should be made in the paragraph, beginning “DECIDES to take note of the recommendations of the working group ...”. As he saw no objection, he would take it that the Committee wished to approve the draft decision as orally amended.

The draft decision, as amended, was approved.²

The CHAIR invited the Committee to turn its attention to the draft decision on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship which read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(8) establishing a working group to elaborate guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control and to present recommendations on key elements of a protocol on cross-border advertising, promotion and sponsorship, which would be complementary to these guidelines, and on any other measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship;

Taking into account its decisions FCTC/COP3(XX) and FCTC/COP3(XX);

Noting that international cooperation is essential to the elimination of both domestic and cross-border tobacco advertising, promotion and sponsorship;

¹ Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP3(12).

² Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP3(13).

Taking into account that the effectiveness of efforts to eliminate cross-border tobacco advertising, promotion and sponsorship depends not only on initiatives undertaken by individual Parties but also on the extent to which Parties cooperate in addressing cross-border tobacco advertising, promotion and sponsorship;

Further taking into account that Parties to the Convention have already undertaken commitments with respect to international cooperation, including under Article 13.6 (Cooperation in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising); Article 19 (Liability), Article 20 (Research, surveillance and exchange of information), particularly Article 20.4 (Exchange of publicly available, scientific, technical, socioeconomic, commercial and legal information, as well as information regarding the practices of the tobacco industry); Article 21 (Reporting and exchange of information); Article 22 (Cooperation in the scientific, technical, and legal fields and provision of related expertise); and Article 26 (Financial resources),

DECIDES:

- (1) that Parties, while ensuring the protection of personal data and trade secrets:
 1. identify a contact point on matters of tobacco advertising, promotion and sponsorship to the Convention Secretariat and notify the Convention Secretariat of any changes in details;
 2. when notified by another Party of cross-border tobacco advertising, promotion and sponsorship that appears to originate, or have originated, from its territory, acknowledge the notification and inform the notifying party within a reasonable time of any investigation or other action taken in response to the notification;
 3. use the web site to share relevant information with other Parties and, as appropriate, observers and the public, particularly in relation to:
 - persons or entities responsible for the production, placement and/or dissemination of cross-border tobacco advertising, promotion and sponsorship;
 - new and emerging methods and forms of cross-border tobacco advertising promotion and sponsorship;
 - developments in technology;
 - lessons learnt in dealing with cross-border tobacco advertising promotion and sponsorship;
 - research needs and opportunities;
 - legislation or regulations, including links to such legislation or regulations;
 - breaches, or suspected breaches, of legislation or regulations and the origin of notifications or complaints made;
 - where appropriate, pending investigations or enforcement action;
 - where appropriate, the outcomes of any relevant investigations or enforcement action;
 - jurisprudence, including links to such jurisprudence;
 - education, training or public awareness programmes planned or implemented;
- (2) that the questions on Article 13 in the reporting instrument adopted by the Conference of the Parties:
 2. be revised to reflect the principal provisions of the guidelines on Article 13 to be adopted by the Conference of the Parties at its third session;
 3. be revised to include the following question: “Are you precluded by your constitution or constitutional principles from undertaking a comprehensive ban on all tobacco advertising, promotion and sponsorship? If yes, please give details”; and

4. be moved from the section “Optional questions” to the section “Core questions”;
- (3) that observers to the Conference of the Parties be invited to provide relevant information to the Convention Secretariat with respect to cross-border tobacco advertising, promotion and sponsorship, including:
 5. persons or entities responsible for the production, placement and/or dissemination of cross-border tobacco advertising, promotion and sponsorship;
 6. new and emerging methods and forms of cross-border tobacco advertising, promotion and sponsorship;
 7. developments in technology;
 8. research needs and opportunities; and
 9. education, training or public awareness programmes, planned or implemented;
- (4) to request the Convention Secretariat to set up and facilitate a web site which could be used as a knowledge hub on matters of cross-border advertising, promotion and sponsorship and as a means for notifying instances of cross-border advertising, promotion and sponsorship, taking into account the recommendations contained in Annex 3, paragraph 2, of document FCTC/COP/3/9 and information contained in regular reports of the Parties submitted in accordance with Article 21 of the WHO Framework Convention on Tobacco Control;
- (5) Concerning the measures suggested in paragraphs 4, 6 and 7 in Annex 3 of document FCTC/COP/3/9, to request the Convention Secretariat under the guidance of the Bureau, to submit recommendations to the Conference of the Parties at its fourth session, also taking into account other relevant provisions of the WHO Framework Convention on Tobacco Control and decisions of the Conference of the Parties as well as information being received from Parties on implementation of Article 13 of the WHO Framework Convention on Tobacco Control through regular reports of the Parties.

Mr MAUNU (European Community) said that the draft decision substantially reflected the text set out in Annex 3 of document FCTC/COP/3/9. However, some paragraphs had been reorganized and certain points clarified in response to issues raised at the previous meeting. The Key Facilitators, after consulting with the Convention Secretariat, had proposed that the web site referred to in paragraph 4 of the draft decision should be set up and facilitated by the Convention Secretariat.

Mr BURCI (WHO Legal Counsel) said that, as currently drafted, the decision appeared to impose binding obligations on Parties while the Conference of the Parties did not have the authority to take decisions that would legally bind them. He suggested therefore that the operative section should begin: “DECIDES ... (1) that Parties should, while ensuring the protection of personal data and trade secrets ...”.

Mr HOSHINO (Japan), endorsing the statement by WHO's Legal Counsel, proposed that “should consider” be substituted for “should”.

Mr CHOINIÈRE (Canada), drawing attention to subparagraph (1)2, beginning with the words “when notified by another Party ...” said that it was unclear to whose territory the provision referred, that of the notifying Party or that of the Party being notified.

He said that the question posed by subparagraph (2)3, namely, whether a country was constitutionally precluded from undertaking a comprehensive ban on tobacco advertising, promotion and sponsorship, was fairly straightforward. However, the request to give details would oblige Canada to submit hundreds of pages detailing the constitutional impediments to such a ban. He therefore suggested that the scope of the question be narrowed.

The CHAIR said that the issue required further consideration. He asked the Key Facilitator and interested delegations to consult after the meeting, with the help of WHO's Legal Counsel.

Mr HOSHINO (Japan) and Mr CHOINIÈRE (Canada) said that they would be interested in participating in an informal meeting.

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

The meeting rose at 12:45.

EIGHTH MEETING

Friday, 21 November 2008, at 15:45

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of a protocol on illicit trade in tobacco products. Report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12)): Item 4.1 of the Agenda (Document FCTC/COP/3/4)

The CHAIR invited the Committee to consider the revised draft decision on elaboration of a protocol on illicit trade in tobacco products, which read:

The Conference of the Parties,
Recalling its decision FCTC/COP2(12);
Taking note of the report of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products contained in document FCTC/COP/3/4;
Acknowledging in particular the requests made by the Intergovernmental Negotiating Body concerning the continuation of its work including intersessional activities,

DECIDES:

- (1) that the third session of the Intergovernmental Negotiating Body shall be held from 28 June to 5 July 2009 in Geneva;
- (2) that the Intergovernmental Negotiating Body may decide to hold a fourth session in 2010, if necessary, for the purpose of submitting the text of a draft protocol on Illicit Trade in Tobacco Products to the fourth session of the Conference of the Parties, with the date and venue to be decided by the Bureau of the Conference of the Parties;
- (3) to agree with the proposal of the Intergovernmental Negotiating Body that regional consultation meetings be held before the third session;
- (4) to encourage Parties to provide extrabudgetary contributions to allow the Convention Secretariat to organize expert reviews, regional consultation meetings and to extend the third session from six, as currently budgeted, to eight working days;
- (5) to request the Convention Secretariat:
 - (a) to make the necessary arrangements, including budgetary arrangements, for the performance of the work of the Intergovernmental Negotiating Body, noting also that the activities referred to in paragraph 1.4 would be delivered subject to the availability of funds provided through extrabudgetary contributions in addition to those envisaged for the Intergovernmental Negotiating Body in the budget and workplan 2008–2009 adopted in decision FCTC/COP2(11);
 - (b) to facilitate the participation of low-income and lower-middle income Parties in the Intergovernmental Negotiating Body.

Mr WALTON-GEORGE (Chairperson, Intergovernmental Negotiating Body), recalling that the Committee at its fifth meeting had referred to Committee B the draft decision on elaboration of a protocol on illicit trade in tobacco products, reported that Committee B had examined the interim performance report for the 2008–2009 budget and workplan¹.

The year 2009 would be important for the Intergovernmental Negotiating Body, and concerns had been expressed over the budgetary arrangements. Committee B, which had been requested to advise the Convention Secretariat on the workplan priorities for 2009, had agreed the following priorities: the preparatory work for any further Conference of the Parties; preparatory work for the sessions of the Intergovernmental Negotiating Body, including work between its second and third sessions; the holding of the third session itself; and any further work. The Convention Secretariat had been advised that it must implement those priorities, which must be funded from the budgetary means available. Accordingly, with a slight amendment, Committee A would be in a position to approve it.

The main change was in subparagraph 1(5). Since the work of the Intergovernmental Negotiating Body would henceforth be a priority, the phrase in the third line, “subject to the availability of funds provided through extrabudgetary contributions”, should be replaced by “subject to the priorities established by the Conference of the Parties”. Thus, if the Conference adopted the report of Committee B it would be endorsing those priorities, to be covered by the budget. That would enable expert reviews, regional consultation meetings, and the prolongation of the Intergovernmental Negotiating Body’s third session from six to eight working days. That amendment to subparagraph 1(5) would entail a small change in subparagraph 1(4). As funds would be required as a priority, the word “allow” in the first line should be replaced by “enable”.

The CHAIR, acknowledging Committee B’s work, said that the amendments had clarified the draft decision. Several solutions to the issue of the terms of office of officers of the Intergovernmental Negotiating Body had been put forward during the session. One solution, to amend the Rules of Procedure, had been unacceptable to two regional groups. Discussion among the delegations concerned and the WHO Legal Counsel had yielded another solution.

Mr BURCI (WHO Legal Counsel) said that the purpose of the proposed amendment was to ensure that the current officers of the Intergovernmental Negotiating Body remained in office until the fourth Conference of the Parties. It had therefore been agreed to insert a new paragraph 1(3) to read: “that the second term of the officers of the Intergovernmental Negotiating Body, in accordance with Rule 28.1 of the Rules of Procedure of the Conference of the Parties, shall include the sessions of the Intergovernmental Negotiating Body to be held between the third and fourth session of the Conference of the Parties.” The subsequent paragraphs would be renumbered accordingly.

The CHAIR announced that the draft decision to amend Rule 28.1 of the Rules of Procedure of the Conference of the Parties – which had been based on the perceived ambiguity of the word “term” – would not be submitted for adoption since a new solution had emerged from consultations held.

Mr BURCI (WHO Legal Counsel) recalled that two regional groups had opposed the proposal to amend Rule 28.1 of the Convention, on the grounds that the Rules of Procedure should be amended as little as possible and because of the possible unintended implications of deleting the last sentence of Rule 28.1. In order for the Conference of the Parties to determine a desirable duration of terms of office of the officers of future subsidiary bodies in the light of the mandate and nature of each body, the proposal was, rather than to submit the draft decision for adoption by the Conference, to include a paragraph in the report of Committee A to the plenary along the following lines: “The Committee agreed not to take action on the draft decision entitled “Rule 28.1 of the Rules of Procedure of the Conference of the Parties”. However, in view of the ambiguity arising from the interpretation of the

¹ See summary record of the third meeting of Committee B, section 3, et seq.

word “term” in Rule 28.1, the Committee recommends that the Conference of the Parties, when establishing future subsidiary bodies under Rule 25 of its Rules of Procedure, consider defining the duration of the term of office of the officers of those bodies”.

That statement of understanding would be recommended to the plenary which would, in turn, endorse it when it adopted the report of the Committee. That would then serve as a reference for future sessions of the Conference, in similar situations, to consider the ideal terms of office without any amendment of Rule 28.1.

The CHAIR said that the final language of the paragraph would be approved by the Committee when it adopted its report. A fair solution had been reached without amendment of the Rules of Procedure.

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

Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14)): Item 4.4 of the Agenda (Document FCTC/COP/3/7) (continued from the seventh meeting)

The CHAIR invited the Committee to resume its consideration of the draft decision on elaboration of guidelines for the implementation of Article 11 of the Framework Convention and invited the delegations involved in the drafting to report on the proposed amendments.

Dr PRASAD (India) said that his delegation and the Key Facilitators had endeavoured to reach agreement on paragraphs (4), (5) and (6). A new paragraph had been added, seeking to clarify the role of WHO’s Tobacco Free Initiative vis-à-vis the Convention Secretariat in providing access to pictorial health warnings through an international database. The amendment allowed interested Parties to engage with WHO’s Tobacco Free Initiative to create such a database, which would be accessible to both Parties and non-Parties.

Ms MARSHALL (Australia), speaking as a Key Facilitator, said that some wording had been changed in paragraph (4), but that the intention remained the same. A new paragraph (5) had been added, requesting the Convention Secretariat to encourage use of the central international database of pictorial health warnings and messages. In paragraph (6), the wording made it clearer that the Convention Secretariat could facilitate the granting of licences between Parties.

In paragraph (7), at the request of the European Community, the words “and noting Article 26.5(a) of the Convention” had been inserted after “to encourage each Party, taking into account its obligations under Article 22 of the Convention”. Later in the same paragraph, “paragraph (4) and (5) of this decision” had been changed to “paragraph (4) and (6)” to reflect the changes introduced in paragraph (6).

The draft resolution on elaboration of guidelines for implementation of Article 11 of the Convention, as amended, was approved.²

The CHAIR expressed appreciation to the delegations involved for their flexibility and understanding.

¹ Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP3(6).

² Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP3(10).

Study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) (decision FCTC/COP2(13)): Item 4.8 of the Agenda (Document FCTC/COP/3/11) (continued from the seventh meeting)

The CHAIR invited the Committee to resume its consideration of the draft decision on a study group on economically sustainable alternatives to tobacco growing in relation to Articles 17 and 18 of the WHO Framework Convention on Tobacco Control. He invited the representative of Mexico to report on the consultations.

Mr CABRERA (Mexico) said that his country, Brazil, the European Union, India, the Philippines and Thailand had taken into account the concerns and suggestions of the Committee in their proposed amendments to the draft decision.

In the second line of the fourth preambular paragraph, the phrase “and from a development perspective” should be inserted after “with a long-term sustainable approach”.

In paragraph 1(e), “to develop an international database on” should be replaced by “assess existing sources of”, and at the end of the subparagraph, following “tobacco industry”, the phrase “and collect and share those as appropriate” should be added. In paragraph 1(f), “to identify and develop” should be replaced by “promote synergies and avoid duplication of efforts by identifying and developing”. In the first line of paragraph 1(g) the phrase “as deemed appropriate by the working group” should be inserted after “based on the above,”. Paragraph (2), which stated that the working group would consist primarily of Parties that had previously participated in the study group, should be deleted, so as not to give the impression that the working group was closed to other participants. Former paragraph (3), current paragraph (2), “if possible” should be added after the words “which will include”. Lastly, a new paragraph (4) should be added and would read: “to invite the relevant intergovernmental and nongovernmental organizations with specific expertise on the matter to participate in the working group”.

The CHAIR, supported by Mr CABRERA (Mexico), said that in the first line of the fourth preambular paragraph the word “must” was very strong and was rarely used in multilateral organizations, and suggested that it should be changed to “should be” or “needs to be”.

Ms CHAMORRO (European Community) suggested that in paragraph (4) the phrase “as per request from the Convention Secretariat” should be added after “participate in the working group” to align the text with that of other draft decisions.

Dr ABOU AL ZAHAB (Syrian Arab Republic) suggested that two other international organizations be added to the list of organizations in paragraph 1(f): the United Nations Environment Programme, given that Article 18 of the Framework Convention dealt with protecting the environment against tobacco agriculture and manufacturing, and the United Nations Industrial Development Organization, which was concerned with the development of clean tobacco industries.

It was so agreed.

Mr BURCI (WHO Legal Counsel) agreed that the phrase which the European Community proposed to add appeared in other decisions adopted by the Conference of the Parties. New paragraph (5) would then read: “to invite relevant intergovernmental and nongovernmental organizations with specific expertise on the matter to participate in the working group, as per request from the Convention Secretariat”.

The draft decision on the study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention), as amended, was approved.¹

Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8)): Item 4.6 of the Agenda (Document FCTC/COP/3/9) (continued from the seventh meeting)

The CHAIR invited the Committee to consider the revised draft decision on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship, which read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(8) establishing a working group to elaborate guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control and to present recommendations on key elements of a protocol on cross-border advertising, promotion and sponsorship, which would be complementary to these guidelines, and on any other measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship;

Taking into account its decisions FCTC/COP3(XX) and FCTC/COP3(XX);

DECIDES: to take note of the recommendations of the working group on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship as contained in the Annex to this decision.

The amendment consisted of deletion of the last three preambular paragraphs and replacement of paragraphs 1–5 with a single new operative paragraph. The original version of Annex 3, contained in document FCTC/COP/3/9 and consisting of the recommendations in question, would be annexed to that procedural draft decision.

Mr ALLEN (New Zealand) said that the words “take note of” did not imply a firm commitment to consider the recommendations. He asked whether a requirement might be included to report back to the Conference of the Parties at its fourth session.

The CHAIR invited the European Community, as a Key Facilitator, to respond.

Mr MAUNU (European Community) said that the new formulation had been used because the representative of Japan at a previous meeting had considered the earlier wording to be legally binding. The Key Facilitators interpreted the operative paragraph to be a general recommendation that the measures in question were needed, without specifying the form they must take or who should implement them.

The CHAIR pointed out that the working group was mandated to present recommendations and key elements of a protocol on cross-border advertising, promotion and sponsorship, and that those would complement the guidelines. Hence, Annex 3 should be viewed as a recommendation that complemented the guidelines because, as WHO's Legal Counsel had explained, the Conference of the Parties had no power to create legal obligations for States Parties. The decision had been drafted in such a way as to avoid any suggestion that new legal obligations were being created.

¹ Transmitted to the Conference of the Parties in the Committee's first report and adopted as decision FCTC/COP3(16).

Regarding follow-up action, paragraph 2(4) of Annex 3 provided for tasks to be carried out at the international level in a manner to be decided by the Conference of the Parties and to be further addressed at its next session.

Mr ALLEN (New Zealand) said that, despite those helpful clarifications, “to take note of” was too passive and he would prefer the draft decision to refer specifically to active consideration of the recommendations at the fourth session of the Conference.

The CHAIR requested the delegation of New Zealand to work with the Key Facilitators, the delegation of Japan and any other interested delegations to devise a formulation that would mandate the next session of the Conference to consider the issue, without, however, proposing a new paragraph that might imply legal obligation.

The meeting was suspended at 17:00 and resumed at 18:00.

Mr BURCI (WHO Legal Counsel) announced that, after informal consultations among the delegations concerned, the proposed amendment was the addition of a subparagraph (b) to the first operative paragraph and of a second operative paragraph. The draft decision would now read:

The Conference of the Parties,

Recalling its decision FCTC/COP2(8) establishing a working group to elaborate guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control and to present recommendations on key elements of a protocol on cross-border advertising, promotion and sponsorship, which would be complementary to these guidelines, and on any other measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship;

Taking into account its decisions FCTC/COP3(XX) and FCTC/COP3(XX);

1. DECIDES:
 - (a) to take note of the recommendations of the working group on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship as contained in the Annex to this decision;
 - (b) to further consider the recommendations at its fourth session;
2. REQUESTS the Convention Secretariat to assess the implications of the recommendations and propose options for further work, and to report to the fourth session of the Conference of the Parties.

The draft decision on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship, as amended, was approved.¹

¹ Transmitted to the Conference of the Parties in the Committee’s first report and adopted as decision FCTC/COP3(12).

Elaboration of guidelines for implementation of Article 5.3 of the Convention (decision FCTC/COP2(14)): Item 4.2 of the Agenda (Document FCTC/COP/3/5) (continued from the seventh meeting)

Dr BLOOMFIELD (New Zealand) said that the informal group working on elaboration of the guidelines for implementation of Article 5.3 of the Framework Convention had focused on five key issues and several smaller ones; he would present a revised draft to the Committee at its next meeting.

It was so agreed.

The meeting rose at 18:10.

NINTH MEETING

Saturday, 22 November 2008, at 10:20

Chair: Mr S. SHAKERIAN (Islamic Republic of Iran)

1. MATTERS IDENTIFIED IN DECISIONS TAKEN BY THE CONFERENCE OF THE PARTIES AT ITS SECOND SESSION: Item 4 of the Agenda (continued)

Elaboration of guidelines for implementation of Article 5.3 of the Convention (decision FCTC/COP2(14)): Item 4.2 of the Agenda (Document FCTC/COP/3/5) (continued)

Dr BLOOMFIELD (New Zealand), speaking as coordinator of the working group, introduced the draft decision on elaboration of guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, which read:

The Conference of the Parties,
Taking into account Article 5.3 of the WHO Framework Convention on Tobacco Control;
Emphasizing that these guidelines are to assist Parties in setting and implementing public health policies with respect to tobacco control and in protecting these policies from commercial and other vested interests of the tobacco industry,

ADOPTS the guidelines for implementation of Article 5.3 of the Convention contained in the Annex to this decision.

ANNEX

Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry

INTRODUCTION

1. World Health Assembly resolution WHA54.18 on transparency in tobacco control process, citing the findings of the Committee of Experts on Tobacco Industry Documents, states that “the tobacco industry has operated for years with the expressed intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic.”

2. The Preamble of the WHO Framework Convention on Tobacco Control indicates that Parties¹ “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts

¹ “[T]he term ‘Parties’ refers to States and other entities with treaty-making capacity which have expressed their consent to be bound by a treaty and where the treaty is in force for such States and entities.” (Source: United Nations Treaty Collections: <http://untreaty.un.org/English/guide.asp#signatories>).

and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts”.

3. Further, Article 5.3 of the Convention requires that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.”

4. The Conference of the Parties in decision FCTC/COP2(14) established a working group to elaborate guidelines for implementation of Article 5.3 of the Convention.

5. Without prejudice to the sovereign right of the Parties to determine and establish their tobacco control policies, Parties are encouraged to implement these guidelines to the extent possible in accordance with their national law.

Purpose, scope and applicability

6. Use of the guidelines for Article 5.3 of the Convention will have an overarching impact on countries’ tobacco control policies and on implementation of the Convention, because the guidelines recognize that tobacco industry interference, including that from the State-owned tobacco industry, cuts across a number of tobacco control policy areas, as stated in the Preamble of the Convention, articles referring to specific tobacco control policies and the Rules of Procedure of the WHO Framework Convention on Tobacco Control.

7. The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control.

8. The aim of these guidelines is to assist Parties¹ in meeting their legal obligations under Article 5.3 of the Convention. The guidelines draw on the best available scientific evidence and the experience of Parties in addressing tobacco industry interference.

9. The guidelines apply to setting and implementing Parties’ public health policies with respect to tobacco control. They also apply to persons, bodies or entities that contribute to, or could contribute to, the formulation, implementation, administration or enforcement of those policies.

10. The guidelines are applicable to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable.

11. The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.

¹ Where appropriate, these guidelines also refer to regional economic integration organizations.

12. While the measures recommended in these guidelines should be applied by Parties as broadly as necessary, in order best to achieve the objectives of Article 5.3 of the Convention, Parties are strongly urged to implement measures beyond those recommended in these guidelines when adapting them to their specific circumstances.

GUIDING PRINCIPLES

Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.

13. The tobacco industry produces and promotes a product that has been proven scientifically to be addictive, to cause disease and death and to give rise to a variety of social ills, including increased poverty. Therefore, Parties should protect the formulation and implementation of public health policies for tobacco control from the tobacco industry to the greatest extent possible.

Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

14. Parties should ensure that any engagement with the tobacco industry on matters related to tobacco control or public health is accountable and transparent.

Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent.

15. The tobacco industry should be required to provide Parties with information for effective implementation of these guidelines.

Principle 4: Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.

16. Any preferential treatment of the tobacco industry would be in conflict with tobacco control policy.

RECOMMENDATIONS

17. The following important activities are recommended for addressing tobacco industry interference in public health policies:

- (1) Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
- (2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
- (3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
- (4) Avoid conflicts of interest for government officials and employees.

- (5) Require that information provided by the tobacco industry be transparent and accurate.
- (6) Denormalize and to the extent possible regulate activities described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.
- (7) Do not give preferential treatment to the tobacco industry.
- (8) Treat State-owned tobacco industry in the same way as any other tobacco industry.

18. Agreed measures for protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry are listed below. Parties are encouraged to implement measures beyond those provided for by these guidelines, and nothing in these guidelines shall prevent a Party from imposing stricter requirements that are consistent with these recommendations.

(1) Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties’ tobacco control policies.

19. All branches of government and the public need knowledge and awareness about past and present interference by the tobacco industry in setting and implementing public health policies with respect to tobacco control. Such interference requires specific action for successful implementation of the whole Framework Convention.

Recommendations

1.1 Parties should, in consideration of Article 12 of the Convention, inform and educate all branches of government and the public about the addictive and harmful nature of tobacco products, the need to protect public health policies for tobacco control from commercial and other vested interests of the tobacco industry and the strategies and tactics used by the tobacco industry to interfere with the setting and implementation of public health policies with respect to tobacco control.

1.2 Parties should in addition raise awareness about the tobacco industry’s practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry.

(2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.

20. In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

Recommendations

2.1 Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.

2.2 Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public.

(3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.

21. The tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health.

Recommendations

3.1 Parties should not accept, support or endorse partnerships or non-enforceable or non-binding agreements as well as any voluntary arrangement with the tobacco industry or any entity or person working to further its interests.

3.2 Parties should not accept, support or endorse the tobacco industry organizing, promoting, participating in, or performing, youth, public education or any initiatives that are directly or indirectly related to tobacco control.

3.3 Parties should not accept, support or endorse any voluntary code of conduct or instrument drafted by the tobacco industry that is offered as a substitute for legally enforceable tobacco control measures.

3.4 Parties should not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry.

(4) Avoid conflicts of interest for government officials and employees.

22. The involvement of organizations or individuals with commercial or vested interests in the tobacco industry in public health policies with respect to tobacco control is most likely to have a negative effect. Clear rules regarding conflicts of interest for government officials and employees working in tobacco control are important means for protecting such policies from interference by the tobacco industry.

23. Payments, gifts and services, monetary or in-kind, and research funding offered by the tobacco industry to government institutions, officials or employees can create conflicts of interest. Conflicting interests are created even if a promise of favourable consideration is not given in exchange, as the potential exists for personal interest to influence official responsibilities as recognized in the United Nations General Assembly Code of Conduct for Public Officials and by several governmental and regional economic integration organizations.

Recommendations

4.1 Parties should mandate a policy on the disclosure and management of conflicts of interest that applies to all persons involved in setting and implementing public health policies with

respect to tobacco control, including government officials, employees, consultants and contractors.

4.2 Parties should formulate, adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.

4.3 Parties should not award contracts for carrying out any work related to setting and implementing public health policies with respect to tobacco control to candidates or tenderers who have conflicts of interest with established tobacco control policies.

4.4 Parties should develop clear policies that require public office holders who have or have had a role in setting and implementing public health policies with respect to tobacco control to inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service.

4.5 Parties should develop clear policies that require applicants for public office positions which have a role in setting and implementing public health policies with respect to tobacco control to declare any current or previous occupational activity with any tobacco industry whether gainful or not.

4.6 Parties should require government officials to declare and divest themselves of direct interests in the tobacco industry.

4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry.

4.8 Parties should not allow any person employed by the tobacco industry or any entity working to further its interests to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.

4.9 Parties should not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

4.10 Parties should not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in-kind, from the tobacco industry.

4.11 Taking into account national law and constitutional principles, Parties should have effective measures to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates or campaigns, or to require full disclosure of such contributions.

(5) Require that information provided by the tobacco industry be transparent and accurate.

24. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner. Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law.

25. Article 20.4 of the Convention requires, inter alia, Parties to promote and facilitate exchanges of information about tobacco industry practices and the cultivation of tobacco. In accordance with Article 20.4(c) of the Convention, each Party should endeavour to cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

Recommendations

5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent.¹

5.2 Parties should require the tobacco industry and those working to further its interests to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities not prohibited or not yet prohibited under Article 13 of the Convention.¹

5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.

5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law.

5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository.

(6) Denormalize and to the extent possible regulate activities described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.

26. The tobacco industry conducts corporate social responsibility activities to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. Activities that are described as “socially responsible” by the tobacco industry, aiming at the promotion of tobacco consumption, is a marketing as well as public relations strategy that falls within the Convention’s definition of advertising, promotion and sponsorship.

27. The corporate social responsibility of the tobacco industry is, according to WHO,² an inherent contradiction, as industry’s core functions are in conflict with the goals of public health policies with respect to tobacco control.

¹ Without prejudice to trade secrets or confidential information protected by law.

² WHO. *Tobacco industry and corporate social responsibility – an inherent contradiction*. Geneva, World Health Organization, 2004.

Recommendations

6.1 Parties should ensure that all branches of government and the public are informed and made aware of the true purpose and scope of corporate social responsibility activities performed by the tobacco industry.

6.2 Parties should not endorse, support, form partnerships with or participate in corporate social responsibility activities of the tobacco industry.

6.3 Parties should not allow public disclosure by the tobacco industry or any other person acting on its behalf of corporate social responsibility activities or of the expenditures made for these activities, except when legally required to report on such expenditures, such as in an annual report.¹

6.4 Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.

(7) Do not give preferential treatment to the tobacco industry.

28. Some governments encourage investments by the tobacco industry, even to the extent of subsidizing them with financial incentives, such as providing partial or complete exemption from taxes otherwise mandated by law.

29. Without prejudice to their sovereign right to determine and establish their economic, financial and taxation policies, Parties should respect their commitments for tobacco control.

Recommendations

7.1 Parties should not grant incentives, privileges or benefits to the tobacco industry to establish or run their businesses.

7.2 Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures. Parties with a State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the WHO Framework Convention on Tobacco Control.

7.3 Parties should not provide any special tax exemption to the tobacco industry.

(8) Treat State-owned tobacco industry in the same way as any other tobacco industry.

30. Tobacco industry can be government-owned, non-government-owned or a combination thereof. These guidelines apply to all tobacco industry, regardless of its ownership.

¹ The guidelines on Article 13 of the WHO Framework Convention on Tobacco Control addresses this subject from the perspective of tobacco advertising, promotion and sponsorship.

Recommendations

8.1 Parties should ensure that State-owned tobacco industry is treated in the same way as any other member of the tobacco industry in respect of setting and implementing tobacco control policy.

8.2 Parties should ensure that the setting and implementing of tobacco control policy are separated from overseeing or managing tobacco industry.

8.3 Parties should ensure that representatives of State-owned tobacco industry does not form part of delegations to any meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

ENFORCEMENT AND MONITORING

Enforcement

31. Parties should put in place enforcement mechanisms or, to the extent possible, use existing enforcement mechanisms, to meet their obligations under Article 5.3 of the Convention and these guidelines.

Monitoring implementation of Article 5.3 of the Convention and of these guidelines

32. Monitoring implementation of Article 5.3 of the Convention and of these guidelines is essential for ensuring the introduction and implementation of efficient tobacco control policies. This should also involve monitoring the tobacco industry, for which existing models and resources should be used, such as the database on tobacco industry monitoring of the WHO Tobacco Free Initiative.

33. Nongovernmental organizations and other members of civil society not affiliated with the tobacco industry could play an essential role in monitoring the activities of the tobacco industry.

34. Codes of conduct or staff regulations for all branches of governments should include a “whistleblower function”, with adequate protection of whistleblowers. In addition, Parties should be encouraged to use and enforce mechanisms to ensure compliance with these guidelines, such as the possibility of bringing an action to court and to use complaint procedures, such as an ombudsman system.

International collaboration and updating and revision of the guidelines

35. International cooperation is essential for making progress in preventing interference by the tobacco industry with the formulation of public health policies on tobacco control. Article 20.4 of the Convention provides the basis for collecting and exchanging knowledge and experience with respect to tobacco industry practices, taking into account and addressing the special needs of developing country Parties and Parties with economies in transition.

36. Efforts have already been made to coordinate the collection and dissemination of national and international experience with regard to the strategies and tactics used by the tobacco industry and to monitoring tobacco industry activities. Parties would benefit from sharing legal and strategic expertise for countering tobacco industry strategies. Article 21.4 of the Convention provides that information exchange should be subject to national laws regarding confidentiality and privacy.

Recommendations

37. As the strategies and tactics used by the tobacco industry evolve constantly, these guidelines should be reviewed and revised periodically to ensure that they continue to provide effective guidance to Parties on protecting their public health policies on tobacco control from tobacco industry interference.

38. Parties reporting via the existing reporting instrument of the Framework Convention should provide information on tobacco production and manufacture and the activities of the tobacco industry that affect the Convention or national tobacco control activities. To facilitate this exchange, the Convention Secretariat should ensure that the principal provisions of these guidelines are reflected in the next phases of the reporting instrument, which the Conference of the Parties will gradually adopt for use by Parties.

39. In view of the paramount importance of preventing tobacco industry interference in any public health policy with respect to tobacco control, the Conference of the Parties may, in the light of experience with implementing these guidelines, consider whether there is a need to elaborate a protocol to Article 5.3 of the Convention.

APPENDIX

USEFUL SOURCES OF INFORMATION

Relevant literature

Brandt AM. *The cigarette century. The rise, fall, and deadly persistence of the product that defined America*. New York, Basic Books, 2007.

Chapman S. *Making smoking history. Public health advocacy and tobacco control*. Oxford, Blackwell Publishing, 2007.

Callard C, Thompson D, Collishaw N. *Curing the addiction to profits: a supply-side approach to phasing out tobacco*. Ottawa, Canadian Centre for Policy Alternatives and Physicians for a Smoke-free Canada, 2005.

Feldman EA, Bayer R ed. *Unfiltered: conflicts over tobacco policy and public health*. Boston, Harvard University Press, 2004.

Gilmore A et al. Continuing influence of tobacco industry in Germany. *Lancet*, 2002, 360:1255.

Hastings G, Angus K. *The influence of the tobacco industry on European tobacco control policy*. In: *Tobacco or health in the European Union. Past, present and future*. Luxembourg, Office for Official Publications of the European Commission, 2004:195–225.

Lavack A. *Tobacco industry denormalization campaigns: a review and evaluation*. Ottawa, Health Canada, 2001.

Mahood G. *Tobacco industry denormalization. Telling the truth about the tobacco industry's role in the tobacco epidemic*. Toronto, Campaign for Tobacco Industry Denormalization, 2004.

Pan American Health Organization. *Profits over people. Tobacco industry activities to market cigarettes and undermine public health in Latin America and the Caribbean*. Washington DC, Pan American Health Organization, 2002.

Simpson D. Germany: still sleeping with the enemy. *Tobacco Control*, 2003, 12:343–344.

Hammond R, Rowell A. *Trust us. We're the tobacco industry*. Baltimore, Johns Hopkins University Press, 2001.

World Health Organization. *Tobacco company strategies to undermine tobacco control activities at the World Health Organization*. Geneva, World Health Organization, 2000.

World Health Organization. *Tobacco industry and corporate social responsibility—an inherent contradiction*. Geneva, World Health Organization, 2004.

Yach D, Bialous S. Junking science to promote tobacco. *American Journal of Public Health*, 2001, 91:1745–1748.

Web resources

WHO sites:

Tobacco Free Initiative: <http://www.who.int/tobacco/en/>

WHO publications on tobacco: <http://www.who.int/tobacco/resources/publications/en/>

WHO European Regional Office:

<http://www.euro.who.int/InformationSources/Publications/HTRes?HTCode=tobacco&language=English&HTSubmit=>

Sites with general, regional or national information and topics related to tobacco control:

Action on Smoking and Health, UK (and special page for the tobacco industry):
http://www.newash.org.uk/ash_r3iitasl.htm

Corporate Accountability International and the Network for Accountability of Tobacco Transnationals:
www.stopcorporateabuse.org

Economics of tobacco control: <http://www1.worldbank.org/tobacco/>

European Commission:

http://ec.europa.eu/health/ph_determinants/life_style/Tobacco/tobacco_en.htm

European Network for Smoking Prevention: <http://www.ensp.org/>

Framework Convention Alliance for Tobacco Control: <http://www.fctc.org/>

Documents in French: <http://www.fctc.org/index.php?item=docs-fr>

Documents in Spanish: <http://www.fctc.org/index.php?item=docs-es>

International Union for Health Promotion and Education: <http://www.iuhpe.org/?page=18&lang=en>

with the model legislation for tobacco control:
http://www.iuhpe.org/?lang=en&page=publications_report2

French summary: http://www.iuhpe.org/?page=publications_report2&lang=fr

Spanish summary: http://www.iuhpe.org/?page=publications_report2&lang=sp

Tobacco industry: http://tobacco.health.usyd.edu.au/site/supersite/links/docs/tobacco_ind.htm

Smoke free Partnership: <http://www.smokefreepartnership.eu/>

Thailand Health Promotion Institute: <http://www.thpinhf.org/>

Tobaccopedia: the online tobacco encyclopedia: <http://www.tobaccopedia.org/>

More links to tobacco sites:

Various international and national tobacco control web sites:
<http://www.tobacco.org/resources/general/tobsites.html>

National tobacco control web sites:
<http://www.smokefreepartnership.eu/National-Tobacco-Control-websites>

Web sites in French:

Centre de ressources anti-tabac: <http://www.tabac-info.net/>

Comité National Contre le Tabagisme (France): <http://www.cnct.org>

Office Français de Prévention du Tabagisme: <http://www.oft-asso.fr/>

Latest news on smoking and tobacco control: <http://www.globalink.org/news/fr>

Ministère de la santé, de la jeunesse et des sports: <http://www.sante.gouv.fr/>

Web sites in Spanish:

Tobacco control in the Americas (in English and Spanish):
<http://www.paho.org/english/ad/sde/ra/Tobabout.htm>

Latest news on smoking and tobacco control: <http://www.globalink.org/news/es>

Dr BLOOMFIELD (New Zealand), continuing, apologized for the fact that several drafting changes agreed on by the working group had been inadvertently omitted from the final text. First, in paragraph 14 of the Annex, the word “engagement” had been changed to “interaction” at the request of the Parties to the Convention in the WHO Eastern Mediterranean Region.

The working group had agreed to amend recommended activity (6) in the Annex to read: “Denormalize and to the extent possible regulate activities described as ‘socially responsible’ by the tobacco industry, including but not limited to activities described as ‘corporate social responsibility’.” As a result, it had subsequently agreed to change the term “corporate social responsibility activities”,

to “activities described as ‘socially responsible’” in paragraph 26 and in recommendations 6.1 and 6.3 of paragraph 27, while in recommendation 6.2, “corporate social responsibility activities of the tobacco industry” had been amended to “tobacco industry activities described as ‘socially responsible’”.

The working group had decided not to amend paragraph 27, which began with the phrase “The corporate social responsibility of the tobacco industry”, which was immediately followed by a reference to a WHO document describing the corporate social responsibility of the tobacco industry as an inherent contradiction. In recommendation 7.3 the word “special” had been deleted.

Mr GUO Xiaofeng (China) recalled that his delegation had participated actively in all the discussions of the working group. The difficult negotiating process had reflected the many concerns of different countries. However, the outcome was the result of consensus. He accepted the amendments presented by the coordinator of the working group and was confident that they would be acceptable to other delegations.

Mr OTTO (Palau), speaking on behalf of the Pacific island Parties, commended the coordinator and all delegations that had participated in the working group. The guidelines would go a long way towards ensuring that the Framework Convention and public health policies would be protected from interference by the tobacco industry.

Responding to remarks by Mr CABRERA (Mexico), Ms ALI-HIGO (Djibouti), Mr SALAGAI (Russian Federation) and Mr YÜKSEL (Turkey), Mr BURCI (WHO Legal Counsel) said that the text had been negotiated in English and there had clearly been problems with its translation into other languages. The text of a decision was normally edited after adoption to ensure that there were no errors. If the delegations concerned drew up a list of the translation problems they had encountered, the Secretariat would take them into account during the final editing.

Dr MAINA (Kenya), speaking on behalf of the Parties in the WHO African Region, commended the coordinator’s conduct of the working group’s activities, especially since Article 5.3 was crucial to implementation of all other articles.

The draft decision on elaboration of guidelines for implementation of Article 5.3 of the Convention, as amended, was approved.¹

2. REPORT OF COMMITTEE A (Document FCTC/COP/3/22 (Draft))

The CHAIR drew attention to the draft report of Committee A, which contained decisions for recommendation to the Conference of the Parties on all items of the Agenda entrusted to the Committee with the exception of item 4.2, which would be reported orally in the plenary.

Accordingly, the Committee was being asked to approve draft decisions relating to the WHO Framework Convention on Tobacco Control: elaboration of guidelines for implementation of Articles 9, Regulation of the contents of tobacco products, Article 10, Regulation of tobacco product disclosures, Article 11, Packaging and labelling of tobacco products, Article 12, Education, communication, training and public awareness, Article 13, Tobacco advertising, promotion and sponsorship, and Article 14, Demand reduction measures concerning tobacco dependence and cessation; recommendations on possible key elements of a protocol on cross-border advertising, promotion and sponsorship; elaboration of a protocol on illicit trade in tobacco products;

¹ Transmitted to the Conference of the Parties in the Committee’s report and adopted as decision FCTC/COP3(7).

establishment of a study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention); and measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship.

The report also contained a paragraph explaining why the Committee had agreed not to take action on the draft decision on Rule 28.1 of the Rules of Procedure of the Conference of the Parties.¹

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo), supported by Dr LEWIS-FULLER (Jamaica), said that most of the decisions listed on page 1 of the draft report referred to articles of the Convention. However, very few of the titles of the articles were included, so that there was no way of knowing to which activities the decisions referred without consulting the text of the Framework Convention.

The CHAIR said that the Secretariat would address that issue during the editing process.

Mr WALTON-GEORGE (European Community) pointed out that in the third line of paragraph (6)(a) of the draft decision on elaboration of a protocol on illicit trade in tobacco products under item 4.1 of the Agenda, the reference to “paragraph 4” should be amended to read: “paragraph 5” in view of the renumbering.

Ms ANASTASSOPOULOS (Greece) asked that her country be included in the draft decision on item 4.8 of the Agenda as a Key Facilitator of the working group on economically sustainable alternatives to tobacco growing.

It was so agreed.

The report of Committee A, as amended, was adopted.²

The meeting rose at 11:15.

¹ The Conference of the Parties considered the matter at its fourth plenary meeting and adopted decision FCTC/COP3(20).

² See page 190.

COMMITTEE B

FIRST MEETING

Tuesday, 18 November 2008, at 12:00

Chair: Mr M. RAJALA (European Community)

1. OPENING OF THE COMMITTEE

The CHAIR declared open the first meeting of Committee B.

2. ORGANIZATION OF WORK

The CHAIR said that, following a request from a Party, the Convention Secretariat had prepared a conference paper containing a draft workplan and budget for the full biennium 2010–2011. That document would be circulated after the meeting. He suggested that the Committee should decide at its third meeting whether it wished to discuss the budget and workplan on the basis of the Convention Secretariat's original proposal, which was a partial one, or whether it wished to use the forthcoming conference paper as a basis for its work. The Committee could then take up discussion of the budget and workplan at its fifth meeting. If he heard no objection, he would take it that his suggestion was acceptable.

It was so agreed.

3. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda

Financial resources and mechanisms of assistance – implementation of decisions FCTC/COP1(13) and FCTC/COP2(10) of the Conference of the Parties: Item 5.1 of the Agenda (Document FCTC/COP/3/12)

Dr OGWELL (Convention Secretariat) outlined the Secretariat's work in implementing the two decisions. The efforts had included the development of a database on available resources; analysis of Party reports; organization of regional workshops and bilateral meetings; raising awareness of potential donors; and promotion of South-to-South cooperation.

Dr BLOOMFIELD (New Zealand), emphasizing the obligations of Parties under the Framework Convention, said that New Zealand had worked over recent years with six Pacific island Parties to implement comprehensive programmes for tobacco control. New Zealand was working with regional and funding partners on a Pacific initiative to prevent and control noncommunicable diseases, with a focus on the risk factors of tobacco. His country had drafted a report on best practices in overseas development assistance for tobacco control, which could serve as a useful reference.

A significant gap between reported needs and resources dedicated was affecting implementation of the Framework Convention; concrete measures of support must be identified. New Zealand recommended that assistance and financial support should be prioritized in the discussions on the budget and work programme, ahead of others including work on any new guidelines.

Dr YIBOR (Togo) pointed out that the workshops envisaged for Parties in the WHO African Region had not taken place.

Mr TRIVEDI (India) endorsed the comments made by the representative of New Zealand. His delegation would work with Parties in strengthening the Convention Secretariat's capacity to help resource countries in need. India welcomed the Secretariat's promotion of South-to-South cooperation.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union and referring to paragraph 27 of the report, said that better use should be made of existing sources and mechanisms of assistance, such as bilateral technical support and WHO's significant contribution. With regard to the identification of potential donors, he asked about the role of regional development banks, which was not mentioned in the document.

Ms DLADLA (South Africa) endorsed the views expressed by the representatives of New Zealand and India. In the discussions of the budget, the Convention Secretariat's limited financial resources should be considered. She asked what measures were being taken to deal with the fact that many developing country Parties and Parties with economies in transition had not yet undertaken needs assessment with respect to their obligations under the Framework Convention.

Mr NJOKU (Nigeria) agreed with the statements made by the representatives of New Zealand and France, and emphasized raising awareness among donor countries and development banks. Capacity-building was an essential prerequisite in communicating to populations the implications of tobacco growth and consumption. It must also be financed.

Dr ELSUBAI (Sudan), speaking on behalf of the Parties to the Convention in the WHO Eastern Mediterranean Region, said that scientific workshops significantly changed the form of support and budgets allocated to tobacco control programmes, and promoted an exchange of experience. He called upon WHO's Tobacco Free Initiative and others to speed up the organization of such workshops in the Region.

Dr ALI (Iraq) said that tobacco companies should recognize their responsibilities and should be required to provide financial support.

Ms HERNANDEZ (Canada) said that Canada had been assisting countries in implementing the Framework Convention. A better understanding was needed of the issues facing countries in capacity-building, including preparation of needs assessments and proposals, and in the technical implementation of guidelines.

Dr ALPAY (Organization of the Islamic Conference), speaking at the invitation of the CHAIR, said that tobacco control was a target area of his Organization's capacity-building programme, which included assessment of the needs and capacities of member countries and identification of training.

Ms ARNOTT (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, agreed that more had to be done by all countries to implement the Framework Convention. Sources of funds to which Parties could and should find access should be fully explored by Parties with the support of the Convention Secretariat. WHO had benefited greatly from new resources for tobacco control, and she endorsed the call for closer cooperation between the WHO Secretariat and the Convention Secretariat. Mechanisms should be further developed for recovering

costs of implementation from the tobacco industry; but the tobacco industry must not be given any opportunity to interfere in government health policies. The budget and workplan for 2008–2009 should be revised in order provide resources for all necessary activities.

Dr OGWELL (Convention Secretariat), responding to some of the points raised, said that the Convention Secretariat would take up the issue of the regional workshops with Togo directly. He assured the representative of France that regional development banks were included in the database and were being approached with a view to developing links and creating partnerships. In response to the question from the representative of South Africa, he said that Parties were being encouraged to use a tool that had been developed for rapid needs assessment. Noting that all the comments and concerns expressed would be addressed as the work progressed, he thanked Parties for their expressions of support for the Convention Secretariat's work.

Dr BLOOMFIELD (New Zealand) asked whether the budget document that was to be circulated later that day provided for funding to overcome the gap between the needs expressed by Parties and the resources available. If not, he requested that a supplementary document be prepared, because Parties must be made aware of that gap. A draft decision on the agenda item should be prepared for consideration by the plenary.

Mr TRIVEDI (India) said that India would be willing to work with others on the conceptual aspects of needs assessment, thus facilitating the Convention Secretariat's work.

Dr OGWELL (Convention Secretariat), responding to a question from Dr YIBOR (Togo) concerning the involvement and role of other organizations in the United Nations system, said that the Framework Convention covered areas far beyond public health that would need a global perspective. The Convention Secretariat was engaging with governments, which in turn were engaging with the relevant international agencies. The Convention Secretariat was also seeking assistance from agencies in the United Nations system to contribute to the implementation of the Framework Convention.

Following a request for clarification from Mr GUILHOU (France), Dr BLOOMFIELD (New Zealand) said that he could work with Parties in drafting a decision that would clearly indicate the way in which work on the issue should progress between the third and fourth sessions of the Conference of the Parties.

Mr GUILHOU (France) said that the budget document to be circulated should be considered before deciding whether to draft a decision on the issue.

The CHAIR suggested that New Zealand's offer to work with interested Parties be noted with appreciation. Any draft text resulting from those consultations would be considered during the discussions of the budget and workplan.

It was so agreed.

The meeting rose at 13:00.

SECOND MEETING

Tuesday, 18 November 2008, at 15:05

Chair: Mr M. RAJALA (European Community)

1. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: (Item 6 of the Agenda)

The next budget and workplan of the Conference of the Parties: Item 6.3 of the Agenda (Document FCTC/COP/3/20)

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, at the first plenary meeting, the Convention Secretariat had been requested to present the full budget for the next biennium, rather than a partial budget as it had initially proposed to do, considering that a budget for 2009 already existed and that a budget for 2010–2011 would be adopted by the Conference of the Parties at its next session. It now seemed likely, however, that the Intergovernmental Negotiating Body would not finish its work at its third session and that, accordingly, the fourth session of the Conference of the Parties would not be held until some time in the second half of 2010.

He introduced the draft decision on the draft workplan and budget 2010–2011, which read:

The Conference of the Parties,
Reaffirming its decision FCTC/COP1(9) on adoption of the Financial Rules of the Conference of the Parties to the WHO Framework Convention on Tobacco Control;
Recalling its decision FCTC/COP2(11) on the budget and workplan for 2008–2009,

DECIDES:

(1) to adopt the total budget of US\$ 13 800 000 for the financial period 2010–2011 as follows:

	US\$
I. Fourth session of the Conference of the Parties	2 400 000
II. Elaboration of protocols, guidelines and other possible instruments for the implementation of the Convention	5 200 000
III. Reporting arrangements under the Convention (including the report of the Convention Secretariat on its activities)	1 750 000
IV. Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in transition	2 650 000
V. Coordination with international and regional intergovernmental organizations and other bodies and other arrangements and activities	1 850 000
Total	13 800 000

(2) to adopt the workplan for the financial period 2010–2011 as indicated in Annex 1, taking into account the decisions taken by the Conference of the Parties at its third session;

- (3) to adopt the table showing the distribution of voluntary assessed contributions for financial period 2010–2011 as indicated in Annex 2 to this decision;
- (4) to request the Head of the Convention Secretariat to implement the Conference of the Parties budget and submit to the Conference of the Parties at its fourth session an interim performance report based on the budget structure annexed to this decision (Annex 1) along with a final performance report for the 2008–2009 budget, and a final report on the 2010–2011 budget to the Conference of the Parties at its fifth session in line with the model used by WHO in its performance reports to Member States;
- (5) to authorize the Convention Secretariat to seek and receive voluntary extra budgetary contributions for activities in line with the workplan;
- (6) to encourage Parties to the Convention to provide extra budgetary contributions for meeting the objectives of the workplan.

Draft workplan and budget 2010–2011

Explanatory note

Total budget

1. The total approved budget for the biennium 2008–2009 was US\$ 12 960 000. The proposed total budget for the biennium 2010–2011 is US\$ 13.8 million, which is a projected increase of 6.5% from the current biennium.
2. The WHO Framework Convention on Tobacco Control has been consolidated by the substantial number of new countries that have become Parties to it in recent years. Although this has increased the needs and cost associated with servicing the treaty, the growing number of Parties also provides an opportunity to share this cost increase, maintaining the individual contributions of Parties within the existing range.
3. The Convention is currently in an active stage of progress: new countries are joining, treaty instruments are being developed, immediate deadlines for implementation are being respected and treaty processes established. Budget increases over the first three or four bienniums are in general to be expected for treaty bodies in their early stages. The budget, and particularly the voluntary assessed contributions of Parties, is expected to stabilize after the initial period.

Voluntary assessed contributions

4. The number of Parties to the WHO Framework Convention on Tobacco Control was 113 at the first session of the Conference of the Parties and 146 at the second session. The total amount of voluntary assessed contributions, however, remained unchanged at US\$ 8 010 000 between the budget for the biennium 2006–2007 and the budget for 2008–2009.
5. The number of Parties has since increased to 160 at the third session of the Conference – a 41.6% increase over the first session. This increase, and the growth it implies in work to respond to the needs of the Parties, engenders increased operational expenses. The number of Parties is expected to increase further to at least 165 by the end of 2009, taking into account the ratification processes that have been completed, or that are close to completion, in several countries.
6. Total voluntary assessed contributions in the proposed budget for 2010–2011 are set at US\$ 9.5 million, an 18.7% increase compared with the first and current biennial budgets. However, this increase will not in general affect voluntary assessed contributions paid by individual Parties; according to the proposed budget, these will remain close to the levels identified in the budgets for the

biennium 2006–2007 and the biennium 2007–2008, with some differences reflecting variations in WHO's scales of assessment, which serve as the basis for calculations. The difference between the total budget and total voluntary assessed contributions will be covered by voluntary extrabudgetary contributions.

Extrabudgetary funds

7. It is planned that extrabudgetary funds will be US\$ 4.3 million, which should make it possible to respond to the core needs that have been identified in the draft workplan. It should be noted that some items in the workplan may need more funds owing to the increasing needs that arise as more countries become Parties to the Convention, and taking into account the needs assessments to be conducted in several countries. Any additional extrabudgetary funds, beyond the US\$ 4.3 million mentioned above, will be directed at tackling these supplementary needs, with a particular focus on the needs of developing country Parties and Parties with economies in transition.

Workplan

8. The draft workplan in general maintains the composition of the current workplan. It addresses measures outlined in different Articles of the Convention, particularly those specifically requiring or envisaging action by the Conference of the Parties and the Convention Secretariat, as well as decisions taken by the Conference that require action. The structure is slightly modified to give more prominence and clarity to several core activities, such as the elaboration of protocols and guidelines and the provision of implementation assistance to Parties in need – activities that were described under “other arrangements and activities” in the current workplan.

9. Some items of the draft workplan are still pending confirmation and/or elaboration, based on the outcome of the third session of the Conference of the Parties; these include the further work on Articles 9 and 10, Article 12, Article 14 and Article 17 after the review of the relevant reports at the third session of the Conference.

10. A fourth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products is budgeted, based on the report of that body to the Conference of the Parties,¹ outlining the possibility that negotiations may not be finalized at the third session of the Intergovernmental Negotiating Body. The increased cost from US\$ 1.8 million, as adopted by the second session of the Conference of the Parties² for sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products, to US\$ 1.9 million in the proposed budget reflects the support for participation of delegates from low-resource countries that became Parties to the Convention after the second session of the Conference. The budget for the Negotiating Body also takes into account the recommendations made by that body for intersessional work and for possible follow-up efforts after the third session of the Intergovernmental Negotiating Body, as well as an additional staff cost in line with the budget for the Intergovernmental Negotiating Body, approved by the Conference of the Parties in decision FCTC/COP2(11). Adjustments may be needed in order to reflect the guidance of the third session of the Conference of the Parties in respect of the Intergovernmental Negotiating Body process.

11. The increased cost for the fourth session of the Conference of the Parties (US\$ 2.4 million) compared with the cost for sessions of the Conference identified in previous biennial budgets

¹ Document FCTC/COP/3/4.

² Decision FCTC/COP2(11).

(US\$ 1.8 million) reflects the support to additional Parties as described above for the fourth session of the Intergovernmental Negotiating Body, as well the cost for post-session documentation and the staff cost associated with the organization of the Conference previously reflected in other budget lines.

12. It should be noted that the workplan is being adopted relatively early, more than a year before the start of the biennium. Many areas of work are in active development, requiring prompt attention and a continuity of purpose and several of them will also be reported to the fourth session of the Conference of the Parties, scheduled in 2010. Some activities may therefore already require early commencement or initial work in 2009, in order to meet the deadlines in 2010. This was also the case when implementing the current workplan for the period 2008–2009, which was adopted in the summer of 2007.

13. Although the work on treaty instruments would require fewer meetings of subsidiary bodies compared with the current biennium, there are several additional elements in the draft workplan that would require maintaining and even slightly increasing the total biennial budget. First, the plan includes work envisaged by several Articles of the Convention, such as Article 19 (Liability) and Article 22.2 (Transfer of expertise and technology) that were not previously considered. Secondly, plans for assistance to developing country Parties and Parties with economies in transition are being substantially expanded with the coverage of new elements, such as the promotion of South–South cooperation and awareness-raising among potential development partners. Other new elements of the draft workplan include several reports concerning international coordination and observer organizations to be presented at the fourth session of the Conference of the Parties in line with the provisions of the Convention, the decisions of the Conference and the review of the reporting arrangements under the Convention.

ANNEX 1

Workplan and budget for 2008–2009

	Area of work	Main components/activities	Expected results and indicators	Budget
1.	Fourth session of the Conference of the Parties (Article 24.3(a) and Article 23)	Preparing for and convening the fourth session of the Conference of the Parties Preparation and dissemination of post-session reports and communication	The fourth session of the Conference of the Parties prepared and convened on time; post session reports delivered to Parties within six months	2 400 000
2.	Elaboration of protocols, guidelines and other possible instruments for the implementation of the Convention (Article 24.3(a),(g), Article 7 and Article 33)			5 200 000

	Area of work	Main components/activities	Expected results and indicators	Budget
2.1	Development of the protocol on illicit trade in tobacco products		Draft protocol prepared and submitted to the Conference of the Parties six months before the opening of the fourth session of the Conference	
2.1.1	Fourth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products	Preparing for and convening the fourth session of the Intergovernmental Negotiating Body		1 900 000
2.1.2	Additional staff support			400 000
2.1.3	Intersessional work	Intersessional work in expert and regional groups as recommended by the Intergovernmental Negotiating Body		950 000
				Subtotal Intergovernmental Negotiating Body: 3 250 000
2.2	Elaboration of guidelines on Articles 9 and 10 (<i>Regulation of the contents of tobacco products and regulation of tobacco product disclosures</i>)	Two meetings of the Intergovernmental Working Group, in combination with intersessional work of key facilitators and the Convention Secretariat	Report of the Working Group, including draft guidelines, submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.3	Elaboration of guidelines on Article 12 (<i>Education, communication, training and public awareness</i>)	Two meetings of the Intergovernmental Working Group, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the Working Group, including draft guidelines, submitted for consideration of the fourth session of the	450 000

	Area of work	Main components/activities	Expected results and indicators	Budget
			Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	
2.4	Further process (to be discussed by the third session of the Conference of the Parties) concerning the report on Article 14 (<i>Demand reduction measures concerning tobacco dependence and cessation</i>)	Two meetings of a relevant body, established by the Conference of the Parties, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the relevant body, including draft guidelines, submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.5	Further process (to be discussed by the third session of the Conference of the Parties) concerning the report of the study group on economically sustainable alternatives to tobacco growing (<i>Article 17, Provision of support for economically viable alternative activities</i>)	Two meetings of a relevant body, established by the Conference of the Parties, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the relevant body, including draft guidelines or recommendations submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.6	Intersessional work on measures for promoting the implementation of Article 19.5 (<i>Liability</i>)	Preparation of a report by the Convention Secretariat, or by any other body/mechanism that the third session of the Conference of the Parties may establish, on measures for promoting implementation of Article 19.5 for consideration by the Conference of the Parties	Report on promoting implementation of Article 19.5 prepared and submitted on time for consideration by the fourth session of the Conference of the Parties	150 000

	Area of work	Main components/activities	Expected results and indicators	Budget
3.	Reporting arrangements under the Convention (Article 24.3 (b), (c) and (d) and Article 21)			1 750 000
3.1	Development of the next phase (Group 3 questions) of the reporting instrument	<p>Convention Secretariat work to develop the next phase (Group 3 questions) of the reporting instrument</p> <p>Two expert meetings to support the process</p> <p>Pilot testing with on average two interested Parties in each region before finalization and submission to the fourth session of the Conference of the Parties</p>	The draft instrument developed and submitted for consideration of the fourth session of the Conference of the Parties on time	320 000
3.2	Summary of Party reports on the progress on implementation of the Convention internationally	<p>Convention Secretariat to prepare the draft summary report based on analysis of the Party reports received</p> <p>Two expert meetings to support the process</p>	Two annual summary reports, for 2010 and 2011, prepared and submitted to the Conference	250 000
3.3	Support to Parties in fulfilling their reporting obligations	<p>Receiving and analysing the periodic reports of Parties on implementation of the Convention; maintaining and updating the web-based database of reports; and providing feedback to Parties on reports</p> <p>Inter-country and country workshops on the reporting instrument and preparation of reports</p> <p>Providing advice and assistance on individual requests by the Parties</p>	<p>The percentage of Parties submitting their reports on time and as required by the reporting instrument increased</p> <p>The web-based database of reports of the Parties is up to date and easy to use</p> <p>At least 10 intercountry workshops organized to cover all regions</p> <p>Technical assistance provided to at least 25 Parties requiring substantial assistance</p>	650 000

	Area of work	Main components/activities	Expected results and indicators	Budget
3.4	Review of the reporting arrangements under the Convention	Convening a review in line with decision FCTC/COP2(9) and according to a mechanism and timeline to be established by the third session of the Conference of the Parties	A report of the body/mechanism established by the Conference of the Parties, for consideration at the fourth session of the Conference, developed and submitted on time	180 000
3.5	Report of the Convention Secretariat	Preparing the report of the Convention Secretariat on its activities for submission to the Conference of the Parties	Report of the Secretariat prepared and submitted on time for consideration at the fourth session of the Conference of the Parties	350 000
4.	Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in transition (Article 24(c) and (g), Article 22, Article 26)			2 650 000
4.1	Advice on and promoting access to available resources and mechanisms of assistance	Updating and disseminating the database on resources available internationally for implementation of the Convention Providing support in needs assessment and project development and submission for funding	A comprehensive database of available resources fully operational and actively disseminated by the time of the fourth session of the Conference of the Parties At least 25 Parties supported in needs assessment and development and submission of proposals for funding	850 000

	Area of work	Main components/activities	Expected results and indicators	Budget
4.2	Promotion of transfer of technical, scientific and legal expertise and technology	<p>Facilitating transfer of technical, scientific and legal expertise in line with implementation guidelines adopted by the Conference of the Parties in relation to Articles of the Convention</p> <p>Preparing a report on the promotion of transfer of expertise and technology under the Convention for consideration at the fourth session of the Conference of the Parties, in line with Article 22.2 of the Convention</p> <p>Establishing a process to identify and initiate cooperation agreements with Parties wishing to facilitate transfer of expertise and technology</p>	<p>At least 25 developing country Parties and Parties with economies in transition assisted for transfer/receiving expertise and technology</p> <p>A Secretariat report on the status and arrangements for promoting the transfer of expertise and technology for consideration of the Conference of the Parties is developed and submitted to the fourth session of the Conference</p> <p>At least three agreements/exchange of letters established with Parties on facilitating the transfer of expertise and technology</p>	425 000
4.3	Advice and support on compilation and communication of information on treaty matters	<p>Dissemination of and awareness-raising on treaty instruments</p> <p>Providing advice on treaty-specific matters, both those frequently requested and those specifically requested by Parties</p> <p>Providing support in preparatory work towards the fourth session of the Conference of the Parties</p>	<p>Treaty implementation instruments, particularly the guidelines on different Articles, widely acknowledged and utilized in Parties</p> <p>At least 10 inter-country workshops organized in all regions on treaty matters, including dissemination of treaty instruments and assistance provided towards preparations for the fourth session of the</p>	775 000

	Area of work	Main components/activities	Expected results and indicators	Budget
		Providing advice and support for the implementation of the treaty measures that require a deadline	Conference of the Parties At least 30 Parties assisted on treaty specific aspects by advice, provision of information and clarifications	
4.4	Promoting South–South cooperation in the exchange of scientific, technical and legal expertise as relevant to the implementation of the Convention	Conducting a review of existing cooperation Expert meeting to elaborate recommendation for strengthening this area of work Four pilot demonstration projects in different regions	Report containing the outcome of the review and expert meeting prepared for submission to the fourth session of the Conference of the Parties Demonstration projects analysed and results disseminated	370 000
4.5	Awareness-raising campaign among potential development partners to mobilize financial and technical support for developing country Parties and Parties with economies in transition, to assist them in implementing the Convention	Designing the campaign and identifying potential agencies Campaign launch in early 2010	The campaign launched and the results reflected in the Secretariat report to the fourth session of the Conference of the Parties	180 000
5	Coordination with international and regional intergovernmental organizations and other bodies and other arrangements and activities (Article 24 (e), (f), (g), Article 23 (g) and Article 25)			1 850 000

	Area of work	Main components/activities	Expected results and indicators	Budget
5.1	Coordination with international and regional intergovernmental organizations and other bodies	<p>Joint reviews and agreements of cooperation with intergovernmental organizations with substantial technical relevance and potential to support the implementation of the decisions of the Conference of the Parties</p> <p>Report of the Secretariat on services and information available in relevant international organizations as a means of strengthening the implementation of the Convention, for the consideration at the fourth session of the Conference of the Parties, in line with Article 23 (g)</p>	<p>At least five reviews and agreements concluded by the fourth session of the Conference of the Parties</p> <p>Review of instruments available for joint use is accomplished with secretariats of treaties in related areas</p> <p>The report prepared and delivered on time for consideration at the fourth session of the Conference</p> <p>Report of the Secretariat prepared and submitted on time for consideration at the fourth session of the Conference</p>	570 000
5.2	Review of accreditation of nongovernmental organizations in line with Rule 31.3 of the Rules of Procedure of the Conference of the Parties	Review conducted by the Convention Secretariat or other mechanism identified by the Conference of the Parties	Report submitted on time to the fourth session of the Conference of the Parties	180 000
5.3	Support to the intersessional tasks of the Bureau of the Conference of the Parties and the Bureau of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products	<p>Preparing and convening the meetings of the Bureau</p> <p>Follow-up on decisions of the Bureau</p>	Intersessional meetings of the Bureau of the Conference of the Parties (on average, every three-four months) and the Bureau of the Intergovernmental Negotiating Body (on average, every six months)	300 000

	Area of work	Main components/activities	Expected results and indicators	Budget
			(additional meetings via videoconference as necessary)	
5.4	General administration and management; budget, finance, planning and fundraising activities		<p>Workplans and administrative arrangements customized and run within WHO's operational system</p> <p>Payment of voluntary assessed contributions facilitated with the aim of at least 95% collection by the end of biennium</p> <p>Fund-raising mechanism in the Convention Secretariat fully established, and extra-budgetary contributions for fulfilling the 2010–2011 workplan promoted and received</p>	450 000
5.5	Participation in professional meetings and staff training, communication, advocacy, web site, publications	<p>Identifying important professional meetings and ensuring that technical staff attend and participate as necessary</p> <p>Developing and implementing communication strategy to ensure public and political awareness and visibility of the Convention, particularly in relation to meetings of the Conference of the Parties and subsidiary bodies and key developments, such as adoption of convention instruments, global progress reports</p>	<p>Each staff member attends at least one training in a year, and each technical officer presents at least once a year in major international meetings</p> <p>Decisions of the Conference of the Parties, as well as documents of the Conference of particular technical importance, such as the summary reports and implementation guidelines, published in all six languages and actively</p>	350 000

	Area of work	Main components/activities	Expected results and indicators	Budget
		Global advocacy and visibility for the Convention, advisory group to support the process	disseminated Press briefings and releases on treaty developments carried out on average every three months, the Framework Convention web site re-designed and updated regularly	

ANNEX 2

Potential assessed contributions to the WHO Framework Convention on Tobacco Control for financial period 2010–2011

	Parties to the WHO Framework Convention	Percentage	US\$
1	Albania	0.00767	728
2	Algeria	0.10862	10 319
3	Angola	0.00383	364
4	Antigua and Barbuda	0.00256	243
5	Armenia	0.00256	243
6	Australia	2.28373	216 955
7	Austria	1.13362	107 694
8	Azerbaijan	0.00639	607
9	Bahrain	0.04217	4 006
10	Bangladesh	0.01278	1 214
11	Barbados	0.01150	1 093
12	Belarus	0.02556	2 428
13	Belgium	1.40837	133 795
14	Belize	0.00128	121
15	Benin	0.00128	121
16	Bhutan	0.00128	121
17	Bolivia	0.00767	728
18	Botswana	0.01789	1 700
19	Brazil	1.11957	106 359
20	Brunei Darussalam	0.03323	3 156
21	Bulgaria	0.02556	2 428
22	Burkina Faso	0.00256	243
23	Burundi	0.00128	121

	Parties to the WHO Framework Convention	Percentage	US\$
24	Cambodia	0.00128	121
25	Cameroon	0.01150	1 093
26	Canada	3.80456	361 433
27	Cape Verde	0.00128	121
28	Central African Republic	0.00128	121
29	Chad	0.00128	121
30	Chile	0.20574	19 545
31	China	3.40841	323 799
32	Columbia	0.13418	12 747
33	Congo	0.00128	121
34	Cook Islands	0.00128	121
35	Comoros	0.00128	121
36	Costa Rica	0.04089	3 885
37	Croatia	0.06389	6 070
38	Cyprus	0.05623	5 342
39	Democratic People's Republic of Korea	0.00895	850
40	Democratic Republic of the Congo	0.00383	364
41	Denmark	0.94450	89 727
42	Djibouti	0.00128	121
43	Dominica	0.00128	121
44	Ecuador	0.02684	2 549
45	Egypt	0.11246	10 683
46	Equatorial Guinea	0.00256	243
47	Estonia	0.02045	1 942
48	European Community	3.19475	303 501
49	Fiji	0.00383	364
50	Finland	0.72074	68 470
51	France	8.05269	765 005
52	Gambia	0.00128	121
53	Georgia	0.00383	364
54	Germany	10.96144	1 041 337
55	Ghana	0.00511	486
56	Greece	0.76163	72 355
57	Grenada	0.00128	121
58	Guatemala	0.04089	3 885
59	Guinea	0.00128	121
60	Guyana	0.00128	121
61	Honduras	0.00639	607
62	Hungary	0.31181	29 622
63	Iceland	0.04728	4 492
64	India	0.57505	54 630
65	Iran (Islamic Republic of)	0.23002	21 852

	Parties to the WHO Framework Convention	Percentage	US\$
66	Iraq	0.01917	1 821
67	Ireland	0.56867	54 023
68	Israel	0.53544	50 867
69	Italy	6.49096	616 642
70	Jamaica	0.01278	1 214
71	Japan	21.24547	2 018 319
72	Jordan	0.01533	1 457
73	Kazakhstan	0.03706	3 521
74	Kenya	0.01278	1 214
75	Kiribati	0.00128	121
76	Kuwait	0.23258	22 095
77	Kyrgyzstan	0.00128	121
78	Lao People's Democratic Republic	0.00128	121
79	Latvia	0.02300	2 185
80	Lebanon	0.04345	4 128
81	Lesotho	0.00128	121
82	Libyan Arab Jamahiriya	0.07923	7 527
83	Lithuania	0.03961	3 763
84	Luxembourg	0.10862	10 319
85	Madagascar	0.00256	243
86	Malaysia	0.24280	23 066
87	Maldives	0.00128	121
88	Mali	0.00128	121
89	Malta	0.02172	2 064
90	Marshall Islands	0.00128	121
91	Mauritania	0.00128	121
92	Mauritius	0.01406	1 335
93	Mexico	2.88448	274 025
94	Micronesia	0.00128	121
95	Mongolia	0.00128	121
96	Montenegro	0.00128	121
97	Myanmar	0.00639	607
98	Namibia	0.00767	728
99	Nauru	0.00128	121
100	Nepal	0.00383	364
101	Netherlands	2.39363	227 395
102	New Zealand	0.32714	31 079
103	Nicaragua	0.00256	243
104	Niger	0.00128	121
105	Nigeria	0.06134	5 827
106	Niue	0.00128	121
107	Norway	0.99945	94 947

	Parties to the WHO Framework Convention	Percentage	US\$
108	Oman	0.09329	8 862
109	Pakistan	0.07540	7 163
110	Palau	0.00128	121
111	Panama	0.02939	2 792
112	Papua New Guinea	0.00256	243
113	Paraguay	0.00639	607
114	Peru	0.09968	9 469
115	Philippines	0.09968	9 469
116	Poland	0.64023	60 822
117	Portugal	0.67345	63 978
118	Qatar	0.10862	10 319
119	Republic of Korea	2.77713	263 828
120	Romania	0.08945	8 498
121	Russian Federation	1.53361	145 693
122	Rwanda	0.00128	121
123	Saint Lucia	0.00128	121
124	Samoa	0.00128	121
125	San Marino	0.00383	364
126	Sao Tome and Principe	0.00128	121
127	Saudi Arabia	0.95600	90 820
128	Senegal	0.00511	486
129	Serbia	0.02684	2 549
130	Seychelles	0.00256	243
131	Singapore	0.44343	42 126
132	Slovakia	0.08051	7 648
133	Slovenia	0.12268	11 654
134	Solomon Islands	0.00128	121
135	South Africa	0.37059	35 206
136	Spain	3.79306	360 341
137	Sri Lanka	0.02045	1 942
138	Sudan	0.01278	1 214
139	Swaziland	0.00256	243
140	Sweden	1.36876	130 032
141	Syrian Arab Republic	0.02045	1 942
142	Thailand	0.23769	22 580
143	The former Yugoslav Republic of Macedonia	0.00639	607
144	Timor-Leste	0.00128	121
145	Togo	0.00128	121
146	Tonga	0.00128	121
147	Trinidad and Tobago	0.03450	3 278
148	Turkey	0.48688	46 254

	Parties to the WHO Framework Convention	Percentage	US\$
149	Tuvalu	0.00128	121
150	Uganda	0.00383	364
151	Ukraine	0.05751	5 463
152	United Arab Emirates	0.38593	36 663
153	United Kingdom of Great Britain and Northern Ireland	8.48845	806 403
154	United Republic of Tanzania	0.00767	728
155	Uruguay	0.03450	3 278
156	Vanuatu	0.00128	121
157	Venezuela	0.25558	24 280
158	Viet Nam	0.03067	2 914
159	Yemen	0.00895	850
160	Zambia	0.00128	121
	Total	100.00000	9 500 000

Dr NIKOGOSIAN (Head, Convention Secretariat) continued, saying that, while the general structure of the budget was similar to that of the 2008–2009 budget contained in decision FCTC/COP2(11), there were some differences. First, certain core activities, such as the elaboration of a protocol and guidelines, which had previously been included under “Other activities”, were highlighted. Secondly, the workplan provided substantially more detail than it had in the previous budget. Thirdly, the budget assumed that there would be a fourth session of the Intergovernmental Negotiating Body and consequently allowed time for an intersessional process. The Secretariat had also attached an Annex 2, setting out the potential voluntary assessed contributions and extrabudgetary contributions for the financial implementation of the WHO Framework Convention in 2010–2011, assuming that the main proposals were adopted.

The CHAIR expressed appreciation to the Convention Secretariat for having prepared the draft workplan and budget at very short notice.

Ms HERNANDEZ (Canada) said that one issue highlighted by the Convention Secretariat in its note on the next budget and workplan in the report was that of aligning the subsequent budgets of the Conference of the Parties with WHO’s biennial planning cycle. In view of the proposal that was before the Committee, she would appreciate further information on how that alignment could still be accomplished.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, expressed appreciation to the Convention Secretariat for its prompt response to the request for a document that would seek to align the Secretariat’s planning cycles with those of WHO. He wished to point out a couple of small errors in the document, which he understood had been prepared at very short notice. First, in both the French and English versions, Annex 1 was mistakenly entitled “Workplan and budget for 2008–2009”, rather than “2010–2011”. Secondly, in the French version, Germany’s assessed contribution was the same as Angola’s, i.e., US\$ 364, although that error did not occur in the English version.

Mr TRIVEDI (India) referring to paragraph 7 of the explanatory note, requested clarification of the core needs that were to be covered by extrabudgetary funds of US\$ 4.3 million.

The CHAIR thanked the representative of France for pointing out drafting errors in the document and invited other members of the Committee to inform the Convention Secretariat of any further errors that might be identified so that a corrigendum could be issued.

Dr NIKOGOSIAN (Head, Convention Secretariat), responding to the questions raised, said that the budget proposal did allow for alignment with WHO's planning cycle, because the WHO budget also covered the biennium 2010–2011. However, the Conference budget was being adopted 14 months before the start of the biennium. Any problems in that regard could be overcome by aligning the Committee's budget discussion with that of Committee A and adopting an overall package.

As to the question concerning "core needs", the sentence following the one in which the expression occurred provided some clarification. In the workplan, particularly under the items involving assistance to developing country Parties and Parties with economies in transition, provision was made for support to "at least" a certain number of Parties. That represented a core number that had to be met. However, the needs might be much greater, and any additional extrabudgetary funds would be used to respond to such supplementary needs.

Ms HERNANDEZ (Canada) asked when further sessions of the Conference would need to take place.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that initially it had been assumed that a Conference of the Parties would be held early in 2010, thereby also ensuring adoption of a budget. However, if the budget was adopted at the current session, there would no longer be any budgetary pressure to hold a conference as early as possible in 2010. However, there might be other considerations. For example, if aligning the budget of the Conference of the Parties with WHO's planning cycles was an important criterion, then the best time to do that would be in the year preceding the budgetary biennium, in other words, some time in 2011 for the biennium 2012–2013, but early enough for voluntary assessed contributions to be included in national budgets.

A further consideration was that the Convention was still in an active stage of development. Treaty instruments and processes had not yet been fully developed, but pressure to begin implementing them was already building. For that reason, it would not be advisable to wait until 2010 to begin implementing the workplan.

His preference would be to adopt the budget 9 to 10 months, but not earlier than 14 to 15 months, before the start of the biennium. To adopt it any earlier would create a number of uncertainties.

Dr MOCHIZUKI-KOBAYASHI (Japan) noted a huge discrepancy between the budget proposal for 2010–2011 and the interim performance report for the 2008–2009 budget (document FCTC/COP/3/19), particularly with regard to the budget line itself. Although she understood why the financial implementation for 2008 was so low, she would appreciate further clarification or justification of the proposed increase, especially in expenditure categories, II and IV, relating to elaboration of protocols and guidelines, and assistance to Parties, respectively, which accounted for much of the proposed increase.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, compared with the previous budget, the proposed budget represented a substantial increase, but that compared with the current budget, the increase was only about 6.5%. The current budget had two components. In addition to the voluntary assessments, there was the substantial additional budget adopted by the second Conference for the Intergovernmental Negotiating Body process, which was only partly covered by assessed contributions and which raised the total budget from around US\$ 8 million to nearly US\$ 13 million. Hence, the proposed increase was smaller than it appeared to be.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that category IV could be implemented in close cooperation with WHO's Tobacco Free Initiative. It was supported by major donors, and that should be taken into consideration in the proposed budget.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that he agreed that category IV was the most synergistic part of WHO's work. For that reason, in drafting that section of the budget, the Convention Secretariat had done its utmost to ensure no duplication and that every line was in accordance either with the Framework Convention or with decisions of the Conference clearly mandating a specific action on the Convention Secretariat's part.

Dr BLOOMFIELD (New Zealand), noting that the proposed budget expected extrabudgetary contributions amounting to US\$ 4.3 million, pointed out that the largest such contribution for the current biennium had been carried forward from the previous biennium. Unfortunately, the Parties to the Convention had a poor record of providing extrabudgetary contributions. The Committee should therefore consider what activities would be given priority under a workplan that relied entirely on voluntary assessed contributions.

Mr NDAO (Senegal) agreed with the Convention Secretariat that a budget was needed for the period 2010–2011 in order to avoid the difficulties inherent in the other options set forth in the background document, relating to the next budget and workplan.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the representative of New Zealand, said that it would be difficult, in practice, to establish priorities based on the provisions of the Convention, although it was necessary to be prepared for a shortfall in extrabudgetary contributions. The Committee should follow WHO's practice in that regard. WHO never adopted a workplan based on the type of funding expected – moreover, only 25% to 30% of its activities were currently funded from the regular budget. Instead, it adopted an overall workplan, assuming that contributions would be forthcoming and that the WHO Secretariat would be working with donors to secure those contributions. That was the logic followed by the Convention Secretariat. It had drawn up a workplan based on the mandates set out in articles of the Convention and in prior decisions of the Conference, existing commitments, and the wishes expressed by Parties. If the Committee so desired, however, the Convention Secretariat could prepare a list of essential and non-essential activities.

The CHAIR suggested that, in line with the New Zealand representative's comments, the Committee might consider identifying functions that could only be performed by the Convention Secretariat.

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

2. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (continued)

Report of WHO's Tobacco Free Initiative on its activities undertaken specifically on the implementation of the WHO Framework Convention on Tobacco Control (decision FCTC/COP2(10)): Item 5.2 of the Agenda (Document FCTC/COP/3/13)

Dr BETTCHER (WHO Secretariat), introducing the report, outlined the progress across a broad spectrum of areas of work, specifically in the areas of training materials; smoke-free environments;

activities consistent with Article 8 of the Framework Convention and the guidelines; and in the packaging and labelling of tobacco products.

Assessments of national capacity had begun, in Brazil and Thailand, in 2008; areas where technical assistance could best strengthen national capacity for tobacco control had been identified. WHO looked forward to extending those capacity assessments to other regions and countries.

WHO had continued to provide legal and technical assistance to States Parties, including Brunei Darussalam, Cambodia, Kenya, the Philippines, the Russian Federation and the Seychelles, in drafting, enacting and implementing domestic legislation and regulations for tobacco control.

WHO would be co-hosting a global consultation on tobacco use cessation with the World Economic Forum in Geneva in December 2008. It would examine, inter alia, how to prioritize services for smoking cessation in developing countries.

WHO's Tobacco Free Initiative was involved in global monitoring of tobacco use and tobacco control interventions. Outputs included the *WHO report on the global tobacco epidemic*, released by the Director-General in February 2008; containing data collected from 179 countries, it provided a comparative analysis on tobacco use and gaps in coverage of tobacco control at the global, regional and national levels. The report presented a technical assistance tool designed to support the national measures to reduce demand contained in the Framework Convention: the tool, referred to as MPOWER, reflected parts of WHO's approach to supporting countries in their implementation of the Framework Convention.

In November 2008, the United Nations General Assembly had adopted a resolution on smoke-free United Nations premises. The resolution imposed a complete ban on indoor smoking and tobacco sales. The resolution also carried the General Assembly's recommendation that smoking be banned at all United Nations indoor premises, including regional and country offices throughout the United Nations system, and that tobacco sales be banned at all United Nations premises. The resolution was consistent with the provisions of Article 8 of the Framework Convention concerning protection from exposure to tobacco smoke.

WHO's Tobacco Free Initiative looked forward to continuing to work in a synergistic and complementary fashion with the Convention Secretariat.

The CHAIR observed that the report encompassed an array of activities aimed specifically at supporting implementation. One important WHO Member State that had not yet ratified the Framework Convention had been actively involved in those activities, an involvement that might encourage that Member State to ratify the treaty.

Professor MWAKYUSA (United Republic of Tanzania), speaking on behalf of the Parties in the WHO African Region and also his country's Minister of Health, commended WHO's Tobacco Free Initiative on the activities implemented thus far. He noted from the report, however, that only one of the 31 countries benefiting from the Bloomberg Initiative grants was in the Region. He requested that WHO provide more capacity-building support to the Region. Similarly, more assessment studies were needed in the Region. Tobacco was part of the rampant cross-border trade in illicit products in the Region, where cooperation was needed to establish tracking and control. That could begin at the regional or subregional level and be coordinated through numerous economic groups.

Smoking cessation initiatives were in high demand even in countries where smoking rates were relatively low. In view of the high prevalence of tuberculosis, co-infection with tuberculosis and HIV, and multidrug-resistant and extensively drug-resistant tuberculosis in the African Region, he urged WHO's Tobacco Free Initiative to support training for directly observed treatment, short-course (DOTS) providers in the Region.

The impact of World No Tobacco Day had fallen short of what had been expected, and greater promotional resources should be provided by WHO to the Region.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, welcomed the range of WHO's activities in support of the implementation of the Framework Convention. He emphasized national capacity building and the key role of WHO's Tobacco Free Initiative in global advocacy and provision of technical assistance to Member States.

The strongest links must be created between WHO and the Convention Secretariat in order to step up the global fight against tobacco: paragraph 10 of decision FCTC/COP1(10) provided that the two entities should cooperate and coordinate, ensure transparency, efficiency, and cost-effectiveness, and avoid duplication.

He appreciated the education and outreach efforts undertaken through the MPOWER programme, but countries that had ratified the Convention should act in accordance with the measures provided. MPOWER must not dilute the strong, guiding principles of the Convention which should be promoted as a benchmark for tobacco control measures.

He asked how the surveillance methods established by WHO's Tobacco Free Initiative were linked to the reporting system under the Convention. Up-to-date data on the tobacco epidemic were important but he cautioned against duplicated indicators and an increased reporting burden for Member States.

The activities undertaken by WHO to better understand the strategies of the tobacco industry were essential in assisting Parties to implement Article 5.3 of the Convention. It was important to set up a database to monitor the tobacco industry.

He requested further information on the background paper under preparation following the consultation held in Washington DC in October 2007.

Mr TOESSI (Benin) said that, following enactment of tobacco legislation in his country, numerous requests relating to cessation had been received. He enquired about the results of the support provided by WHO for cessation services in other regions.

Mr TRIVEDI (India) said that, at the previous session of the Conference of the Parties, the provision of a special assistance package for Africa had been clearly recognized. Yet the representative of the United Republic of Tanzania had just stated that only one African country had been covered in the past 16 months. There must be no gap in coverage that might provide growth prospects for the tobacco industry.

The Framework Convention was a treaty, and Parties had an obligation to comply with its provisions. Duplication of activities must be avoided, and those least developed, most vulnerable countries assisted. Models existed within the United Nations system to set priorities for assistance, channelled first to those in most need.

The Parties had no control over programmes dependent on earmarked funding, nor influence over activities guided by donors, leaving gaps in coverage for which a balanced framework must be devised. Parties must be aided to comply with their treaty obligations and given assurances that their public health needs would be met. He emphasized the importance of tobacco control as part of WHO's public health strategy worldwide.

Ms DLADLA (South Africa) said that the reports of the Convention Secretariat and of WHO's Tobacco Free Initiative both indicated synergy, complementarity and cooperation in their work. She asked what commitments had been made in that regard and whether a joint workplan existed.

Ms SÁNCHEZ HERNÁNDEZ (Mexico) said that the report provided transparent information on the activities undertaken by WHO's Tobacco Free Initiative to support implementation of the Framework Convention. Further efforts must be carried out in cooperation with other organizations, and agencies, and duplication of efforts avoided. Clear priorities must be established and goals defined for each of the initiatives under way. National capacity building was important, as resources would remain scarce. Development of human capital was needed at country level in order to comply with Parties' commitments under the Framework Convention.

Dr BETTCHER (WHO Secretariat) said that over the previous 16 months WHO had concentrated more on developing technical capacity with more resources and technical staff deployed in all regions of the world. Capacity development, training, advocacy and surveillance had significantly expanded in all regional offices and in several WHO country offices. The Organization was fully committed to increasing capacity in order to implement the Framework Convention.

During the reporting period, tremendous policy changes had occurred that would undoubtedly lead to reduced tobacco use over the years. They included major tax increases, the introduction of smoke-free environments, and packaging and labelling initiatives. WHO was working with its partners to leverage those policy changes.

In reply to the representative of the United Republic of Tanzania, he agreed that the initial resource mobilization granted by the Bloomberg Initiative in Africa had been modest. However, further grants had been awarded in 2008. WHO's Tobacco Free Initiative had invested its own resources in technical assistance missions, fielded jointly by its regional office and by headquarters, to support governments and civil society in the development of grants.

He agreed fully with the representatives of India and the United Republic of Tanzania about the need for more resources for Africa. WHO's Director-General had given top priority to Africa, emphasizing in the Health Assembly her support for tobacco control, the Framework Convention, and intensifying the fight against tobacco throughout the world. During 2008, WHO had invested nearly US\$ 200 000 in developing project proposals for resource mobilization in Africa. A major project proposal to the Bill & Melinda Gates Foundation had involved consultations, the first during the Intergovernmental Negotiating Body session in February 2008 in connection with the smuggling protocol, followed by a consultation in Ghana in June. On the basis of those, WHO had submitted a proposal to that Foundation for a major capacity building and training initiative in Africa. The Convention Secretariat had taken part in all those consultations.

With regard to World No Tobacco Day, WHO had increased its support to all countries and regions in recent years, resulting in great strides advance tobacco control. However, to offset any perception that follow-up was lacking, WHO's Secretariat hoped to design sustainable advocacy campaigns with Member States that could be integrated into tobacco control activities at country level. WHO was expanding its surveillance work in Africa through school-based and adult tobacco surveys.

Replying to a point raised by the representative of France, he said that WHO did not intend for MPOWER to have any legal or political status. The Framework Convention was the road map for tobacco control. MPOWER was intended to be a WHO operational mechanism that would assist in building technical capacity at country level and thus implement the core measures for demand reduction provided by the treaty. The expert background document produced by WHO comprehensively analysed the tobacco industry strategies to undermine public health policies. It contained key precedents and proposals for monitoring the tobacco industry. WHO would make copies available to the delegation of France.

Replying to the question from the representative of Benin, he said that only nine countries in the world had comprehensive cessation programmes, and much of the relevant literature was geared to developed countries. WHO had prioritized consultation in December to examine how key stakeholders – the private sector, nongovernmental organizations, governments and the research community – could jointly mobilize resources in order to enhance technical assistance and training materials for developing countries.

In reply to the query by the representative of South Africa, he said that WHO's Medium-term strategic plan 2008-2013 was linked to the workplan of the Convention Secretariat. In addition to implementation workshops organized by the Convention Secretariat to prepare for the Conference of the Parties, WHO had convened capacity-building workshops in Jamaica, Peru and the Philippines, and a similar workshop was planned in Ukraine.

Reporting and exchange of information: Item 5.3 of the Agenda

- **Reports of the Parties received by the Convention Secretariat and progress made internationally in implementation of the Convention (decision FCTC/COP1(14)):** Item 5.3.1 of the Agenda (Document FCTC/COP/3/14)

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing the report, said that in terms of comprehensiveness and approach, the second summary report based on Party reports differed greatly from the previous one. The number of Parties reporting was much higher: at the second Conference of the Parties, there had been 27 Party reports, now there were 81. In the second report the Convention Secretariat had followed the structure of the Framework Convention more closely, making it clear that it was not producing another report on tobacco control, but a summary of the first three years of implementation of the Framework Convention. The report gave an overview of progress globally, regionally and at country level.

The report also looked at the interrelationship of articles of the Framework Convention to see how synergy might be created between them. The Convention Secretariat would appreciate guidance from the Parties on that issue. The section entitled “Conclusions” (paragraphs 88 to 98) also contained requests for guidance and possible action by the Conference of the Parties.

The reporting system was essential to successful implementation of the Framework Convention, as defined in Article 21. Reporting arrangements would be reviewed and further improved in 2009, in accordance with a decision adopted at the previous session of the Conference. The Convention Secretariat looked forward to the Parties’ recommendations concerning the mechanisms for convening that review.

He requested guidance on how annual progress reports should be submitted to the Parties in years when there was no session of the Conference.

The CHAIR asked for clarification of whether the 2009 review of reporting arrangements would have any budgetary implications.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the review of reporting arrangements had been included in the draft workplan and budget and could be discussed under item 6.3 of the Agenda.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that the report adequately reflected the status of implementation by each Party. She drew attention to the relatively low rate of submission of reports. Only 81 of the 129 Parties had complied with their reporting obligations. She encouraged the Convention Secretariat to provide support to those countries that were experiencing difficulties with implementation and reporting.

Mr GUILHOU (France) welcomed the report and its detailed analysis of the 81 reports submitted by Parties. However, since fewer than two thirds of the Parties had submitted their reports, the review of reporting arrangements in 2009 should be postponed. The mechanism referred to in paragraph 96 of the report, the establishment of a subsidiary body in order to improve the comparability of data, might be too cumbersome. It might be more useful to set up a group of experts, as had been established to study reporting instruments.

Mr TRIVEDI (India) agreed with the representative of France on the question of subsidiary bodies. Evaluation and monitoring was central to the work of treaty bodies because it ensured compliance. His delegation was working in its regional group on a proposal for discussion with partners, and on which he would like to report back to the Committee.

Ms HERNANDEZ (Canada), citing the “comprehensive approach to the implementation of the Convention” in paragraph 95 of the report, requested clarification of that paragraph, given that the MPOWER package encompassed only some of the measures under the Framework Convention.

Dr ELSUBAI (Sudan) asked what measures were to be taken, either by the Convention Secretariat or by WHO, with regard to countries that had not submitted reports.

The CHAIR noted the request by the representative of India to revert to the discussion at a later meeting. If there was no objection, he would take it that the Committee wished to keep the agenda item open.

It was so agreed.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to a point raised by the representative of France, said that he himself had planned to request postponement of the review planned for 2009; there was no provision for it in the budget. It could be included in the 2010 budget, unless the Conference of the Parties insisted on having the review in 2009, in which case it would have to be carried out within the Secretariat’s existing capacity. If the exercise were postponed to 2010, that might allow more reports to be submitted.

Failure to submit reports was a sensitive issue. The Convention Secretariat had no mechanism for enforcing reporting obligations. Action by the Conference of the Parties might be appropriate now and in the future.

Delayed reporting was also a problem. The figure of 81 did not reflect that additional reports had been received after the cut-off date of 15 July 2008 and not been included in the summary.

As a public health expert, he could say that the issue of standardized reporting was problematic. As Head of the Convention Secretariat, he could consider the question from a treaty standpoint, that was to say for a multilateral agreement in order to facilitate standardized reporting. A subsidiary body or an expert body attached to the Convention Secretariat could examine those issues and report back to the Conference of the Parties.

Replying to the query by the representative of Canada, he said that the world had entered the treaty era of tobacco control. The treaty approach consisted of binding, comprehensive, non-limited measures. The results of the summary supported that approach. As had been demonstrated, treaty measures had a synergistic effect, not only on demand reduction but also on supply reduction.

Mr TRIVEDI (India) said that the reporting mechanism must have substance and improve tobacco control. The examples set by other treaty bodies in the United Nations system could be followed.

The CHAIR suggested that it might be expedient to combine the discussion of items 5.3.2 and 5.3.3. If there was no objection, he would take it that the Committee wished to adopt that suggestion and invite the Head of the Convention Secretariat to introduce both items.

It was so agreed.

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

- **Reporting instrument – revised format for Group 1 questions (decision FCTC/COP2(9)):** Item 5.3.2 of the Agenda (Document FCTC/COP/3/15)
- **Reporting instrument – Group 2 questions (decision FCTC/COP2(9)):** Item 5.3.3 of the Agenda (Document FCTC/COP/3/16 Rev.1)

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing document FCTC/COP/3/15, said that the first reporting instrument had been adopted at the first session of the Conference of the Parties. The second session of the Conference of the Parties had requested the Convention Secretariat to revise the format, but not the content of the instrument, as many countries had already submitted their reports. The Convention Secretariat, with experts, had revised a questionnaire for presentation to the Bureau of the Conference of the Parties. Following national testing, the revised format had been approved by the Bureau, in April 2008, for provisional use by the Parties pending final confirmation by the third session of the Conference of the Parties.

The revised instrument would thus serve the needs of those Parties that had not yet submitted their two-year implementation reports.

Document FCTC/COP/3/16 Rev.1, on the second phase of reporting, had taken into account the further development of the Framework Convention, lessons from the Group 1 exercise and comments received. Most Group 1 questions were retained in the phase 2 reporting instrument and new questions had been added, reflecting a five-year implementation period. The Convention Secretariat was requesting endorsement of the second phase.

The CHAIR suggested that the documents be considered for subsequent formal adoption by the plenary based on the Committee's report. The next Conference of the Parties might not take place until late 2010. The reporting instrument for the Group 2 questions should be adopted at the current session if decisions taken earlier were to be complied with.

Mr GUILHOU (France) said that the European Union approved the revised format for the Group 1 questions and supported the proposed reporting instrument for the Group 2 questions. It also welcomed the fact that the question of gender was fully reflected in the reporting instrument.

Ms MAIERA (Brazil), referring to the Group 1 questions, said that section 5 of the revised reporting instrument (Legislative, executive, administrative and other measures) should specify national or local measures in order to provide comparative analysis between countries. She proposed various insertions and changes.

Under 5.1 (Core questions), candies and chocolates, produced in the format of tobacco products, should be included.

Under 5.1(b)(iv), "aquatic vehicles" should be added.

Under 5.2(b)(i), examples should be included for purposes of clarity, such as "light" tobacco products.

Under 5.2(b)(iv), the meaning of "rotating" health warnings should be further clarified.

Section 6 (Programmes and plans) should include a question on whether there was an intersectoral committee for implementation of the Framework Convention.

Turning to the Group 2 questions, she said that examples of information related to exposure by gender should be included under 2.2.2.

Under question 3.2.5.5, the meaning of the term "rotated" should be clarified for the benefit of responding Parties.

Under 3.3.2 a question should be included regarding the prohibition of sales of tobacco products by mail or over the Internet.

Under 3.4.2, a question should establish whether the tobacco industry had instituted judicial proceedings against the government or any agency that promoted a tobacco ban.

The CHAIR said that the Group 1 instrument was already in use, and that changes would jeopardize the comparability of the data. He suggested that the delegation of Brazil should bring its proposals to the attention of the Convention Secretariat, for consideration during the next overall revision of the reporting instrument.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Conference of the Parties had asked the Convention Secretariat to make only formatting changes to the first instrument. However, the second instrument was still open to consideration regarding content. He asked whether the delegation of Brazil could submit its suggestions in writing. The Convention Secretariat would then work with the delegation to finalize the proposals.

Ms MAIERA (Brazil) agreed.

Mr ROGERS (Canada) said that the Group 2 questions, particularly those relating to Article 13 of the Framework Convention, did not accurately reflect the bans or restrictions imposed by countries on tobacco advertising, promotion and sponsorship. Since many Parties might not achieve the comprehensive ban for some time, questions should be asked and arranged more flexibly.

For example, Parties which answered “No” to question 3.2.7.1 concerning a comprehensive ban could not, under the current format, answer questions under 3.2.7.2, even though effective restrictions or prohibitions might be in place. In the case of Canada, commitments would not be fairly reflected, and similar considerations might apply to other Parties. He suggested that an informal drafting group should be convened at the current session to review the Group 2 questions and consider Group 3 questions.

Dr BLOOMFIELD (New Zealand) supported the comments made by the representative of Canada. He had some suggestions to make for the Group 2 instrument. A drafting group might improve the questionnaire, a process followed at the first session of the Conference of the Parties. If the process was not completed by the end of the week, suggestions could be made on completing it following the session.

The CHAIR said that the work had to be completed at the current session; otherwise, there would be no agreed instrument setting out reporting requirements.

The meeting was suspended briefly.

The CHAIR said that, after consulting the Convention Secretariat and WHO's Legal Counsel, he suggested that the Committee should ask Canada to convene an informal drafting group, open to all interested Parties, that would consolidate all proposed amendments. A deadline would be set for 18:00 the following day, at which time the drafting group would submit its proposals to the Convention Secretariat. A conference paper would be distributed the day after, with the understanding that it would form a sound basis for consensus by the end of the week.

Mr ROGERS (Canada) said that he queried the rapidity with which the Group 2 questions were being developed. Work on the Group 1 questions had continued after the first session of the Conference of the Parties, and the Group 2 questions were not needed immediately.

The CHAIR reiterated that the Conference of the Parties needed to adopt a reporting instrument at the current session, for Parties approaching the threshold of five years since ratification. Adoption of the instrument could not be relegated to the intersessional period, bearing in mind the discussion on the workplan and budget and the likelihood of holding the next Conference of the Parties two years hence. He therefore asked whether the representatives of Canada, Brazil and other interested Parties would be willing to bring back to the Committee by Friday a document as the basis for consideration and adoption, possibly on the same day.

Mr ROGERS (Canada), supported by Ms MAIERA (Brazil), said that he would be willing to undertake the proposed task.

Dr BLOOMFIELD (New Zealand) said that as reporting was burdensome for Parties, the instrument must be effective. After the first session of the Conference of the Parties, the questionnaire had been circulated to all countries required to report in the first round, and achieved an effective set of questions. The revised questionnaire had been approved for provisional use by the Bureau, which had that mandate. He asked when the first Party would be required to report on the basis of the second questionnaire.

The CHAIR said that the first 40 Parties were requested to report on 27 February 2010. The first reporting exercise should not be indicative since the Conference of the Parties had prepared the first questionnaire while its Secretariat was being established and thus extraordinary procedures had been used.

The Convention Secretariat was now one year old. The document under consideration was the product of considerable expertise and had been on the web site for two and a half months. He therefore urged the Parties to reach agreement and adopt the instrument at the current session. From a formal perspective, the Bureau was not the appropriate body for that kind of decision-making.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) agreed that delegating to the Bureau functions of the kind referred to was an extraordinary, but not impermissible, procedure: the Bureau was the only standing representative body that operated during the intersessional period.

The CHAIR said that there appeared to be consensus on the procedure he had suggested, namely, that Canada would lead an informal drafting group, open to all interested Parties, working until Thursday afternoon. The Convention Secretariat would produce a conference document for the Committee's consideration for possible adoption on Friday. The Convention Secretariat would provide the drafting group relevant support. In the absence of any objection, he would take it that that suggestion was acceptable to the Committee.

It was so agreed.

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

The meeting rose at 17:50.

THIRD MEETING

Wednesday, 19 November 2008, at 10:20

Chair: Mr M. RAJALA (European Community)

1. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

The next budget and workplan of the Conference of the Parties: Item 6.3 of the Agenda (Document FCTC/COP/3/20) (continued from the second meeting, section 1)

Ms SÁNCHEZ HERNÁNDEZ (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, said that they were willing to discuss the budget and workplan on the basis of the draft decision submitted the day before. The fourth session of the Conference of the Parties could be held in Uruguay if the Parties so wished, preferably in early 2010.

Mr TRIVEDI (India), speaking on behalf of the Parties in the WHO South-East Asia Region, said that the draft decision was an acceptable basis for discussion. Provision should be made in the budget for intersessional regional meetings in order to expedite the work of the Intergovernmental Negotiating Body.

Mr NDAO (Senegal), speaking on behalf of the Parties in the WHO African Region, said that they were willing to discuss the budget on the basis of the draft decision submitted the day before. The reporting obligations of developing countries and those with economies in transition should be adequately funded, as was done for Parties to the Kyoto Protocol. Those Parties should also receive more assistance in implementing the Framework Convention, and finally, provision should be made in the budget for the creation of knowledge platforms.

Dr BLOOMFIELD (New Zealand), speaking on behalf of the Parties in the WHO Western Pacific Region, said that few delegations of Parties in his Region had participated in the deliberations of Committee B and none had voiced objection to the use of the draft decision submitted the day before as the basis for discussion of the budget.

Dr MANSOUR (Sudan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, welcomed the guidance provided by the Convention Secretariat, especially that relating to resources – although the Parties in the Region would not be able to make use of tax revenue for tobacco control as suggested – and to tools available at regional and World Customs Organization level. The Parties were still debating the role to be played by regional organizations.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that the draft decision was acceptable as a basis for discussion of the budget. The budget had increased by 6.5% over the previous biennium, which reflected the increase in the number of Parties, but such annual budgetary increases would have to stop.

The budget was to be financed by an increase in voluntary assessed contributions from Parties. Although the draft decision stated that Parties' contributions had stabilized, some Parties faced an increase of more than 6%, and at a time of severe budgetary constraints. He called upon the Convention Secretariat to amend the proposed budget so that no Party faced a significantly increased

contribution. Other organizations in the United Nations system were budgeting on the basis of zero growth in contributions of the Member States.

The main concern was to avoid duplication between the work of the Convention Secretariat and that of other agencies, particularly WHO. He asked the Convention Secretariat to provide, by the next day if possible, explanatory comparative data on the budgets and activities of the Convention Secretariat and WHO's Tobacco Free Initiative and the proportion of contributions allocated to each. For example, in the section dealing with assistance to Parties in implementation of the Framework Convention (section 4 of the draft workplan and budget), the Convention Secretariat envisaged a budget of US\$ 2.65 million. Which activities in that section would be carried out by WHO's Tobacco Free Initiative? The Convention Secretariat had made provision for the drafting of guidelines on Article 14 and Article 19.5, before any formal decision on that subject: should those activities be included in the budget? The projected cost of holding sessions of the Conference of the Parties had increased from US\$ 2 million in the current budget for the third session to a projected US\$ 2.4 million for the fourth session – an increase not justified by the accession of 14 new Parties out of a total of 160 Parties. The projected cost of working group meetings had likewise risen sharply, from about US\$ 150 000 in the current budget to a projected US\$ 225 000 in the draft budget for 2010–2011. He looked forward to an opportunity, the next day, for Parties to reflect together on the mission and financing of the Convention Secretariat.

Dr QOTBA (Qatar) drew attention to document FCTC/COP/3/12, paragraph 20, which dealt with the potential contributions from donors to the costs involved in implementing the Framework Convention. She would like to see the draft guidelines drawn up by the Convention Secretariat on that issue.

The CHAIR invited interested Parties to consult the Convention Secretariat directly on specific matters requiring clarification.

Dr MEQLA (Bahrain), referring to paragraph 23 of document FCTC/COP/3/18, said that Parties should further consider the retention by WHO of 13% of voluntary assessed contributions to cover programme support costs. Moreover, the Annex to that document indicated that 71 Parties had not paid their voluntary assessed contributions and he asked what action the Convention Secretariat intended to take in order to remedy that situation.

Dr MOCHIZUKI-KOBAYASHI (Japan) requested a detailed breakdown of each component of the workplan, especially sections 4 and 5, and the increase in the budget related to each component. The workplan should distinguish the activities of the Convention Secretariat from those performed by WHO's Tobacco Free Initiative, and indicate synergies between the two. She asked how the Convention Secretariat proposed to cover the shortfall between the budget already adopted for the biennium 2008–2009 and the actual budget requirements? She asked about the Convention Secretariat's expectations regarding resource mobilization as the workplan depended heavily on extrabudgetary funding.

Mr LINDGREN (Norway) suggested that those parts of WHO's Proposed programme budget 2010–2011 that related to the activities of WHO's Tobacco Free Initiative should be made available to representatives by the next day. That would clarify how work was distributed between WHO and the Convention Secretariat.

Ms HERNANDEZ (Canada) requested clarification of the proposed increase in the budget for the fourth session of the Conference of the Parties (section 1 of the draft workplan and budget); the cost of coordination with international and regional intergovernmental organizations and other bodies (section 5); and the synergies and complementarity between the Convention Secretariat and WHO's Tobacco Free Initiative. The latter might be requested to present an operational budget for the deliverables assigned to it under the draft workplan and budget.

Mr VON KESSEL (Observer, Switzerland)¹ asked what budget implications would arise from holding sessions of the Conference of the Parties at venues other than the seat of the Convention Secretariat.

The CHAIR said that the questions raised by representatives would be answered by the Convention Secretariat the next day. It seemed important to determine which activities could only be carried out by the Convention Secretariat, and not by WHO's Tobacco Free Initiative or another agency.

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

2. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (continued)

Consideration of a logo of the WHO Framework Convention on Tobacco Control: Item 5.4 of the Agenda (Document FCTC/COP/3/17)

The CHAIR invited the Committee to consider the proposed logo for the Convention, depicted in both colour and black-and-white in the report.

Dr MOCHIZUKI-KOBAYASHI (Japan) asked the Convention Secretariat to explain the thinking behind the choice of colour and design for the proposed logo.

Dr ALI (Iraq) said that a logo consisting purely of an acronym might not be generally understood. Green would be better than red as the main colour, with the letters printed in colour on a white background. He could not see the association between the proposed logo and the global campaign against tobacco.

The CHAIR noted that the Committee represented many different cultures and that opinions would differ on the details of the logo. He invited representatives to focus on any aspects of the proposed logo which might be completely unacceptable.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the officers of the Conference had recommended the proposed logo after considering three or four professionally prepared designs commissioned by the Convention Secretariat. The logo was intended to increase the visibility of the Framework Convention and improve its visual identity and communication potential. It needed to be simple and reflect existing associations. For example, the colours reflected those of the previous ashtray symbol still found on the WHO web site; the logo itself reflected the Framework Convention's association with WHO, even though it was a separate instrument in formal terms. The logo thus consisted of the acronym "FCTC", which was associated worldwide with anti-tobacco activities, the WHO emblem and the full title of the Convention in the relevant official languages.

The CHAIR said that, if the Committee disapproved of the proposed design, the Convention Secretariat would take into account its suggestions when commissioning new designs. However, that would delay official adoption of the logo for at least another two years and the unofficial logo would become even more firmly established.

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

Replying to a comment by Dr MEQLA (Bahrain), Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the position of the WHO emblem at the left-hand side of the proposed logo complied with the Organization's guidelines governing publications and could not, therefore, easily be changed.

Ms DU PREEZ (Namibia) said that the logo must be easily understood by children, illiterate people and those with learning disabilities. Pictures could reach those groups. In health activities such as the campaign against HIV/AIDS, some colours by convention had a certain meaning: for instance, green denoted desirable behaviour, while red denoted undesirable behaviour which should be changed. At community level, the needs of all groups must be taken into account.

The CHAIR said that, in materials aimed at the groups in question, the logo could be accompanied by appropriate visual elements.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, expressed support for the proposed logo.

The CHAIR said that, if he saw no objection, he would take it that the Parties wished to approve the proposed design. A draft decision to that effect would be submitted the next day.

It was so agreed.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the draft decision would be based on the decision adopting the WHO emblem, taken at the First World Health Assembly in 1948. It would contain a formal statement of adoption of the logo, a detailed description and the measures to be taken to protect it against misuse, particularly commercial exploitation.

3. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (resumed)

**Performance report for the 2006–2007 budget and workplan (decision FCTC/COP2(11)):
Item 6.1 of the Agenda (Document FCTC/COP/3/18)**

Dr NIKOGOSIAN (Head, Convention Secretariat) introduced the report which gave details of the activities carried out by the WHO Secretariat, which had acted as the interim secretariat of the Framework Convention until September 2007, and by the Convention Secretariat proper (paragraphs 1–18). The section on financial implementation (paragraphs 21–24 and Annex) gave details of income and expenditure during the biennium. In particular, he requested representatives' comments on the section entitled "Lessons learnt and actions required to improve implementation" (paragraphs 19 and 20), and their guidance for the future activities of the Convention Secretariat.

Dr QOTBA (Qatar), referring to paragraph 19, requested further details on the information required by WHO's Tobacco Free Initiative related to reporting by the Parties.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, expressed support for those recommendations intended to ensure consistency between the various Framework Convention guidelines, protocols and reporting instruments; and those to strengthen collaboration between the Convention Secretariat and all WHO departments, as advocated in paragraph 19. He urged the Convention Secretariat to maintain the cost-effectiveness achieved during the 2006–2007 biennium.

Mr MATSOGA (Botswana), speaking on behalf of the Parties in the WHO African Region, welcomed the performance report. At a recent joint meeting, the delegations of Botswana, Gambia, and Lesotho had agreed that a lack of funds had hampered implementation of the Framework Convention in the African countries. Political will did exist, but not always at grass-roots level. Countries such as his own were climbing from low-income to middle-income status but were not tobacco producers; increased wealth was penalized by the withdrawal of foreign assistance, which could sap the political will to act. Other responsibilities frequently took precedence over implementation of the Framework Convention. Essential awareness-raising could be ably assisted by churches and other groups.

He called upon African Parties to comply with their reporting obligations, even if achievements had fallen short of intentions. The lack of information, even negative information, hampered implementation of the Framework Convention. WHO could encourage reporting through its country offices. Commending the various working groups, he noted little bilateral or interregional collaboration within the African Region. He asked WHO for more assistance to remedy that situation.

Ms KIPTUI (Kenya) called upon the Convention Secretariat to consider increasing the budget. Resources available must be shared among many countries and new obligations would arise, such as for the personnel and technology required to implement the future protocol on illicit trade in tobacco products.

Ms DLADLA (South Africa) asked the Convention Secretariat and WHO to indicate, during the next day's budget discussion, any elements in their respective areas of work that could be included in a joint budget and workplan, together with cost estimates.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the representative of Botswana, said that the transition from low-income to middle-income country status might have implications for the costs associated with participation in meetings, but not for the provision of operational funding. Potentially valuable programmes would always be eligible for funding and extra funding or support for participation in meetings might be available exceptionally.

The workplans of the Convention Secretariat and WHO were approved by different bodies: the Conference of the Parties and the World Health Assembly, respectively. Accordingly, a joint workplan would not be possible. However, the Convention Secretariat and WHO's Tobacco Free Initiative could certainly identify synergies in order to implement their respective workplans more efficiently. He could outline some of those areas during the budget discussion the following day, although detailed figures could not be provided at such short notice.

Interim performance report for the 2008–2009 budget and workplan (decision FCTC/COP2(11)):
Item 6.2 of the Agenda (Documents FCTC/COP/3/19 and FCTC/COP/3/19 Corr.1)

Dr NIKOGOSIAN (Head, Convention Secretariat) introduced the interim performance report, which covered the period to 30 June 2008. The format followed that of WHO's mid-term performance reports, and classified activities as “achieved”, “on course” or needing action “to overcome risks”.

He sought guidance from the Parties, first, concerning progress reports on implementation of the Framework Convention (paragraph 8). Many Parties had submitted information very late, or not at all. Only 50 reports had been received, even after vigorous encouragement from the Convention Secretariat. Clearly, Parties needed more support but, if the trend continued, there would be adverse implications for the reporting process. Secondly, the Convention Secretariat now possessed the tools and capacity to provide assistance to Parties in assessing their needs and resources for implementation of the Framework Convention (paragraph 15). However, the budget allocation was insufficient to meet increasing needs. He sought guidance as to whether additional resources should be requested from Parties and their international partners, or through multilateral mechanisms, such as the other international organizations to which Parties belonged.

The Convention Secretariat was still in its first year and, despite little prior experience of administering international treaties within WHO, implementation of the Framework Convention was progressing satisfactorily.

Dr SAN MARTIN (Paraguay), referring to paragraph 15 of the report, said that Paraguay had requested assistance from the Convention Secretariat to deal with region-wide problems such as illicit trade in tobacco products. He called upon the Convention Secretariat to support countries lacking the structures and expertise to address those problems. His country was currently gathering the information required by the Convention Secretariat before assistance could be provided.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, requested more details about expenditure under the 2008–2009 budget, especially regarding Table 2A in the Annex, and the use made of additional resources, amounting to US\$ 260 000, which the Conference of the Parties had allocated to implementation of the 2008–2009 workplan. Finally, he called upon the Convention Secretariat to consider incentives that would encourage Parties to pay their contributions early and in full.

Mr MATSOGA (Botswana), referring to paragraph 8 of the report, said that the Convention Secretariat might encourage Parties to submit their summary reports by writing to the relevant health ministers.

His country was not itself a tobacco producer but two foreign manufacturers had opened up facilities for the manufacture of tobacco products on its territory. He asked whether Parties should be reporting that kind of information to the Convention Secretariat.

Dr MANSOUR (Sudan) asked for a regional breakdown of implementation activities and for a list of Parties that had paid, or otherwise, their contributions.

Dr BLOOMFIELD (New Zealand) asked for more details about expenditure, which should also be included in future performance reports. His delegation would circulate a draft decision related to paragraph 15, that Parties needed assistance in assessing their needs and obtaining resources for implementing the Framework Convention.

Mr SIBETCHEU (Cameroon) welcomed the resource mobilization referred to in paragraph 15 of the report. The provision of new resources would help Parties in the WHO African Region to draw up policies for tobacco control consistent with the Framework Convention and to exchange experience and best practice at regional and subregional level. It would also improve the quality of the information submitted for inclusion in the summary report.

Dr MEQLA (Bahrain) asked what action would be taken against Parties that did not pay their contributions.

Ms HERNANDEZ (Canada) asked how WHO country offices might encourage Parties to submit reports to the Convention Secretariat, as the latter did not have country representatives.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the representative of Paraguay, said that funding for intercountry meetings on the future protocol on illicit trade in tobacco products had been included in the next budget. He would also emphasize to Committee A the need for financial support for intersessional activities in the remaining months of the current biennium. Following the adoption of the protocol, he expected the acceding Parties to create an appropriate financial mechanism. In the meantime, Parties could apply for assistance related to illicit trade under the general assistance arrangements.

Replying to the representative of France, he pointed out that the format of the performance report was based on the model used by the WHO Secretariat. Concerning the use made of additional

resources during the current biennium, he would willingly provide more details, informally, during the discussion on the budget at the current session, or in the final performance report for the biennium, which would be submitted at the next session of the Conference of the Parties.

All additional contributions received were used to reduce the shortfall in the budget for the work of the Intergovernmental Negotiating Body to prepare the protocol on illicit trade. That shortfall, originally standing at US\$ 2.2 million, had later risen to US\$ 3.1 million to cover the additional costs of holding the second session of the Intergovernmental Negotiating Body separately from the third session of the Conference of the Parties. If support was forthcoming from those Parties which had acceded to the Framework Convention since the second session of the Conference of the Parties, the financing of the third session of the Intergovernmental Negotiating Body would be assured.

The Conference of the Parties had decided that the Framework Convention budget, unlike the WHO regular budget, for example, should be financed by voluntary contributions. The Secretariat could therefore send only tactful reminders to Parties if their contributions were overdue. Of the voluntary assessed contributions collected, there was a shortfall of about US\$ 0.5 million out of a total budget of US\$ 8 million. It was encouraging that the Parties which had actually paid included most of the major contributors. However, a large number of Parties had paid nothing.

Voluntary assessed contributions paid to date totalled US\$ 2.5 million: if that trend continued, about US\$ 5.5 million of the projected US\$ 8 million would be paid by the end of the biennium. The precarious funding for other activities under the Framework Convention gave cause for concern, and for which he would welcome guidance from the Parties.

Replying to the representative of Botswana, he said that the Secretariat had sent three reminders to Parties whose reports were overdue. The reminders had been addressed in a note verbale to each country's permanent representative in Geneva and also conveyed through the WHO regional offices. He called upon delegations to use their influence with their governments. The Secretariat would help Parties with any technical problems they encountered, by e-mail or, if necessary, with a site visit.

The CHAIR noted that Parties needed to plan the payment of their contributions within their own budget cycles. For example, the European Community, which he represented, was already preparing its budget for 2010. The Convention Secretariat's advance preparation of its budgets and workplans gave Parties more time to ensure that ministries were allocated the funds needed to pay contributions on time.

He suggested that Parties might wish to adopt a formal decision at the current session to guide the Secretariat in the preparation of future performance reports, stipulating the information and level of detail required. Time would be needed in order to draft and discuss the document during the session.

Mr MATSOGA (Botswana) noted that neither of the two performance reports which the Committee had considered had mentioned World No Tobacco Day, celebrated in his country for the twentieth time in May 2008, and without external funding. The briefest advance notice of the theme for the Day had hampered campaign planning. Furthermore, World No Tobacco Day often fell during the World Health Assembly, when ministers of health were gathered in Geneva.

The CHAIR said that World No Tobacco Day was organized by the WHO Secretariat, and the Conference of the Parties therefore had no influence over it. The theme for each year was determined in advance in a World Health Assembly resolution, to which the organizers of activities in Member States should be alerted.

Ms KIPTUI (Kenya) expressed support for the Chair's suggestion concerning the adoption of a formal decision. She noted that the tobacco industry had manufacturing facilities in a number of developing countries, including Kenya, Nigeria and South Africa, from which products were distributed throughout the region. Those countries should be represented in expert groups, such as those seeking reliable ways to determine the origin of tobacco products. However, only one representative per country was likely to receive travel and meeting expenses, even though that

representative might not possess the full range of expertise required. She called upon the Secretariat to consider further assistance to the Parties concerned in its arrangements for the third session of the Intergovernmental Negotiating Body and other relevant meetings.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that Parties had already indicated that at least two representatives from each country should attend the sessions of the Intergovernmental Negotiating Body to provide varied expertise, such as public health, customs, etc. The difficulty was to find the necessary funds. The issue should be raised during the budget discussion the following day, during the discussion on the work of the Intergovernmental Negotiating Body in Committee A, or in the plenary.

Mr GUILHOU (France), speaking on behalf of the Parties to the Convention in the European Union, supported the proposal to draw up a draft decision reflecting the comments and proposals made in relation to the item under discussion.

The CHAIR said he took it that the Committee agreed to the preparation of a draft decision along the lines he had suggested earlier in the discussion of the item.

It was so agreed.

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

4. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (resumed)

Financial resources and mechanisms of assistance – implementation of decisions FCTC/COP1(13) and FCTC/COP2(10) of the Conference of the Parties: Item 5.1 of the Agenda (Document FCTC/COP/3/12) (continued from the first meeting, section 3)

Dr BLOOMFIELD (New Zealand) said that he proposed to submit a draft decision on agenda item 5.1 at the next meeting. He had not had the opportunity to discuss the text with other representatives, but would welcome any comments.

The CHAIR said that, if he saw no objection, he would take it that the Committee agreed to consider the draft decision at the next meeting, in English only, and without an opportunity to study the text in advance.

It was so agreed.

The meeting rose at 12:50.

FOURTH MEETING

Wednesday, 19 November 2008, at 16:00

Chair: Mr M. RAJALA (European Community)

OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (continued)

Financial resources and mechanisms of assistance – implementation of decisions FCTC/COP1(13) and FCTC/COP2(10) of the Conference of the Parties: Item 5.1 of the Agenda (Document FCTC/COP/3/12) (continued)

The CHAIR invited the Committee to consider the following draft decision on financial resources and mechanisms of assistance, submitted by New Zealand:

The Conference of the Parties,

Recalling its decisions FCTC/COP1(13) and FCTC/COP2(10) on financial resources and mechanisms of assistance;

Noting the information provided in document FCTC/COP/3/12;

Noting with concern the relevant information provided in document FCTC/COP/3/19, which states that action is needed to overcome risks in this aspect of the Convention Secretariat's work;

Recognizing the need to take urgent action to address the gap between the needs for assistance expressed by Parties and the resources dedicated for this purpose;

Reaffirming the need to support Parties, at their request, to undertake needs assessments and develop their budget and programme proposals for seeking financial assistance from all available funding sources;

Recognizing that specific funding is required in the Convention Secretariat budget to ensure that country-level assistance is available to support Parties to fulfil their Convention obligations;

Reiterating that synergy, complementarity and cooperation between WHO's Tobacco Free Initiative and the Convention Secretariat are essential,

DECIDES:

- (a) to call upon the World Health Assembly to renew its full support for prioritizing resource mobilization for tobacco control at the national and international levels, inter alia, to assist Parties to implement all provisions of the Convention;
- (b) to invite the Director-General of WHO to continue to support the Convention Secretariat in assisting Parties in need to develop budget and programme proposals for financial assistance from all available funding sources, so that they can implement fully the provisions of the Convention;
- (c) to strongly urge donor Parties to provide extrabudgetary contributions specifically for the purpose of supporting this aspect of the work of the Convention Secretariat;
- (d) to call upon Parties to actively explore opportunities to provide technical, legal and financial assistance to other Parties through bilateral arrangements;
- (e) to call upon developing countries Parties and Parties with economies in transition to request support, if required, from the Convention Secretariat specifically for the purpose

- of conducting needs assessment, and communicate their prioritized needs to potential donors so that they can work towards implementing all provisions of the Convention;
- (f) to request the Convention Secretariat to place a high priority on this aspect of the work programme, in accordance with the agreed budget and workplan 2010–2011, and in particular to complete the database on available resources and make this widely available to all Parties as soon as possible;
- (g) to request the Convention Secretariat to step up efforts to secure extrabudgetary contributions from Parties and other international donors, including intergovernmental organizations, specifically for the purpose of helping Parties in need to carry out needs assessments and develop budget and programme proposals for financial assistance from all available funding sources;
- (h) to invite WHO's Tobacco Free Initiative to present at the next session of the Conference of the Parties a report on its activities undertaken specifically to support the implementation of the Convention.

Dr BLOOMFIELD (New Zealand), introducing the draft decision, said that the preambular paragraphs partly replicated the language of earlier decisions on the subject adopted by the Conference of the Parties at its first and second sessions. The sixth preambular paragraph referred to the need for specific funding in the Secretariat budget to enable Parties to fulfil their obligations under the Framework Convention. That assistance would complement the expertise and capacity already available within WHO's Tobacco Free Initiative. It would be important to ensure synergy between the two bodies.

The operative paragraphs reflected the urgent priority of resource mobilization for tobacco control, particularly through extrabudgetary contributions by donor Parties.

Mr GUILHOU (France), speaking on behalf of the Parties to the Convention in the European Union, reiterated the European Union's readiness to assist developing country Parties, particularly least developed countries, as well as the Convention Secretariat and WHO. As it was essential to avoid duplication of work between WHO's Tobacco Free Initiative and the Convention Secretariat, a clear statement was required on the roles and mandates of the two bodies. Detailed discussion of the draft decision should be postponed until after the following day's consideration of the budget and discussion of those respective roles and mandates in implementing the Framework Convention.

Ms HERNANDEZ (Canada) endorsed the previous speaker's proposed postponement of discussion of the draft decision.

Mr DAYAL (India) welcomed the draft decision, which highlighted resource mobilization. His delegation had prepared another draft decision which highlighted implementation issues such as compliance with reporting obligations. Without a subsidiary policy-making body, the Conference of the Parties could only decide policy at sessions two or three years apart. He therefore proposed the creation of an open-ended working group of the Conference of the Parties, modelled on similar policy bodies established under international conventions, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Issues such as needs assessment, implementation plans and reporting mechanisms would be discussed and reported to the Conference of the Parties at its regular sessions.

The CHAIR suggested that the proposal by the representative of India should be discussed later in the meeting.

It was so agreed.

Ms DLADLA (South Africa) welcomed the draft decision proposed by New Zealand. She suggested that certain elements of Article 26 of the Framework Convention be reflected in the draft.

The role of WHO's Tobacco Free Initiative vis-à-vis the Convention Secretariat should be clarified before any decision was adopted.

Dr ZAIN (Malaysia) suggested that additional resources should be obtained from the real source of the problem, namely the tobacco industry. The Conference of the Parties could call for the introduction of a sumptuary tax, or "sin tax", on tobacco products at the international level, aimed at tobacco companies which operated across borders.

Dr SIRIWAT TIPTARADOL (Thailand) expressed support for that suggestion. His Government had imposed a sumptuary excise tax on tobacco and alcohol products, the revenue from which had funded the Thai Health Foundation, which conducted anti-tobacco and other health promotion activities.

The opportunities for assistance to Parties referred to in paragraph (4) of the draft decision might also include regional networks such as the Southeast Asia Tobacco Control Alliance.

Ms ARNOTT (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, welcomed the draft decision and its emphasis on effective collaboration between WHO's Tobacco Free Initiative and the Convention Secretariat. The Conference of the Parties should establish a small, geographically representative working group to oversee the implementation of decisions relating to financial resources and mechanisms of assistance. It would monitor the impact of technical and financial assistance on implementation of the Framework Convention, and make recommendations to the Conference of the Parties and the World Health Assembly to improve the mobilization of such assistance, through cooperation with WHO's Tobacco Free Initiative and by other means.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel), replying to a question from the CHAIR relating to the first operative paragraph of the draft decision, said that, in its decision FCTC/COP1(12), the Conference of the Parties had made a recommendation to the World Health Assembly. There was, therefore, a precedent for a direct request from the Conference of the Parties to the Health Assembly.

Mr WALTON-GEORGE (European Community), responding to the concerns expressed by representatives about budget shortfalls and the need for more extrabudgetary funding, said that the European Anti-Fraud Office had pledged €1 150 000 as a contribution to the cost of convening the third session of the Intergovernmental Negotiating Body in Geneva in June/July 2009.

The CHAIR, summing up, said that a concern of many delegations was the definition of the respective roles of WHO's Tobacco Free Initiative and the Convention Secretariat. He suggested that discussion of the draft decision should be suspended pending detailed discussion of the proposed budget and workplan.

It was so agreed.

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

Reporting and exchange of information: Item 5.3 of the Agenda (continued)

- **Reports of the Parties received by the Convention Secretariat and progress made internationally in implementation of the Convention (decision FCTC/COP1(14)):** Item 5.3.1 of the Agenda (Document FCTC/COP/3/14) (continued from the second meeting, section 2)

The CHAIR invited the Committee to consider the following draft decision, submitted by India:

The Conference of the Parties,
Recognizing the critical role and importance of Tobacco Control in achieving Global Public Health Objectives;

Further recognizing the importance of Tobacco Control measures in achieving the Health and Poverty Reduction related to MDGs;

Welcomes the growing number of Parties to the Framework Convention on Tobacco Control;

Notes the growing number of developing countries and countries with economy in transition, as Parties to the Framework Convention on Tobacco Control;

Considering the challenges being faced by developing country Parties, LDC Parties and Parties with economy in transition in mainstreaming Tobacco Control in their National Health Policies;

Noting the support and concern expressed by Parties on the need for assistance to the Parties in need;

Realizing the significant gaps in the assistance to Parties in need;

Stressing that immediate need for evolving and setting up of a mechanism to submit proposals on Technical and Financial Mechanism for National Implementation Plans, Needs Assessment as well as Review of the Reporting on Convention obligations by the Parties, in particular the LDC Parties, developing country Parties and Parties with economies in transition in an objective and transparent manner;

Further, in pursuance of the above objectives and recognizing the imperative:

(a) to carry out needs assessment of the Parties in need, in order to facilitate implementation of the Framework Convention on Tobacco Control in a comprehensive and effective manner;

(b) to encourage the Parties to work on their National Implementation Plans in accordance with the provisions and obligation under the Framework Convention on Tobacco Control in order to strengthen global response to Tobacco Epidemic;

(c) to establish a mechanism of continuous review of National Implementation Reports submitted by the Parties, in accordance with their respective National Implementation Plans,

DECIDES:

(1) to establish an Ad Hoc Open-ended Working Group (OEWG) to deliberate on the issues of Needs Assessment, National Implementation Plans, Review and Reporting Mechanisms and other matters during the intersessional period;

(2) to establish an expert group comprising of three members from each of the six WHO regions to study and report to the OEWG on the Needs Assessment, National Implementation Plans in accordance with the terms of reference in Annex 1;

(3) to establish a Compliance Committee hereafter referred as the Standing Committee to the COP and function in accordance with terms of reference in Annex 1;

(4) that the Secretariat of the Framework Convention on Tobacco Control is to act as the Secretariat for the OEWG, expert group and Standing Committee and facilitate their work in accordance with the terms of reference annexed to this decision.

ANNEX

NEEDS ASSESSMENT

Objectives

1. The objective of the work to be carried out by the **expert group**, inter alia, are:
 - (a) to provide OEWG at its first session, the needs of the Parties in need, both financial and technical to facilitate their effective implementation of the Convention;
 - (b) to provide OEWG with framework and modalities for determination in a predictable and identifiable manner of the funding necessary and available for the implementation of the Convention by Parties in need;
 - (c) to complete its work by end 2009.

Methodology

2. Pursuant to the objectives in the paragraph 1 above, the work will be facilitated and coordinated by the Secretariat.
3. The assessment will include an estimation of costs and funding needs that are identified for activities in the national implementation plans, which;
 - (d) are direct obligations under the Convention;
 - (e) are necessary for the implementation of the Convention;
 - (f) involve other indirect costs related to the implementation of the Convention but not covered by (a) or (b).

Sources of Information

4. In developing the assessment of the needs, the **expert group** will draw primarily upon information provided in the National Implementation Plans, in accordance with the obligations under the Convention.
5. Relevant supplementary information may be drawn from the Secretariat, Parties, International Financial Institutions, Intergovernmental and nongovernmental organizations including private sector and the Secretariat of the WHO.

Scope

6. The assessment of the assistance/funding necessary and available should be comprehensive and primarily directed towards assessing total financial and technical needs with a view to identifying, in full assessment needs, baseline and incremental assistance needs in order for Parties in need to fulfil their obligations under the Convention for the period 2010–2014.

Process

7. The report on the needs assessment should be provided to the OEWG in time for the report to be translated and distributed to Parties in accordance with existing norms before first session of the OEWG.

8. The report of the **expert group** will be presented to the first session of the OEWG for consideration and subsequent action, by the OEWG.

NATIONAL IMPLEMENTATION PLANS

1. Each Party to the Convention shall develop and endeavour to implement a plan for the implementation of its obligations under the Convention. A Party's initial plan may reflect the initial obligations imposed by the Convention and shall address the requirements of the Conventions. The implementation plan could be expected to reflect for a Party:

- (a) its assessment of the extent of the Tobacco Epidemic, based on surveys, monitoring and inventories;
- (b) obligations of the Convention applicable at the time the plan is prepared;
- (c) its priorities in addressing the Tobacco Epidemic, taking into account broader social and economic priorities;
- (d) its plan for achieving sustainable development incorporating a strategy with Tobacco Control as its integral part;
- (e) its institutional arrangements and available infrastructure.

2. For all Parties, the development of the implementation plan is a substantial investment that outlines a Party's objectives, activities to be undertaken, the responsibilities of stakeholders, and the time frame for achieving results. While the implementation plan should be flexible so that it can accommodate changes in priorities and progress, the overall framework should be stable enough to provide long term planning and commitment.

MEMBERSHIP OF STANDING COMMITTEE

1. To be drawn from Public Health, Public Finance, Legal and Health Communication/Advocacy. Standing Committee to the Conference of the Parties: Review of Reporting Mechanisms.

2. The Standing Committee shall review the national implementation reports submitted by the Parties, analyse them and function as the "Compliance Committee". The Standing Committee shall have dual task of "Enforcement" and "Facilitation". The objective of the Enforcement will be to determine whether a Party is not in compliance with its obligations under the Convention. Similarly the objective of Facilitation will be to provide key advice and facilitation to Parties in implementing the Convention. Further, the Standing Committee may also provide early warning on potential non-compliance and facilitate corrective action.

MEMBERSHIP OF STANDING COMMITTEE, TERM OF OFFICE AND CONFLICT OF INTEREST

1. The membership of the Standing Committee should comprise of three members from each WHO region.

2. The membership, at any given time shall not be less than the total of eighteen. One third of the members should change in a manner that does not affect the total number at any given time.

3. Appointed members shall, upon becoming members, sign a "no conflict of interest" affidavit.

Mr TRIVEDI (India), introducing the draft decision, said that tobacco control must be a global effort, as the tobacco industry would be quick to exploit any gaps. Assistance for developing country Parties, especially least developed countries, and Parties with economies in transition was therefore essential. There was clear political support for such assistance, but it would require objective and transparent needs assessment. He therefore proposed that the Conference of the Parties should establish subsidiary bodies to take action on needs assessment, national implementation plans and the review of reporting mechanisms.

The CHAIR noted that the delegation of India proposed the creation of three subsidiary bodies, as described in paragraphs (1)–(3) of the draft decision. How would the responsibilities be divided between the first two of those bodies, the ad hoc open-ended working group and the expert group, and between the proposed compliance committee or standing committee and the Bureau?

Mr TRIVEDI (India) said that the ad hoc open-ended working group would be a political body open to all Parties and empowered to discuss any operational or substantive issue between sessions of the Conference of the Parties. It would have valuable oversight since the Conference of the Parties would meet only every two years in the future. There would be no time limit on the working group's operation.

The expert group, which would complete its work by the end of 2009, would report on national implementation plans and the needs of Parties to the open-ended working group.

The compliance committee, or standing committee, would advise Parties on the implementation of the Framework Convention; act as an early-warning mechanism to identify Parties that might fail to fulfil their obligations and take action accordingly; and report directly to the Conference of the Parties and to the working group between sessions. The membership of the standing committee would be larger than that of the Bureau.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that, pursuant to Article 23.5(f) of the Framework Convention, the Conference of the Parties was authorized to establish subsidiary bodies. There was no prescribed size for a subsidiary body: the Bureau generally consisted of one member from each WHO region, and the subsidiary body might be the same size or larger, particularly in the case of a body convened to deal with a specific technical issue which needed to be representative of the different countries within a region.

In decision FCTC/COPI(9), the Conference of the Parties had decided to use WHO's Financial Regulations and Financial Rules as its own financial rules. Pursuant to those rules, no action could be taken on an issue until the financial and administrative implications of the action had been reported to the body authorizing the action.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that they had always envisaged the Convention Secretariat as a relatively small agency with a limited staff that would not duplicate the work of other bodies. That was why clarification was required of its mandate, its budget and ways of improving collaboration with other organizations. Regarding the proposal under discussion, the budgetary and legal implications deserved further careful study.

Dr ELSUBAI (Sudan) asked for further details about the respective roles of the proposed open-ended working group, expert group and Standing Committee.

Ms HERNANDEZ (Canada) said that, given the current financial constraints and the problems faced by Parties in timely reporting, the Conference of the Parties should first concentrate on creating systems that would document progress of the implementation of the Framework Convention before it created any subsidiary bodies.

She requested further information about the respective roles of WHO's Tobacco Free Initiative and the Convention Secretariat in the preparation of national needs assessments and implementation plans. She looked forward to that information during the following day's budget discussion.

Mr TRIVEDI (India), replying to the question asked by the representative of Sudan, said that the expert group, a technical body, would cease to exist after completing its work at the end of 2009. The standing committee would be a permanent political body and would report to the Conference of the Parties on issues related to compliance.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel), replying to a point raised by the CHAIR, drew attention to Article 27.2 of the Framework Convention, which provided for compulsory ad hoc arbitration, where necessary, for the resolution of disputes between Parties. The mandate of the standing committee proposed in the draft decision would have to be carefully worded in order to ensure that it was compatible with that Article, but that would be preferable to amending the text of the Framework Convention, which would be a lengthy and delicate procedure.

Ms SÁNCHEZ HERNÁNDEZ (Mexico) suggested that, instead of creating subsidiary bodies, the Conference of the Parties might entrust the Convention Secretariat with a specific mandate which would enable outstanding concerns or gaps to be addressed.

Mr LINDGREN (Norway) agreed with previous speakers that Parties needed more time to study the draft decision before commenting.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that she saw the proposal by India as an operational mechanism to sustain the proposed workplan of the Convention Secretariat. However, new subsidiary bodies might further complicate the relationship between WHO's Tobacco Free Initiative and the Secretariat.

Dr QOTBA (Qatar) expressed concern that the diverse composition of the proposed standing committee, which would include financial and legal experts and public health officials, might hamper the continuity of the Convention Secretariat's work.

Mr VAITE (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, welcomed the initiative taken by the delegation of India to develop a robust reporting mechanism. He supported the creation of a subsidiary body to monitor and support implementation of the Framework Convention at the national level.

The CHAIR suggested that consideration of the draft decision should be suspended and resumed the next day in the context of the discussion on the draft workplan and budget. Further information about the budgetary and legal implications of the draft decision would be provided by the Convention Secretariat and the Office of the WHO Legal Counsel.

It was so agreed.

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

The meeting rose at 17:25.

FIFTH MEETING

Thursday, 20 November 2008, at 10:30

Chair: Mr M. RAJALA (European Community)

1. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: (Item 5 of the Agenda)
(continued)

Consideration of a logo of the WHO Framework Convention on Tobacco Control: Item 5.4 of the Agenda (Document FCTC/COP/3/17) (continued from the third meeting, section 2)

Dr ALI (Iraq), speaking on behalf of the Parties to the Convention in WHO's Eastern Mediterranean Region, said that, while the Parties had not opposed the adoption of the official logo of the Framework Convention the day before, they were concerned that the design was too close to the English version of the FCTC acronym and the image might not be clear or meaningful to children or illiterate people. The red colour was reminiscent of some tobacco advertising and might have connotations of danger: nor was it consistent with the blue colour of WHO publications.

The CHAIR suggested that the Committee should return to the issue of the logo after its consideration of agenda item 6.3 on the budget and workplan.

It was so agreed.

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

2. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

The next budget and workplan of the Conference of the Parties: Item 6.3 of the Agenda (Document FCTC/COP/3/20) (continued from the third meeting, section 1)

The CHAIR recalled that Parties had agreed to base their discussion on the draft workplan and budget submitted in the second session. He invited comments on the sections entitled "Voluntary assessed contributions" and "Workplan", including Annex 1, with particular reference to actions required by the Convention Secretariat and to decisions taken by the Conference of the Parties that required action. Parties should then discuss the section entitled "Extrabudgetary funds", specifying action that could usefully be supported by other agencies, principally WHO's Tobacco Free Initiative. The total budget and the formal decision should be the last item of discussion.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to earlier questions, recalled that the representative of India had asked for provision to be made in the budget for regional and expert meetings between sessions of the Intergovernmental Negotiating Body. A draft decision providing for such meetings between the second and third sessions of the Intergovernmental Negotiating Body was currently under consideration in Committee A, while the sum of US\$ 950 000 had been allocated in

the proposed budget and workplan for 2010–2011 for meetings to be held after the third session, on the assumption that there would be an intersessional process leading up to a possible fourth session of the Intergovernmental Negotiating Body, as provided for in paragraph 10 of the workplan and in the budget.

Replying to questions from the representative of France, he said that a breakdown of the US\$ 2.6 million allocation for “Assistance to Parties in implementation of the Convention” was contained in section 4 of the budget and workplan for 2010–2011. The cost of possible activities under Article 14 of the Framework Convention and Article 19.5 had been budgeted in anticipation of decisions which appeared likely to be taken in the session. If those decisions were not taken, the sums in question would not be disbursed.

Concerning the increased cost of convening the fourth session of the Conference of the Parties, which was budgeted at US\$ 2.4 million, compared with US\$ 1.8 million for the third session, he said that about US\$ 100 000 of the increase was attributable to the cost of subsidizing the travel and other meeting expenses of those new Parties which were eligible for support. The remaining US\$ 500 000 was associated with a different, and more accurate, allocation of salary costs. The budget for previous sessions of the Conference of the Parties had not contained any explicit salary component. Instead, salary costs had been spread over the other items in the budget. In fact, salary costs for the session, as a meeting-based activity, were relatively low at about 25% of the budget, compared with the more usual 50% or even more for an activity requiring a large input from experts.

In reply to a question from the representative of Qatar, he said that the methodology for determining voluntary assessed contributions was based on WHO's scale of assessments, adjusted to reflect the fact that not all WHO's Member States were Parties to the Framework Convention. One Party's contribution had been capped at a maximum of 22% of the total budget. Total voluntary assessed contributions for the 2010–2011 budget amounted to US\$ 9.5 million, compared with US\$ 8 million for the 2008–2009 budget. However, most Parties' contributions should remain unchanged, with the extra amount being covered by the contributions of new Parties. If Parties wanted to avoid any increase at all, they could set the total amount of voluntary assessed contributions, at say US\$ 9 million, and appeal for extrabudgetary contributions to make up the shortfall.

The representative of Japan had asked about the considerable increase in the budget allocation for section 4, assistance to Parties in implementation of the Framework Convention, and section 5, coordination with international and regional intergovernmental organizations and other bodies (see Annex 1). A large proportion of the resources in the first budget and workplan had been devoted to the activities of the Intergovernmental Negotiating Body; increased assistance to Parties in the 2008–2009 budget was intended to redress the balance. The budgeted increase for section 5 was intended to promote bilateral assistance between Parties; assistance from other international organizations; and other forms of multilateral assistance. Each section of the workplan contained a reference to the article of the Framework Convention or decision of the Conference of the Parties which authorized the action concerned.

Replying to the representative of Japan over how the extrabudgetary funds would be raised, he said that extrabudgetary contributions were beginning to increase, as was evidenced by the sum of €1.15 million pledged by the European Anti-Fraud Office for the third session of the Intergovernmental Negotiating Body. The Secretariat was also confident of contributions from Parties that had acceded after the adoption of the budget. Extrabudgetary contributions represented a huge potential source of funding which the Convention Secretariat would exploit. Parties should encourage other international organizations to which they belonged to make contributions pursuant to Article 26.4 of the Framework Convention.

Replying to a point raised by the representative of Switzerland, he said that the higher costs of holding a session of the Conference of the Parties away from Geneva was generally met by the host country.

Mr TRIVEDI (India) drew attention to the interim performance report for 2008–2009 (document FCTC/COP/3/19), which showed a small surplus carried over from the previous budget. He asked whether similar savings might result from 2008–2009 to 2010–2011.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that there was unlikely to be any surplus from the current budget, since additional funds would be devoted to meeting the shortfall of US\$ 3 million for the Intergovernmental Negotiating Body.

Ms SABISTON (Canada) asked how the activities listed under section 5.1 of the proposed budget and workplan on coordination with international and regional intergovernmental organizations and other bodies, would contribute to the implementation of Articles 22 and 26 of the Convention.

Dr MOCHIZUKI-KOBAYASHI (Japan) recalled that at the third meeting she had requested details of actual income and expenditure in the current budget, compared with the figures approved by the Conference of the Parties.

Mrs YAHAYA (Nigeria) said that the distribution of voluntary assessed contributions should be reviewed periodically in order to take into account economic change and changes in the status of Parties.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, reiterated that the budget should be revised so that no Party faced an increase in its contribution. He had also advocated the introduction of an incentive system to encourage Parties to pay their contributions on time.

He asked for more information about the proposed intersessional work in expert and regional groups, to which US\$ 950 000 had been allocated, and the review of accreditation of nongovernmental organizations, to which US\$ 180 000 had been allocated. He asked how, exactly, would those sums be spent.

Dr McCOOL (New Zealand), expressing strong support for the Convention Secretariat, noted that the key issue for discussion was not the budget but the workplan, responsibility for which lay with the Conference of the Parties itself rather than the Convention Secretariat. The multilateral action provided for in the workplan would promote implementation of the Framework Convention and assist developing country Parties and Parties with economies in transition. WHO's Tobacco Free Initiative could, and should, assist in all areas of that implementation, not merely in relation to demand-reduction measures.

Mr ERKAN (Turkey), noting the projected increase in expenditures relative to voluntary assessed contributions, favoured a policy of zero-growth applied to the budget and workplan for 2010–2011.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the representative of Canada, said that a recent example of coordination with international and regional intergovernmental organizations (section 5.1 of the budget and workplan) was the action taken by the Convention Secretariat, at the request of the Intergovernmental Negotiating Body, to establish links with international secretariats, such as that of the United Nations Convention against Corruption, and to review existing instruments to determine their usefulness for tobacco control activities.

Replying to the representative of Japan, he said that the total budget for the biennium 2008–2009, including the funds allocated to the Intergovernmental Negotiating Body, amounted to about US\$ 13 million (see document FCTC/COP/3/19, Annex, Table 1), while the proposed budget for 2010–2011 was US\$ 13.8 million. The two budget documents were not directly comparable, since that for 2010–2011 had been adjusted to show more clearly the major items, such as the elaboration of protocols and guidelines. However, he could provide a comparison for individual items if representatives so wished.

Mr WALTON-GEORGE (European Community), speaking in his capacity as Chairperson of the Intergovernmental Negotiating Body, reported on the draft decision on the elaboration of a

protocol on illicit trade in tobacco products (agenda item 4.1), debated in Committee A, and relevant to the discussion on the draft workplan and budget. Committee A had concluded that, given the importance of the protocol for implementation of the Framework Convention, its completion should be prioritized, even if resources had to be diverted from other activities. Subject to the outcome of the current discussion in Committee B, the draft decision could be approved in Committee A the following day.¹

Replying to questions from the CHAIR, he said that, if a fourth session of the Intergovernmental Negotiating Body were necessary, it would likely take place in February or March 2010. The approved text of the protocol would need to be made available to Parties six months before the fourth session of the Conference of the Parties. It was difficult to predict the level of intersessional activity that would be required following the fourth session of the Intergovernmental Negotiating Body: judging from past experience, small technical meetings might be required to resolve outstanding issues so that the approved text could be adopted by the Conference of the Parties. Regional meetings would inform all Parties about the approved text and could be held at convenient times before the fourth session of the Conference of the Parties. It would be regrettable if the budget and workplan did not provide for at least that level of intersessional activity.

Dr NIKOGOSIAN (Head, Convention Secretariat) replying to a point raised by the CHAIR, said that the current budget could allow for meetings to be convened in the biennium 2008–2009 even if, technically, they came under the 2010–2011 budget and workplan. For instance, working groups preparing for the fourth session of the Conference of the Parties, tentatively scheduled for February or March 2010, would need to begin their work in 2009. The same procedure had been followed for the extensive programme of intersessional work requested by the Conference of the Parties after its second session in 2007.

Replying to questions from Mr GUILHOU (France), he said that, broadly speaking, the third session of the Intergovernmental Negotiating Body would be financed from the 2008–2009 budget and the fourth session, if required, from the 2010–2011 budget. The 2008–2009 budget covered only the actual sessions of the Intergovernmental Negotiating Body. A sum of US\$ 950 000 for intersessional activities had been allocated in the proposed budget and workplan for 2010–2011. The initial US\$ 3.1 million shortfall in the funding required for the third session of the Intergovernmental Negotiating Body had been reduced to about US\$ 0.6 million. The Convention Secretariat had requested extrabudgetary contributions from new Parties to cover that sum: if sufficient contributions were not forthcoming, savings could be made elsewhere, with the guidance of the Bureau of the Conference of the Parties.

The CHAIR said that, speaking for the Party which he represented and in his experience of WHO, it would be completely unacceptable to organize activities or meetings that depended on the receipt of voluntary contributions. The situation relating to the third session of the Intergovernmental Negotiating Body was rather different, since one Party had pledged substantial funding well in advance. The new budget and workplan must be realistic: he called upon Parties to identify the indispensable elements of the workplan and those that might be delayed or abandoned if the Intergovernmental Negotiating Body process was made the first priority. He also called upon the Convention Secretariat to indicate clearly any elements that could not be funded under the proposed budget, and to suggest elements that could be awarded a lower priority if necessary.

He invited representatives to submit their detailed comments on the section of the conference paper entitled “Voluntary assessed contributions”, along with Annex 2.

Dr MOCHIZUKI-KOBAYASHI (Japan) noted the statement in paragraph 6 of the draft workplan and budget that the proposed increase of 18.7% compared with the previous biennium would

¹ See summary record of the fifth meeting of Committee A.

“not in general affect voluntary assessed contributions paid by individual Parties”. However, as could be seen from Annex 2, the contribution of her own country, for one, was projected to increase by 15%. That increase was unacceptable to her delegation and she called upon the Convention Secretariat to revise the proposed budget in order to ensure that no Party’s contribution would be increased.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, supported the previous speaker’s call for a budget without significant change in the level of the Parties’ contributions.

Mr TRIVEDI (India) requested clarification of the rationale for what his delegation regarded as a small increase of 7% or 8% in the proposed budget which should be acceptable to Parties given the progress already achieved in the implementation of the Framework Convention.

The CHAIR said that it was essential to arrive at a consensus about the level and distribution of voluntary assessed contributions since no Party could be forced to pay its contribution. The issue might be addressed separately, after the main budget discussion.

Mr LINDGREN (Norway) said that the proposed increase in his country’s voluntary assessed contributions was acceptable, given the current needs for implementation support at country level and the increased levels of activity that would be required as more Parties acceded to the Framework Convention.

Ms SABISTON (Canada) said that, although the increase in her country’s contribution was modest, it might be useful to compare the proposed figures with a budget that did not increase contributions for any Party. The Parties must clarify their priorities: it had been agreed that the Intergovernmental Negotiating Body process was the first priority, but no others had yet been set.

Dr ZAIN (Malaysia) said that the proposed contributions listed in Annex 2 of the draft decision were acceptable, given the importance of the work to be undertaken and the addition of new Parties.

Mr TRIVEDI (India) said that there was no question of obliging any Party to pay an increased contribution if it was not willing to do so. He urged all Parties to consider increasing their contributions voluntarily in order to pursue implementation of the Framework Convention.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that his own country’s contribution stood to increase by 7%, and another Party’s contribution by 15%. Those were significant increases, compared with the budgets of other international organizations. The budget must not depend on the receipt of a high level of contributions from Parties.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that the Convention Secretariat should provide details of possible savings that would reduce the total budget, and Parties should decide on the priority elements of the workplan before discussion of the contribution payable by any individual Party.

Ms DLADLA (South Africa) expressed support for the level of contributions provided for in Annex 2, in view of existing priorities and those likely to be established during the current session of the Conference of the Parties.

The CHAIR said that the Committee should endeavour to agree on the level of voluntary assessed contributions by the end of the meeting. Some delegations had already stated that they would not agree to an increase in their contribution, and others might not have the authority to do so. A compromise might be to adopt a budget that did not entail increased contributions for Parties. Those Parties that had been willing to accept the proposed increases would then be at liberty to pay the additional amount as an extrabudgetary contribution.

Mr GAMKRELIDZE (Georgia) supported the proposed budget and workplan prepared by the Convention Secretariat, which rightly emphasized the importance of the Intergovernmental Negotiating Body process and the financing of the necessary meetings, including support to enable low-income countries to attend.

Mr WATNE (Norway) said that all Parties must adopt either an increased budget, as proposed, or a budget that did not involve an increase in contributions for any Party. The increase in activities to implement the Framework Convention justified the moderate increase in the proposed budget and workplan. Moreover, up to one third of the total budget would not be covered even by the increased contributions.

Ms SÁNCHEZ HERNÁNDEZ (Mexico) expressed support for the proposed increase in voluntary contributions but concern that the voluntary nature of contributions might lead to dependence on the economic circumstances and needs of individual countries. The Conference of the Parties should encourage Parties that had not yet done so to pay their contributions.

Mr NDAO (Senegal) said that tobacco control needed a united front worldwide. Any fragmentation of that process as a result of insufficient financing would play into the hands of the tobacco industry, which increasingly targeted the poorest countries and those most in need of assistance. He expressed support for the proposed level of voluntary contributions.

The CHAIR said that, while all delegations agreed on the need for adequate financing, several had expressed concern about the increase in their contributions. Discussion of the workplan should not begin until available funding was made clear. He suggested that the Convention Secretariat should prepare a revised list of voluntary assessed contributions based on the principle of no increases in contributions.

Mr TRIVEDI (India) suggested that the figures in Annex 2 should be retained. Parties willing to increase their contributions should do so, while those Parties that were unwilling should maintain their contributions at the current level. Parties could then consult their authorities with a view to increasing their contributions in the future.

Ms SABISTON (Canada) suggested that Parties that were unwilling or unable to accept an increase in their voluntary assessed contributions might accommodate the Convention Secretariat's requirements by means of extrabudgetary donations in an equivalent amount.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, did not wish to see any increase in the scale of contributions. Parties wanting to make additional contributions were at liberty to do so.

Dr MANSOUR (Sudan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, supported the level of contributions set out in Annex 2.

Dr McCOOL (New Zealand) supported the increased contributions listed in Annex 2, since funding the Convention was a major responsibility of Parties. However, resources must be used effectively, particularly to support low- and middle-income countries. She supported the suggestion made by the representative of Canada with regard to the setting of priorities.

The CHAIR suggested that the Committee might request the Convention Secretariat to prepare a new list of voluntary assessed contributions which would not increase the contribution payable by any one Party. The budget document would call on Parties to make extrabudgetary contributions equivalent to the original proposed increases, if they were willing to do so.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Convention Secretariat would prepare a budget in which individual contributions, rather than the total budget, did not increase. If the total budget was maintained at the current level, Parties' contributions would actually decrease. However, it might not be possible to avoid a small increase for some Parties. Contributions were based on WHO's scale of assessments, which itself was adjusted from time to time. The voluntary assessed contributions proposed amounted to US\$ 9.5 million, compared with US\$ 8 million for the current budget. About US\$ 1 million of the difference could be covered by contributions from new Parties. If all Parties agreed, the remaining US\$ 0.5 million increase could be distributed among all 160 Parties, meaning a very small increase for each. The total budget of US\$ 13.8 million would be subject to 13% programme support costs payable to WHO.

The CHAIR, replying to a question from Ms SÁNCHEZ HERNÁNDEZ (Mexico), said that, priorities should be discussed on the basis of the workplan, not the revised scale of assessments to be presented by the Convention Secretariat. The level of voluntary contributions was a factor in establishing realistic priorities, but funding would also be available from other sources, including contributions in cash or in kind from external partners.

Mr DAYAL (India) said that Parties were understandably reluctant, in an adverse economic climate, to make additional financial commitments. However, those applied to the biennium 2010–2011, by which time the economic situation might have improved. He still considered that the scale of assessments should remain as proposed and those Parties unable to increase their contributions should maintain them at their current level. A final decision on the budget should be delayed until the two sets of voluntary contributions were available for comparison.

The CHAIR pointed out that the suggestion currently under consideration had the same effect as the proposal by the representative of India. It maintained Parties' contributions at their current level, but encouraged them to make extrabudgetary contributions. If at all possible, he wished the Committee to approve the level of the budget before it discussed the workplan and priorities.

Mr TRIVEDI (India) said that it might be more logical to establish priorities first. The discussion had revealed the inconsistency between the principle that Parties should contribute funds towards the implementation of the Framework Convention and the optional nature of voluntary contributions, which might have implications for the overall budget and workplan.

The CHAIR said that a realistic discussion of the workplan and priorities would be difficult if the level of the budget was not yet clear.

Mr NDAO (Senegal) expressed support for the position of India. A budget without any increase in voluntary assessed contributions was likely to be smaller overall and thus hamper the implementation of the Framework Convention.

Ms SABISTON (Canada) said that her country took its commitment to pay voluntary assessed contributions very seriously, and would not agree to a level of contribution it did not intend to honour. That principle was a cornerstone of the entire system of voluntary assessed contributions. It was true that the contributions under discussion did not fall due until 2010, but contributions were sometimes paid early, and the current economic climate was both challenging and unpredictable. The Canadian assessed contribution set forth in the draft decision represented a modest and acceptable increase, but it should be possible for Canada to pay part of that contribution as an extrabudgetary donation if it so wished.

The CHAIR said that it was normal practice for even voluntary assessed contributions to be paid in full. He had been gratified to hear the strong commitment to the Framework Convention expressed

by representatives, particularly since the party represented by his delegation had already pledged a large extrabudgetary contribution to the work of the Intergovernmental Negotiating Body.

Mr TRIVEDI (India) said that it was natural for the budget to increase during the first few sessions of the Conference of the Parties, as the Convention Secretariat took up its full range of duties. It was important for Parties to show their commitment to the fight against tobacco by accepting a modest increase in their contributions. That would send a strong signal to countries that were having difficulties in fostering the necessary political will for anti-tobacco activities.

As a compromise, he suggested that the existing Annex 2 should be retained, listing those Parties that were willing to increase their voluntary assessed contributions. Those Parties that were not willing to increase their contributions but were open to the idea of extrabudgetary donations should be listed in an addendum to the Annex.

Dr SALEH (Chad) said that it should be possible to reconcile the principle of a budget without any increased contribution by any Party with the possibility of supplementary funding by means of extrabudgetary donations, in line with the suggestions made by the Convention Secretariat.

The CHAIR said that, if he saw no objection, he would take it that the Committee wished to request the Convention Secretariat to prepare a revised Annex 2, showing contributions that would not increase for any Party, with the caveats stated by the Convention Secretariat. He suggested that the other proposals, including that of the representative of India, should be discussed in the context of extrabudgetary donations.

It was so agreed.

The meeting rose at 12:55.

SIXTH MEETING

Thursday, 20 November 2008, at 15:25

Chair: Mr M. RAJALA (European Community)

BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES:

Item 6 of the Agenda (continued)

The next budget and workplan of the Conference of the Parties: Item 6.3 of the Agenda (Document FCTC/COP/3/20) (continued)

The CHAIR recalled the consensus reached on the item at the previous meeting, namely that a new Annex 2 to the draft decision would be prepared, listing contributions that were not significantly increased for any Party. He was gratified to note the number of Parties that had expressed their willingness to make additional contributions. He invited the Committee to consider the sections in the explanatory note to the draft workplan and budget 2010-2011 on extrabudgetary funds (paragraph 7) and the total budget (paragraphs 1-3).

Dr MOCHIZUKI-KOBAYASHI (Japan) asked whether the Convention Secretariat might approach major private donors, since resource mobilization so far appeared to be slow and unpredictable.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that Parties needed a more detailed picture of financing needs, gaps and possible sources than had been provided thus far. He asked what proportion of the costs of the possible fourth session of the Intergovernmental Negotiating Body would be covered by voluntary assessed contributions and what proportion by extrabudgetary funding, as well as the cost of regional and expert meetings. The answers to those questions would help Parties to decide whether they should concentrate their efforts on increasing voluntary assessed contributions or on obtaining extrabudgetary funding.

Mr TRIVEDI (India) said that the Convention Secretariat should be asked to provide revised figures concerning priorities, needs and core activities. As a matter of principle, core activities, such as obligations of the Convention Secretariat under the Framework Convention, should be funded from voluntary assessed contributions.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the points raised by the representative of France, said that all funds received went into the same pool; voluntary assessed contributions and extrabudgetary funds were not disbursed separately. If Parties wished, he could propose a workplan funded only from voluntary assessed contributions, but he would require their guidance on priorities.

Annex 1 in the draft decision gave details of the proposed budget for the fourth session of the Intergovernmental Negotiating Body, if it took place, with the additional staff costs. The basic session costs would be US\$ 1.9 million, US\$ 100 000 more than the cost of the third session because of the increased number of Parties requiring support. The sum of US\$ 950 000 quoted for intersessional activities could be broken down into regional meetings (six meetings, US\$ 700 000), expert meetings

(maximum US\$ 150 000) and extra costs in the event of the fourth session being convened for eight days rather than six, as had been the case with the third session (maximum US\$ 100 000).

Replying to the representative of Japan, he said that, as a matter of principle, intergovernmental activities undertaken under the Framework Convention should be financed by Parties and intergovernmental organizations. He did not wish to approach other donors except as a last resort: naturally, however, he would do so if instructed by the Conference of the Parties.

Mr TRIVEDI (India) agreed with the principle that multilateral activities should remain under multilateral control. As far as possible, the workplan should be funded from voluntary assessed contributions.

The CHAIR suggested that the Committee should consider the proposed workplan and budget 2010–2011 in Annex 1, section by section. Representatives should indicate core needs, priorities and multilateral activities which should be funded from voluntary assessed contributions if possible.

Dr NIKOGOSIAN (Head, Convention Secretariat), referring to area of work 1, on the fourth session of the Conference of the Parties, said that the budget for the two previous sessions of the Conference of the Parties had been US\$ 1.8 million each time. The increase in the proposed budget, to US\$ 2.4 million, was due both to the increased number of developing country Parties requiring support and to the explicit inclusion of additional staff costs. In fact, salary costs were comparatively low, at about 25% of the budget.

Replying to a point raised by the CHAIR, he said that a breakdown of salary costs, such as permanent and temporary staff, and travel, could be provided if Parties so wished.

Much of the budget for area of work 2, “Elaboration of protocols, guidelines and other possible instruments for the implementation of the Convention”, was devoted to the process of the Intergovernmental Negotiating Body. Other items included the continued elaboration of guidelines on Articles 9 and 10 and Article 12, and further work, likely to be decided by the Conference of the Parties at the current session, on Articles 14 and 17. Article 19.5 of the Framework Convention called upon Parties to consider the issue of liability at an early stage and that item had been included. The budget provided for four working groups (on Articles 9 and 10, 12, 14 and 17, respectively), each holding two meetings, with intersessional work by Key Facilitators and the Convention Secretariat. The budget allocation was about US\$ 225 000 per meeting, compared with about US\$ 150 000 in the current budget. The new figure reflected increased salary costs, and also detailed the cost of convening and reporting meetings in a single budget line instead of the previous two. The sum of US\$ 150 000 had been allocated for intersessional work on measures to promote Article 19.5; that work might be carried out by the Convention Secretariat, which would increase salary costs, or by an expert group.

The CHAIR noted that the decision to approve the meetings of the four working groups lay with Committee A; the decision to undertake intersessional work on Article 19.5, and the form of that work, lay with Committee B.

Mr TRIVEDI (India) said that all the elements of the workplan were essential and should be funded from voluntary assessed contributions.

The CHAIR said that the Committee must provide some guidance to the Convention Secretariat, indicating priority activities that should be funded from voluntary assessed contributions and those that could be implemented with the help of external partners.

Dr ALI (Iraq) said that the Conference of the Parties must establish clear-cut, measurable objectives. Budget allocations for the core activities must be clearly explained. The workplan should describe the expected benefits of each activity and the regions and countries where the activities would be conducted. He asked about the arrangements for auditing the budget and workplan and what contingency plan had been drawn up in the case of insufficient funding for the workplan.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that the Parties that he represented were committed to efficient implementation of the Framework Convention: they provided about half the budget of the Conference of the Parties. A budget of about US\$ 9 million had been proposed to fund a workplan of almost US\$ 14 million, and it was proposed to fill the gap with extrabudgetary contributions. For the proper functioning of the Convention Secretariat, it must be made clear which activities were to be funded from voluntary assessed contributions and which from extrabudgetary contributions. Within WHO, some activities were funded from the regular budget and an increasing proportion from extrabudgetary contributions which might also be earmarked by the donor for specific activities. Parties must establish clear priorities for the Convention Secretariat's work, such as the convening of the sessions of the Conference of the Parties, a responsibility of the Convention Secretariat under Article 24.3(a) of the Framework Convention. The next priority should perhaps be the organization of meetings of subsidiary bodies such as the Intergovernmental Negotiating Body and working groups. One means of saving would be to hold only one intersessional meeting of each working group, rather than two, thereby achieving a saving of 50%.

Ms SABISTON (Canada) said that the highest priority should be attached to activities under areas of work 1 and 2.1 of the workplan, relating to the fourth session of the Conference of the Parties and the fourth session of the Intergovernmental Negotiating Body. The next priority should be the development and implementation of guidelines, areas of work 2.2 and 2.3, as well as 2.4 and 2.5, if approved by Committee A. Those activities would account for the bulk of funding, about US\$ 7 million, from voluntary assessed contributions. The activities listed under area of work 2.6 were of a lower priority and together with others would compete for the remaining funds available from voluntary assessed contributions and extrabudgetary donations.

Ms YAHAYA (Nigeria) welcomed the breakdown of expenditure under the workplan provided by the Convention Secretariat. If activities could not be funded from voluntary assessed contributions, the Convention Secretariat should approach potential development partners and campaign to mobilize resources. The volume of work facing the Convention Secretariat and the high expectations of Parties placed a huge responsibility on the Conference of the Parties if it was to implement its mandate under Articles 23.5 and 24 of the Framework Convention. She called upon Parties to ensure that a reasonable budget could be provided to enable the Convention Secretariat and the Conference of the Parties to fulfil their functions.

Mr WATNE (Norway) said that all five areas of work of the proposed workplan described core activities. However, the activities on the fourth session of the Conference of the Parties, elaboration of protocols and guidelines, and reporting arrangements should be prioritized because they could be carried out only by the Convention Secretariat, not because they were more important in themselves. The other activities, such as assistance to Parties and coordination with international and regional organizations, could benefit from the assistance of other organizations, particularly WHO through its Tobacco Free Initiative, or funding from individual governments.

The CHAIR invited the Committee to consider area of work 3 of the proposed workplan, dealing with the reporting obligations of Parties.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the increase in the proposed budget reflected the decisions and expectations of the Conference of the Parties, which had asked, for example, to see the Group 3 questions for the reporting instrument at its fourth session (area of work 3.1 of the workplan). It had asked for annual summaries of Party reports, which would therefore need to be prepared in both 2010 and 2011 (area of work 3.2). Many Parties had still not submitted their periodic reports on implementation of the Framework Convention, and substantial support for at least 24 Parties would therefore be needed (area of work 3.3). The review of reporting arrangements scheduled for 2009 (area of work 3.4) had not been provided for in the 2008–2009 budget, and had therefore been included in the current proposal. It might still be possible to begin the review in 2009.

Finally, the preparation of the report of the Convention Secretariat (area of work 3.5) was a core function, and the corresponding budget allocation had not increased compared with previous budgets.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said in respect of area of work 3.1 that Parties were already finding it difficult to complete the Group 2 questions on schedule. He asked whether it was really necessary to prepare the Group 3 questions in 2010–2011.

He asked for further information about the activities under area of work 3.4, which appeared to refer to a body or mechanism on data comparability which had not even been created.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Group 3 questionnaire must be available for completion by the first 40 Parties to the Framework Convention eight years after their accession, namely in February 2013. The Group 3 questions must, therefore, be endorsed by the Conference of the Parties at least six months before that date and if possible, at its fourth session, tentatively scheduled for 2010, or possibly at its fifth session if that took place in early 2012.

He had received no guidance on how the reporting arrangements would be reviewed, and had made a provisional budget allocation in case the Conference of the Parties decided to create a subsidiary body to conduct the review. However, as a cost-saving measure, it might decide to ask the Convention Secretariat to conduct the review itself.

Ms DLADLA (South Africa) said that some types of reporting must be considered a core activity and funded from voluntary assessed contributions. However, less vital elements could be funded from extrabudgetary resources.

Mr LINDGREN (Norway) noted the expected outcomes under area of work 3.3, namely a web-based database of Party reports, intercountry workshops and technical assistance for at least 25 Parties, for which a budget of US\$ 650 000 had been allocated. Under area of work 3.5, with a budget allocation of about half that size, the only outcome was a report by the Convention Secretariat. He asked for more information about the apparent discrepancy between those two figures.

Dr ELSUBAI (Sudan) asked whether relevant elements of the Convention Secretariat's reports might be reproduced in the reports prepared by WHO's Tobacco Free Initiative, and vice versa, in order to reduce the burden on both secretariats and limit costs.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the representative of Norway, said that the report on the activities of the Convention Secretariat required contributions from various staff members over the entire duration of the biennium. Staff salaries were therefore a major component of the cost. Replying to the representative of Sudan, he said that the summary report referred to in area of work 3.2 was based on the reporting instrument of the Framework Convention under Article 21. That was a core function but not one likely to contribute to the general reports on tobacco control prepared by WHO's Tobacco Free Initiative.

Dr BETTCHER (WHO Secretariat, Tobacco Free Initiative) said that, over the previous two years, regional advisers, funded by the regular budget of WHO, had been providing assistance to Parties with reporting obligations, and staff members had worked with the WHO regional offices on tobacco control issues. Parties in the WHO South-East Asia Region had collected data on reduction of demand for tobacco products both for submission to the Tobacco Free Initiative and to fulfil reporting obligations under the Framework Convention. Parties in all regions had requested and received technical assistance, and there was a great potential for further synergy. Capacity-building workshops and other awareness-raising activities could be conducted to inform Parties of the technical assistance available.

Dr AL-BEDAH (Saudi Arabia) said that Parties had many questionnaires to fill in and reports to submit in respect of tobacco control in general and the Framework Convention in particular. There was a lack of coordination, and even conflicting requirements, between WHO headquarters and the regional offices, and the information submitted was not always properly analysed. Thanking Dr Nikogosian and Dr Bettcher for the information provided, he said that the specific issues raised by the representative of Sudan required more detailed answers.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the content, format and timing of the questionnaires which Parties received through the Convention Secretariat were determined entirely by the Conference of the Parties, in accordance with Parties' treaty obligations. Other questionnaires which they received, from WHO's Tobacco Free Initiative, for example, were authorized by the World Health Assembly. The two secretariats did not submit such questionnaires on their own authority, and their activities did not overlap. The real issue was the extent to which Parties wished to transfer activities from the workplan of their own treaty body, the Conference of the Parties, to another agency, such as WHO's Tobacco Free Initiative.

The CHAIR said that, to make the reporting process as efficient as possible and to reduce the that burden as it had been described, the two secretariats should be systematically informed of each other's plans and information requirements, so that synergy could be achieved, for example in the area of data collection.

Mr TRIVEDI (India) said that Parties had explicitly affirmed their commitment to monitoring their implementation of the Framework Convention. Monitoring was seen within the United Nations system as a core function of a treaty body. The capacity of Parties to implement their national plans, as well as the outreach capacity of the Convention Secretariat, must be strengthened. The Conference of the Parties should not outsource vital treaty functions relating to needs assessment and national implementation plans in a piecemeal manner. Monitoring of Parties' implementation of the Framework Convention should be carried out only by the Convention Secretariat: there were many other, and better, ways to make use of the assistance available from other bodies.

Ms DLADLA (South Africa) said that it was important to decide on the most effective level of intervention for the best possible use of resources. Information provided by the two secretariats made clear that intervention and support were most valuable at country level. The Parties' implementation work must also identify areas of possible collaboration, build the capacity to sustain their activities in the long term and thus reduce their dependence on the Convention Secretariat. They should call upon both secretariats for assistance, as appropriate.

The CHAIR suggested that the two secretariats should discuss the possible areas of synergy in their work and report back to the Committee the next day.

It was so agreed.

The CHAIR invited the Committee to consider area of work 4 concerning assistance to Parties in implementation of the Framework Convention.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that area of work 4.1 covered advice to Parties on sources of external assistance, mainly from international donors. Area of work 4.2, on the promotion of transfers of technical, scientific and legal expertise and technology, had received little attention so far and might not do so in the future unless the Conference of the Parties approved a specific workplan. Area of work 4.3, as the Convention Secretariat understood it, referred to the core obligations of advising Parties on issues specific to the Framework Convention, including preparation for the fourth session of the Conference of the Parties; guidelines on various articles; and clarification of legal questions.

Areas of work 4.4, promotion of South–South cooperation, and 4.5, awareness-raising among potential development partners, covered action requested by the Conference of the Parties but not yet implemented owing to a lack of capacity.

Mr NDAO (Senegal), emphasizing harmonization of tobacco control activities at the global level, said that it was essential to avoid a two-tier process that would merely transfer the tobacco epidemic from the richest countries to the poorest. Assistance to Parties in their implementation of the Framework Convention, particularly developing Parties and those with economies in transition, should be a priority. The poorest countries generally devoted any available resources to combating problems other than tobacco. Tobacco control was primarily dependent on political will, as was shown by implementation of the provisions of the Framework Convention in practice. Support was needed to raise awareness among decision-makers, since implementation was lagging far behind the actual number of ratifications of the Framework Convention; and for the adoption of appropriate legislation, which would require legal advice and expertise. In view of those requirements, the budget for assistance to Parties should be even larger than that proposed.

Mr PADILLA (Philippines) said that payment of their voluntary assessed contributions gave Parties a sense of ownership of the Framework Convention and its activities. However, it had been suggested, in relation to Articles 9 and 15 in particular, that the tobacco industry might be made to meet some of the costs of tobacco control. He had heard no suggestions in the Committee for the creation of a working group or study group to investigate that possibility. Tobacco taxes could provide resources and were effective in reducing demand for tobacco products. He proposed that a study on policy recommendations related to price and tax policies should be conducted, in order to show how such policies might both reduce demand and provide options for sustainable funding of Framework Convention activities.

Dr QOTBA (Qatar) said that both the World Health Assembly and the Conference of the Parties had called for close collaboration between the Convention Secretariat and the WHO Secretariat. The relevant budget lines of WHO's Tobacco Free Initiative could be used to finance some country-specific activities under area of work 4 of the workplan.

Ms HERNANDEZ (Canada) said that Parties should take advantage of the offer made by WHO's Tobacco Free Initiative to support capacity building in developing countries and countries with economies in transition. The direct contact between Parties and WHO regional and country offices could assist in needs assessment and national implementation plans and thus savings under area of work 4 of the Convention Secretariat's budget.

Replying to a point raised by Mr TRIVEDI (India), the CHAIR said that the Committee would not make a final decision on the budget and workplan until other relevant issues, such as needs assessment, had been discussed.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, requested details of the awareness-raising campaign among potential development partners proposed in area of work 4.5, to which US\$ 180 000 had been allocated.

Dr SIRIWAT TIPTARADOL (Thailand) supported the proposal by the representative of the Philippines to establish a study group or working group to investigate tax measures for tobacco control, which would report to the fourth session of the Conference of the Parties. In his own country, high tobacco taxes, currently 63% of the retail price, had proved most effective in reducing tobacco consumption. The tobacco industry was also required by law to pay an additional 2% tobacco and alcohol excise duty to the Thai Health Promotion Foundation.

Mr ABDULLAH (Malaysia) said that the proposal by the representative of the Philippines could be linked to the work of the study group on economically sustainable alternatives to tobacco growing.

The CHAIR noted that Committee A was responsible for decisions about working groups and study groups, which were included in section 2 of the workplan.

Mr BLOOM (International Union against Cancer), speaking at the invitation of the CHAIR, endorsed the calls for activities related to tax mechanisms to be included in area of work 4.1 of the workplan. Resources obtained from tobacco taxes had significant potential in the financing of activities to implement the Framework Convention. However, many Parties would require technical assistance in that area. The issue was relevant both to the workplan and to the discussion of mechanisms of assistance, both of which came within the mandate of Committee B. However, WHO's Tobacco Free Initiative had also indicated that an expert report on tobacco taxes might be submitted to the fourth session of the Conference of the Parties, without budgetary implications for the latter. At the very least, Parties should instruct the Convention Secretariat to address tax mechanisms in the workplan for the 2012–2013 biennium.

The CHAIR noted that the use of tax mechanisms to generate income for tobacco control activities could be considered under area of work 4.2 of the workplan, "Promotion of transfer of technical, scientific and legal expertise and technology".

Dr NIKOGOSIAN (Head, Convention Secretariat) said that he would require clear instructions from the Conference of the Parties before beginning any work on tax mechanisms in the way proposed by the representative of the Philippines, since it would be a major policy departure.

Replying to the representative of France, he said that the Conference of the Parties had explicitly instructed the Secretariat to launch an awareness-raising campaign. The proposed budget for that activity would amount to about US\$ 157 000, after the deduction of programme support costs.

Dr BETTCHER (WHO Secretariat, Tobacco Free Initiative) said that, at the request of the Committee, WHO's Tobacco Free Initiative had made available information about its activities, current budget and budget proposals for the next biennium. Those activities included: assistance in the drafting of legislation; enforcement and implementation of the Framework Convention; training; capacity-building workshops; technical assistance for the implementation, for example, of the guidelines on Article 8; needs assessment; and assistance with funding applications to be submitted to both public and private donors.

WHO's Tobacco Free Initiative had also provided Parties with support for those implementation measures of the Framework Convention that were subject to a deadline, in area of work 4.3 of the proposed workplan of the Conference of the Parties. Many key features of its current budget were relevant to activities under the Framework Convention, and the needs expressed by the Conference of the Parties would be taken into account in the preparation of its detailed workplan for the next biennium, during the second half of 2009.

WHO's Tobacco Free Initiative planned to convene an expert group in 2010 to produce recommendations on excise taxation and fiscal policy, which should prove useful for future work on Article 6 of the Framework Convention.

The CHAIR invited the Committee to consider area of work 5 of the proposed workplan, "Coordination with international and regional intergovernmental organizations and other bodies and other arrangements and activities".

Dr NIKOGOSIAN (Head, Convention Secretariat), referring to area of work 5.1 recalled that, at an earlier meeting, he had described the Secretariat's liaison work with the secretariats of other treaty bodies. Area of work 5.2 covered the role of nongovernmental organizations, including a proposed study of ways in which they might contribute more effectively to the implementation of the Framework Convention. More than 50 nongovernmental organizations were accredited to the Conference of the Parties, but many of them did not participate in its work in any way. The proposed budget covered staff costs and one expert review meeting. A substantial proportion of the budget under area of work 5.3, concerning support for intersessional meetings of the Bureau of the Conference of the Parties and the Bureau of the Intergovernmental Negotiating Body, would be devoted to staff costs. Details of activities relating to general administration and management, finance, fundraising, staff training, communication, advocacy, the Framework Convention web site and publications had been included in areas of work 5.4 and 5.5.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, requested further detailed information on: the fundraising mechanism described in area of work 5.4; proposed expenditure in area of work 5.5; and the review of nongovernmental organizations described in area of work 5.2, since US\$ 180 000 seemed a large sum for a review of only 50 organizations.

Ms MAIERA (Brazil) asked for examples of potential synergy, especially under areas of work 4 and 5 of the workplan, between the workplan of the Convention Secretariat and support from WHO's Tobacco Free Initiative, with implications for the overall level of the Convention Secretariat's budget.

Mr AFAAL (Maldives) supported the request made by the representative of Brazil, which echoed a similar request made the day before. The current workplan of WHO's Tobacco Free Initiative did not provide much information about potential synergy in the future work of the two secretariats. It was to be hoped that the information requested would be provided in time to assist the Committee in its further deliberations, at least at a conceptual level.

Dr AL-BEDAH (Saudi Arabia) said that more coordination and cooperation were needed between the Convention Secretariat and WHO's Tobacco Free Initiative. The latter's valuable role, both at WHO headquarters and in the regions would, he expected, be surpassed in time by activities under the Framework Convention. The Convention Secretariat should have a presence within WHO, through the regional offices and country representatives.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the sum of US\$ 180 000 allocated for the review of nongovernmental organizations, about US\$ 155 000 after deduction of programme support costs, also covered work that should properly have been done after the first and second sessions of the Conference of the Parties. It might not be necessary to use the entire budget allocation. The budget of US\$ 350 000 allocated to area of work 5.5, about US\$ 305 000 after deduction of programme support costs, included staff training and travel, publicity and communications.

Dr BETTCHER (WHO Secretariat, Tobacco Free Initiative) said that the two secretariats would make every effort to ensure synergy and complementarity in their activities and minimize duplication. He and Dr Nikogosian would do their best to provide information about potential synergies in their workplans by the next day, but it would be a difficult exercise, as the two plans were structured entirely differently: it was not a question of comparing like with like.

The CHAIR, replying to a question asked by Dr AL-BEDAH (Saudi Arabia), said that the question of a Convention logo (item 5.4 of the Agenda) would be considered at the next meeting.

He noted that all sections of the proposed workplan appeared to enjoy broad support. On the issue of tax mechanisms, he suggested that the Conference of the Parties could make use of the work of WHO's Tobacco Free Initiative in that area.

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

The meeting rose at 18:10.

SEVENTH MEETING

Thursday, 20 November 2008, at 10:40

Chair: Mr M. RAJALA (European Community)

1. ORGANIZATION OF WORK

The CHAIR, emphasizing the need to finalize a workplan and budget for 2010-2011 by the end of the day, suggested that item 6.3 should be the last item of discussion at the meeting, so as to give the Convention Secretariat more time to provide additional input.

It was so agreed.

The CHAIR, responding to a query from Dr MOCHIZUKI-KOBAYASHI (Japan) about a small yet unacceptable increase in her country's voluntary assessed contributions, said that such concerns should be communicated to the Convention Secretariat so that, if necessary, figures could be adjusted before work resumed on item 6.3. Consensus on the budget depended on the table of voluntary assessed contributions being approved.

2. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (continued)

Consideration of a logo of the WHO Framework Convention on Tobacco Control: Item 5.4 of the Agenda (Document FCTC/COP/3/17) (continued from the fifth meeting, section 1)

The CHAIR drew attention to the draft decision¹ on a logo for the Convention, which read:

The Conference of the Parties,

DECIDES:

- (1) to adopt a distinctive design as the logo of the WHO Framework Convention on Tobacco Control;
- (2) to adopt for this logo the abbreviation "FCTC", in association with the emblem of the World Health Organization, as well as the name of the Convention which is "WHO Framework Convention on Tobacco Control", in all six official languages of the Conference of the Parties, as shown in the attached annex;
- (3) that in view of the necessity of obtaining suitable legal protection:
 - (a) appropriate measures should be taken by the Secretariat with a view to preventing the unauthorized use, in particular for commercial purposes by means of

¹ Annex not reproduced here; see annex to decision FCTC/COP3(18).

trademarks or commercial labels, of the logo, abbreviation and name of the WHO Framework Convention on Tobacco Control; and

(b) each Party to the WHO Framework Convention on Tobacco Control, pending the coming-into-effect within its territory of any such measure or prohibition, should endeavour to prevent any unauthorized use of the logo, abbreviation or name of the WHO Framework Convention on Tobacco Control, in particular for commercial purposes by means of trademarks or commercial labels.

Dr AL-BEDAH (Saudi Arabia), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the proposed logo consisted of nothing more than an acronym. It was not distinctive and had no artistic merit. There were no graphics to illustrate the idea and spirit of the Framework Convention or WHO in the campaign against tobacco; nobody could explain the colour scheme; it did not appear to have been tested since delivery; and even literate people would have trouble understanding it. Parties must be able to defend the logo if questioned by their officials or the public. Those in his Region wished to see another, more appropriate, design considered.

Ms DU PREEZ (Namibia), speaking on behalf of the Parties in the WHO African Region, endorsed the comments of the previous speaker. The Committee should save time and approve the logo for adoption on the understanding that it would be revisited by the Conference of the Parties at its fourth session.

Mr PAREDES (Costa Rica) suggested that a working group be set up to look into producing a logo that expressed the spirit of the Framework Convention, possibly drawing on the example of the emblems used by WHO and other bodies in the United Nations system.

The CHAIR said that time constraints made it unlikely that a new logo could be produced and accepted by the Conference of the Parties in plenary at the current session. Establishment of an intersessional working group to finalize the design would have budgetary implications.

Dr AL-BEDAH (Saudi Arabia), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the proposed design could be approved as a temporary logo if the word “distinctive” in paragraph 1 of the draft decision were deleted. The logo could then be assessed by Parties and revisited at the fourth session of the Conference of the Parties. The Convention Secretariat could be requested to survey the views from different cultures and levels of society and then suggest alternatives to be discussed with the designer.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, asked about the cost of producing the current logo and developing a new one. The previous speaker’s proposal of wide-ranging consultations was too ambitious. He suggested that the Parties should find a mutually acceptable alternative among themselves, and by more modest means.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that substantial work had gone into producing the proposed logo. The proposed assessment and improvement exercise could be covered by the Convention Secretariat’s budget at no additional cost, provided that no formal intergovernmental mechanism needed to be established.

The CHAIR, replying to a question by Mr GUILHOU (France), said that the work of developing the logo had been done in-house for less than 3600 Swiss francs.

Dr SALEH (Chad) expressed concern about the possible legal implications of taking a decision that would need to be confirmed by the Conference of the Parties at its fourth session.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that it was legally and procedurally permissible for the Conference of the Parties to authorize a temporary logo and, hence, the use of that logo, for any period it deemed appropriate. Equally, the Conference could authorize a design for a logo and then decide to change it at the following session.

Dr AL-BEDAH (Saudi Arabia) suggested that paragraph 1 of the draft decision be amended to read: “DECIDES: (1) to adopt a design as the logo of the WHO Framework Convention on Tobacco Control, on the understanding that the logo shall be evaluated by the Parties and tested by the Convention Secretariat, and that a report on the evaluation shall be presented to the Conference of the Parties at its fourth session”.

Ms SÁNCHEZ HERNÁNDEZ (Mexico), referring to paragraph 3 of the draft decision, requested clarification of the responsibilities of Parties with regard to ensuring the legal protection of the logo if it were adopted on a temporary basis.

Dr SALEH (Chad) said that the amendment to the draft decision should state that the Conference of the Parties had decided to adopt the logo partially. Moreover, he failed to see why the draft contained a reference to the Convention Secretariat.

The CHAIR asked the Parties whether they would be willing to approve the draft decision, as amended by the representative of Saudi Arabia, bearing in mind that no Party was under any obligation to use the logo.

The draft decision, as amended, was approved.¹

Reporting and exchange of information: Item 5.3 of the Agenda (continued)

Reports of the Parties received by the Convention Secretariat and progress made internationally in implementation of the Convention (decision FCTC/COP1(14)): Item 5.3.1 of the Agenda (Document FCTC/COP/3/14) (continued from the fourth meeting)

The CHAIR invited the Committee to resume consideration of the draft decision proposed by the delegation of India in the fourth meeting. Following consultations with the delegation of India, he wished to propose that the operative paragraphs of the draft decision should be further examined by an open-ended working group at the next session of the Intergovernmental Negotiating Body, with a view to drafting proposals for consideration at the subsequent session of the Conference of the Parties. That proposal would have no significant budgetary implications.

Dr QOTBA (Qatar), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, noted that the draft decision began with the establishment of a body to consider needs assessment and then moved to establish a permanent authority to deal with compliance, with sanctions for non-compliance, which was an entirely different matter. Further clarification was required. As it stood, the text was unacceptable to the Parties in her Region.

The CHAIR asked representatives to focus on his procedural proposal for carrying forward the draft decision to the next session of the Conference of the Parties, rather than on the details of the draft decision, as no commitment to its various components was being asked for.

¹ Transmitted to the Conference of the Parties in the Committee’s report and adopted as decision FCTC/COP3(18).

Dr MOCHIZUKI-KOBAYASHI (Japan) agreed with the proposal but urged the Convention Secretariat to base further analysis of needs assessment, or reporting on compliance and on existing and future Parties' reports, particularly as much effort and money had been spent in producing them.

Dr LI Xinhua (China) noted that the draft decision touched on important national procedures and other matters relating to the implementation of the Framework Convention. He therefore agreed with the Chair's proposal that it should be further discussed at the forthcoming sessions of both the Intergovernmental Negotiating Body and the Conference of the Parties.

Ms SÁNCHEZ HERNÁNDEZ (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, said that the Parties shared the concerns expressed by the representative of India. However, the draft workplan and budget 2010–2011 already provided the means to monitor progress in implementation of the Framework Convention. WHO's initiatives to support implementation must be fully exploited with increased assistance to Parties from WHO country and regional offices. She called for more effective coordination between the Convention Secretariat and WHO's Tobacco Free Initiative in order to optimize the use of available resources, avoid duplication, and enhance complementarity between workplans. Parties that were also Member States of WHO should urge the Health Assembly to back the work of the Tobacco Free Initiative in that regard.

Mr MOHAMEDOUN (Mali) and Mr TRIVEDI (India) endorsed the Chair's proposal.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that he shared the concerns expressed by previous speakers. How could the Committee decide to set up an open-ended working group without discussing the substantive matter of its functions and mandate?

Ms HERNANDEZ (Canada), stressing the need to avoid duplication, requested clarification from the Convention Secretariat of the link between the proposed open-ended working group and the body or mechanism which, according to item 3.4 of the draft workplan and budget 2010–2011, would be conducting a review of reporting arrangements under the Framework Convention.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that item 3.4 of the draft workplan and budget 2010–2011, which predated the proposed draft decision, stemmed from a decision taken at the second session of the Conference of the Parties to have the reporting system reviewed in 2009. In the absence of further guidance, the Convention Secretariat had proposed that the review be conducted by a body or mechanism, as yet unidentified, and had earmarked the necessary budgetary allocations. Given the possibility of a delay in finalizing the establishment of the open-ended working group proposed by the representative of India, the Committee might wish to establish another subsidiary body that could complete the review of reporting arrangements in time for the fourth session of the Conference of the Parties.

The CHAIR, responding to the comments made by the representative of France, said that the proposed open-ended working group could consider the content of the proposed draft decision alongside the third session of the Intergovernmental Negotiating Body, and report back to the Conference of the Parties at its fourth session. Those terms of reference would avoid significant budgetary implications and could allow work to begin on item 3.4 of the draft workplan and budget 2010–2011 as early as the following summer, when the Intergovernmental Negotiating Body next met. Furthermore, WHO's Tobacco Free Initiative had indicated a willingness to assist.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that additional costs were inevitable unless the experts in the open-ended working group were the same as those taking part in the meetings of the Intergovernmental Negotiating Body, which seemed unlikely. Further clarification of the working group's mandate was required before a decision could be reached.

Moreover, he requested clarification from WHO's Legal Counsel as to whether the Convention Secretariat, for its part, had a mandate under the Framework Convention to assess the needs of Parties.

Ms SÁNCHEZ HERNÁNDEZ (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, did not support assigning to an open-ended working group activities that were already provided for in the draft workplan and budget 2010–2011. The focus should be on strengthening the Convention Secretariat's implementation and monitoring capabilities and on assessing results before deciding on appropriate action.

Dr QOTBA (Qatar), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the Convention Secretariat did have a mandate to assess the needs of the Parties, but that Parties could not necessarily be relied on to send the appropriate experts to meetings of the Intergovernmental Negotiating Body. She proposed that the draft decision be rejected.

Mr TRIVEDI (India) requested that the proposal be kept open for consideration at a later stage.

The CHAIR said that, as the draft decision had been rejected not by a single Party but by the Parties in an entire WHO region, he could see no realistic way forward. However, that did not prevent any Party from taking its ideas further through the normal procedural channels.

Mr DAYAL (India), noting that many Parties were in favour of a needs assessment, said that without such he could not see how the Convention Secretariat would apportion the significant allocation set aside in the budget for assistance to developing country Parties.

The CHAIR said that, in the absence of a consensus, he had no option but to close the debate on item 5.3.1.

Financial resources and mechanisms of assistance – implementation of decisions FCTC/COP1(13) and FCTC/COP2(10) of the Conference of the Parties: Item 5.1 of the Agenda (Document FCTC/COP/3/12) (continued from the fourth meeting)

The CHAIR invited the Committee to resume consideration of the draft decision proposed by New Zealand.

Dr McCOOL (New Zealand) explained that the draft decision sought to encourage the effective use and assessment of existing mechanisms of assistance, together with bilateral and multilateral relations and relevant partners such as WHO's Tobacco Free Initiative, with a view to promoting assistance to Parties, especially developing country Parties and Parties with economies in transition.

The CHAIR suggested that, for procedural reasons and in the interests of streamlining the Committee's work, the relevant elements of the proposed draft decision be considered in the context of the later discussion on the workplan and budget 2010–2011, under item 6.3 of the Agenda.

It was so agreed.

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

3. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

The CHAIR proposed that the Committee consider items 6.1 and 6.2 of the agenda together.

It was so agreed.

Performance report for the 2006–2007 budget and workplan (decision FCTC/COP2(11)):
Item 6.1 of the Agenda (Document FCTC/COP/3/18) (continued from the third meeting, section 3)

Interim performance report for the 2008–2009 budget and workplan (decision FCTC/COP2(11)):
Item 6.2 of the Agenda (Documents FCTC/COP/3/19 and FCTC/COP/3/19 Corr.1) (continued from the third meeting, section 3)

Dr NIKOGOSIAN (Head, Convention Secretariat) drew attention to the issues highlighted in the documents, especially those that might need action on the part of the Conference of the Parties. Most were reflected in the draft workplan and budget 2010–2011. The follow-up to document FCTC/COP/3/18 could be discussed when the Committee resumed its consideration of the next workplan and budget. Document FCTC/COP/3/19 had highlighted the large number of Parties that had failed to submit progress reports, which could be dealt with during the review of reporting arrangements. However, the conditions of that review remained to be determined.

In response to requests for more information on the existing budget gap, he provided the Committee with the following details:

Information note of the Convention Secretariat on addressing the budget gap for Intergovernmental Negotiating Body in 2008–2009

1. Unmet Needs

Unmet needs as indicated in Annex 2 of FCTC/COP2(11)	US\$	2 200 000
Additional funds required due to non back-to-back holding of INB2 and COP3		900 000
Outstanding VAC for 2006–2007		330 000
Additional funds required for the INB intersessional work		950 000
Total unmet needs	US\$	4 380 000

2. Expected sources of funds to address the unmet needs

Savings/Carry-over from 2006–2007 budget, in addition to US\$ 1.5 million already projected in Annex 2 of the 2008–2009 Budget	US\$	1 175 000
Pledge from the European Commission		1 500 000
Expected VAC from post-COP2 Parties		670 000
Total expected sources of funds	US\$	3 345 000
NET UNMET NEEDS	US\$	1 035 000

The CHAIR suggested that the Committee should note the report contained in document FCTC/COP/3/18 and agree to consider possible follow-up to agenda item 6.1 within the framework of its discussions on the draft workplan and budget 2010–2011.

It was so agreed.

Turning to item 6.2, the CHAIR invited the Committee to comment on the information provided by the Convention Secretariat, and advise on how to proceed in the event of a shortfall in funding for 2009.

Mr PAREDES (Costa Rica) said that it was essential for Parties to honour their commitments, regardless of the current global crisis, so as to fund the considerable work of the Conference of the Parties and the Convention Secretariat. As the Convention Secretariat and WHO's Tobacco Free Initiative were separately pursuing the same basic objectives, their activities should be coordinated in order to avoid duplication, cut costs and enhance effective tobacco control.

The CHAIR stressed that, unless another US\$ 1 million were found to fill the budget gap, it might not be possible to implement parts of the following year's workplan. He invited guidance on priorities and possible budget cuts.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that the Convention Secretariat's core mandate was to organize meetings of the Conference of the Parties and its subsidiary bodies, plus the associated expert groups and regional consultations. Funding for those activities should be prioritized and should come from voluntary assessed contributions. Other activities should also be funded by voluntary assessed contributions to the fullest possible extent.

Mr WATNE (Norway) endorsed the views of the previous speaker. He asked the Convention Secretariat how it intended to recover the outstanding voluntary assessed contributions for 2006–2007.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that reminders would be issued and that it would be useful if the Conference of the Parties adopted a decision on the matter. If the Parties that had ratified the Framework Convention since the second session of the Conference of the Parties did not pay their voluntary assessed contributions, the 2008–2009 budget gap might reach US\$ 1.5 million. Furthermore, the current workplan and budget did not reflect the unexpected request for a further US\$ 950 000 to organize an additional meeting of the Intergovernmental Negotiating Body between its second and third sessions.

The CHAIR urged the representatives of Parties that had not yet paid their assessed contributions to impress upon their governments the need to meet their obligations as soon as possible.

Ms HERNANDEZ (Canada) said that Parties must understand that, although the contributions might be called "voluntary", they involved a degree of obligation. Clarification of the term "voluntary" by WHO's Legal Counsel might help to encourage Parties to settle their arrears.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that the term "voluntary assessed contributions" conveyed an expectation among all Parties that the obligation to pay assessed contributions would be met. He read out the following draft recommendation to the plenary on item 6.2: "The Committee notes the report and further notes the Convention Secretariat's projection of a budget gap for the period 2008–2009 of US\$ 1 035 000 minimum. With respect to this gap, the Committee recommends that, should it occur as projected, the Secretariat address it by giving priority to its work to organize the Conference of the Parties and its subsidiary bodies".

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that it might be useful for the Convention Secretariat to provide the Bureau with regular reports on its activities and their financing.

The CHAIR asked the Committee if it was willing to accept the proposed recommendation to the plenary on item 6.2.

The draft recommendation was approved.¹

Ms ARNOTT (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, endorsed the comments made by the representative of Canada and stressed the importance of compiling a list of those Parties that had and had not paid their voluntary assessed contributions.

The meeting rose at 13:05.

¹ Transmitted to the Conference of the Parties and adopted as decision FCTC/COP3 (21).

EIGHTH MEETING

Friday, 21 November 2008, at 15:20

Chair: Mr M. RAJALA (European Community)

1. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (continued)

Reporting and exchange of information: Item 5.3 of the Agenda

Reporting instrument – Group 2 questions (decision FCTC/COP2(9): Item 5.3.3 of the Agenda (Document FCTC/COP/3/16 Rev.1) (continued from the second meeting, section 2)

The CHAIR congratulated the open-ended informal working group led by Canada on its work in revising the Group 2 questions of the reporting instrument. As the resulting document FCTC/COP/3/16 Rev.1 was too long and technical to discuss in detail, he asked the Parties to concentrate on any serious flaws before approving it for submission to the plenary.

Dr McCOOL (New Zealand) accepted the reporting instrument in principle but said that the Conference of the Parties must take the time to adjust it, inviting expert guidance from interested and informed Parties, especially on the step-by-step instructions manual, while retaining the deadline of approving both the questionnaire and the manual in time for the first report in early 2010.

Mr PAREDES (Costa Rica) requested that, in the interests of accuracy, the words “where appropriate” in paragraph 3.2.6 of the questionnaire be deleted.

Ms KIPTUI (Kenya) said that she needed more time to examine document FCTC/COP/3/16 Rev.1, as she had already noted several points that called for clarification. If the Parties approved the document without awareness of its content, it might prove difficult to use.

Dr ZAIN (Malaysia) and Ms LINDBAK (Norway), while broadly approving the reporting instrument, agreed with the suggestion that it should be fine-tuned for ease of use.

Dr MOCHIZUKI-KOBAYASHI (Japan), describing the reporting instrument as a core component for implementation of the Framework Convention, said that any ambiguities would lower reporting rates and increase the burden on individual Parties and on the Convention Secretariat. Ideally, the instrument should be self-explanatory and more intensive improvements were required.

Dr McCOOL (New Zealand) said that developing such a questionnaire was a complex process, and that greater consideration to the structure, content, and purpose of the various components would reduce the possibility of skewed responses and make it a more effective tool.

The CHAIR suggested that consideration of item 5.3.3 be suspended pending a response from the Convention Secretariat and WHO’s Legal Counsel on the various comments made.

It was so agreed.

(For resumption of the discussion, see section 3 below.)

2. BUDGET AND PROGRAMME OF WORK OF THE CONFERENCE OF THE PARTIES: Item 6 of the Agenda (continued)

The next budget and workplan of the Conference of the Parties: Item 6.3 of the Agenda (Documents FCTC/COP/3/20 and FCTC/COP/3/B/INF.DOC./3) (continued from the sixth meeting)

The CHAIR drew attention to the following table showing potential assessed contributions to the Framework Convention for 2010–2011:

Potential assessed contributions to the WHO Framework Convention on Tobacco Control for the financial period 2010–2011

	Parties to the WHO Framework Convention	Percentage	US\$
1	Albania	0.00767	680
2	Algeria	0.10862	9 635
3	Angola	0.00383	340
4	Antigua and Barbuda	0.00256	227
5	Armenia	0.00256	227
6	Australia	2.28373	202 567
7	Austria	1.13362	100 553
8	Azerbaijan	0.00639	567
9	Bahrain	0.04217	3 741
10	Bangladesh	0.01278	1 133
11	Barbados	0.01150	1 020
12	Belarus	0.02556	2 267
13	Belgium	1.40837	124 923
14	Belize	0.00128	113
15	Benin	0.00128	113
16	Bhutan	0.00128	113
17	Bolivia	0.00767	680
18	Botswana	0.01789	1 587
19	Brazil	1.11957	99 306
20	Brunei Darussalam	0.03323	2 947
21	Bulgaria	0.02556	2 267
22	Burkina Faso	0.00256	227
23	Burundi	0.00128	113
24	Cambodia	0.00128	113
25	Cameroon	0.01150	1 020
26	Canada	3.80456	337 465
27	Cape Verde	0.00128	113
28	Central African Republic	0.00128	113

29	Chad	0.00128	113
30	Chile	0.20574	18 249
31	China	3.40841	302 326
32	Columbia	0.13418	11 902
33	Congo	0.00128	113
34	Cook Islands	0.00128	113
35	Comoros	0.00128	113
36	Costa Rica	0.04089	3 627
37	Croatia	0.06389	5 667
38	Cyprus	0.05623	4 987
39	Democratic People's Republic of Korea	0.00895	793
40	Democratic Republic of the Congo	0.00383	340
41	Denmark	0.94450	83 777
42	Djibouti	0.00128	113
43	Dominica	0.00128	113
44	Ecuador	0.02684	2 380
45	Egypt	0.11246	9 975
46	Equatorial Guinea	0.00256	227
47	Estonia	0.02045	1 814
48	European Community	3.19475	283 374
49	Fiji	0.00383	340
50	Finland	0.72074	63 929
51	France	8.05269	714 273
52	Gambia	0.00128	113
53	Georgia	0.00383	340
54	Germany	10.96144	972 280
55	Ghana	0.00511	453
56	Greece	0.76163	67 556
57	Grenada	0.00128	113
58	Guatemala	0.04089	3 627
59	Guinea	0.00128	113
60	Guyana	0.00128	113
61	Honduras	0.00639	567
62	Hungary	0.31181	27 657
63	Iceland	0.04728	4 194
64	India	0.57505	51 007
65	Iran (Islamic Republic of)	0.23002	20 403
66	Iraq	0.01917	1 700
67	Ireland	0.56867	50 441
68	Israel	0.53544	47 494
69	Italy	6.49096	575 749
70	Jamaica	0.01278	1 133
71	Japan	21.24547	1 884 473
72	Jordan	0.01533	1 360
73	Kazakhstan	0.03706	3 287

74	Kenya	0.01278	1 133
75	Kiribati	0.00128	113
76	Kuwait	0.23258	20 630
77	Kyrgyzstan	0.00128	113
78	Lao People's Democratic Republic	0.00128	113
79	Latvia	0.02300	2 040
80	Lebanon	0.04345	3 854
81	Lesotho	0.00128	113
82	Libyan Arab Jamahiriya	0.07923	7 028
83	Lithuania	0.03961	3 514
84	Luxembourg	0.10862	9 635
85	Madagascar	0.00256	227
86	Malaysia	0.24280	21 536
87	Maldives	0.00128	113
88	Mali	0.00128	113
89	Malta	0.02172	1 927
90	Marshall Islands	0.00128	113
91	Mauritania	0.00128	113
92	Mauritius	0.01406	1 247
93	Mexico	2.88448	255 853
94	Micronesia	0.00128	113
95	Mongolia	0.00128	113
96	Montenegro	0.00128	113
97	Myanmar	0.00639	567
98	Namibia	0.00767	680
99	Nauru	0.00128	113
100	Nepal	0.00383	340
101	Netherlands	2.39363	212 315
102	New Zealand	0.32714	29 018
103	Nicaragua	0.00256	227
104	Niger	0.00128	113
105	Nigeria	0.06134	5 441
106	Niue	0.00128	113
107	Norway	0.99945	88 651
108	Oman	0.09329	8 275
109	Pakistan	0.07540	6 688
110	Palau	0.00128	113
111	Panama	0.02939	2 607
112	Papua New Guinea	0.00256	227
113	Paraguay	0.00639	567
114	Peru	0.09968	8 841
115	Philippines	0.09968	8 841
116	Poland	0.64023	56 788
117	Portugal	0.67345	59 735
118	Qatar	0.10862	9 635

119	Republic of Korea	2.77713	246 332
120	Romania	0.08945	7 934
121	Russian Federation	1.53361	136 031
122	Rwanda	0.00128	113
123	Saint Lucia	0.00128	113
124	Samoa	0.00128	113
125	San Marino	0.00383	340
126	Sao Tome and Principe	0.00128	113
127	Saudi Arabia	0.95600	84 797
128	Senegal	0.00511	453
129	Serbia	0.02684	2 380
130	Seychelles	0.00256	227
131	Singapore	0.44343	39 332
132	Slovakia	0.08051	7 141
133	Slovenia	0.12268	10 882
134	Solomon Islands	0.00128	113
135	South Africa	0.37059	32 871
136	Spain	3.79306	336 445
137	Sri Lanka	0.02045	1 814
138	Sudan	0.01278	1 133
139	Swaziland	0.00256	227
140	Sweden	1.36876	121 409
141	Syrian Arab Republic	0.02045	1 814
142	Thailand	0.23769	21 083
143	The former Yugoslav Republic of Macedonia	0.00639	567
144	Timor-Leste	0.00128	113
145	Togo	0.00128	113
146	Tonga	0.00128	113
147	Trinidad and Tobago	0.03450	3 060
148	Turkey	0.48688	43 186
149	Tuvalu	0.00128	113
150	Uganda	0.00383	340
151	Ukraine	0.05751	5 101
152	United Arab Emirates	0.38593	34 232
153	United Kingdom of Great Britain and Northern Ireland	8.48845	752 925
154	United Republic of Tanzania	0.00767	680
155	Uruguay	0.03450	3 060
156	Vanuatu	0.00128	113
157	Venezuela	0.25558	22 670
158	Viet Nam	0.03067	2 720
159	Yemen	0.00895	793
160	Zambia	0.00128	113
	Total	100.00000	8 870 000

The CHAIR, responding to the concerns raised at the beginning of the seventh meeting by Dr MOCHIZUKI-KOBAYASHI (Japan), said that after consultation with the Convention Secretariat it had been agreed that the figure on line 71 should read US\$ 1 762 200 rather than US\$ 1 884 473, bringing the sum total at the end of the table to US\$ 8 747 727 instead of US\$ 8 870 000.

Mr MIYASHITA (Japan) thanked the Chair and the Convention Secretariat for dealing with his country's concerns and, hence, enabling it to join the consensus.

Mr AFAAL (Maldives), stressing the importance of funding for implementation of the Framework Convention, said that Maldives, which was one of the low-income developing country Parties with the lowest voluntary assessed contributions, would commit a sum of US\$ 1000 in extrabudgetary funds as a symbolic gesture in support of a cause that could only be of benefit to humankind.

Mr NDAO (Senegal) endorsed the view that, without increased resources to meet the growing needs, budgetary restraint would be essential. Those needs must be prioritized, with foremost emphasis on the functioning of the Conference of the Parties and its subsidiary bodies. As the global struggle against tobacco also hinged on assistance to developing country Parties and those with economies in transition, a share of the voluntary assessed contributions should be used for fund-raising activities by the Convention Secretariat and by Parties lacking the means to access funding sources via the Internet.

The CHAIR said that, in the absence of any objections, he would take it that the Committee wished to approve the amended potential assessed contributions to the Framework Convention for 2010–2011, and agreed to accept it as Annex 2 to the draft decision on the next workplan and budget of the Conference of the Parties.

It was so agreed.

The CHAIR drew attention to the draft workplan and budget for 2010–2011:

ANNEX 1

Workplan and budget for 2010–2011

	Area of work	Main components/activities	Expected results and indicators	Budget
1.	Fourth session of the Conference of the Parties (Article 24.3(a) and Article 23)	Preparing for and convening the fourth session of the Conference of the Parties Preparation and dissemination of post-session reports and communication	The fourth session of the Conference of the Parties prepared and convened on time; post session reports delivered to Parties within six months	2 400 000

	Area of work	Main components/activities	Expected results and indicators	Budget
2.	Elaboration of protocols, guidelines and other possible instruments for the implementation of the Convention (Article 24.3(a),(g), Article 7 and Article 33)			5 200 000
2.1	Development of the protocol on illicit trade in tobacco products		Draft protocol prepared and submitted to the Conference of the Parties six months before the opening of the fourth session of the Conference	
2.1.1	Fourth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products	Preparing for and convening the fourth session of the Intergovernmental Negotiating Body		1 900 000
2.1.2	Additional staff support			400 000
2.1.3	Intersessional work	Intersessional work in expert and regional groups as recommended by the Intergovernmental Negotiating Body		950 000
				Subtotal Intergovernmental Negotiating Body: 3 250 000

	Area of work	Main components/activities	Expected results and indicators	Budget
2.2	Elaboration of guidelines on Articles 9 and 10 (<i>Regulation of the contents of tobacco products and regulation of tobacco product disclosures</i>)	Two meetings of the Intergovernmental Working Group, in combination with intersessional work of key facilitators and the Convention Secretariat	Report of the Working Group, including draft guidelines, submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.3	Elaboration of guidelines on Article 12 (<i>Education, communication, training and public awareness</i>)	Two meetings of the Intergovernmental Working Group, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the Working Group, including draft guidelines, submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.4	Further process (to be discussed by the third session of the Conference of the Parties) concerning the report on Article 14 (<i>Demand reduction measures concerning tobacco dependence and cessation</i>)	Two meetings of a relevant body, established by the Conference of the Parties, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the relevant body, including draft guidelines, submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000

	Area of work	Main components/activities	Expected results and indicators	Budget
2.5	Further process (to be discussed by the third session of the Conference of the Parties) concerning the report of the study group on economically sustainable alternatives to tobacco growing (<i>Article 17, Provision of support for economically viable alternative activities</i>)	Two meetings of a relevant body, established by the Conference of the Parties, in combination with intersessional work by key facilitators and the Convention Secretariat	Report of the relevant body, including draft guidelines or recommendations submitted for consideration of the fourth session of the Conference of the Parties, according to the timeline and procedure identified by the third session of the Conference	450 000
2.6	Intersessional work on measures for promoting the implementation of Article 19.5 (<i>Liability</i>)	Preparation of a report by the Convention Secretariat, or by any other body/mechanism that the third session of the Conference of the Parties may establish, on measures for promoting implementation of Article 19.5 for consideration by the Conference of the Parties	Report on promoting implementation of Article 19.5 prepared and submitted on time for consideration by the fourth session of the Conference of the Parties	150 000
3.	Reporting arrangements under the Convention (Article 24.3 (b), (c) and (d) and Article 21)			1 750 000
3.1	Development of the next phase (Group 3 questions) of the reporting instrument	Convention Secretariat work to develop the next phase (Group 3 questions) of the reporting instrument Two expert meetings to support the process Pilot testing with on average two interested Parties in each region before finalization and submission to the fourth session of the Conference of the Parties	The draft instrument developed and submitted for consideration of the fourth session of the Conference of the Parties on time	320 000

	Area of work	Main components/activities	Expected results and indicators	Budget
3.2	Summary of Party reports on the progress on implementation of the Convention internationally	Convention Secretariat to prepare the draft summary report based on analysis of the Party reports received Two expert meetings to support the process	Two annual summary reports, for 2010 and 2011, prepared and submitted to the Conference	250 000
3.3	Support to Parties in fulfilling their reporting obligations	Receiving and analysing the periodic reports of Parties on implementation of the Convention; maintaining and updating the web-based database of reports; and providing feedback to Parties on reports Inter-country and country workshops on the reporting instrument and preparation of reports Providing advice and assistance on individual requests by the Parties	The percentage of Parties submitting their reports on time and as required by the reporting instrument increased The web-based database of reports of the Parties is up to date and easy to use At least 10 intercountry workshops organized to cover all regions Technical assistance provided to at least 25 Parties requiring substantial assistance	650 000
3.4	Review of the reporting arrangements under the Convention	Convening a review in line with decision FCTC/COP2(9) and according to a mechanism and timeline to be established by the third session of the Conference of the Parties	A report of the body/mechanism established by the Conference of the Parties, for consideration at the fourth session of the Conference, developed and submitted on time	180 000
3.5	Report of the Convention Secretariat	Preparing the report of the Convention Secretariat on its activities for submission to the Conference of the Parties	Report of the Secretariat prepared and submitted on time for consideration at the fourth session of the Conference of the Parties	350 000

	Area of work	Main components/activities	Expected results and indicators	Budget
4.	<p>Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in transition</p> <p>(Article 24(c) and (g), Article 22, Article 26)</p>			2 650 000
4.1	Advice on and promoting access to available resources and mechanisms of assistance	<p>Updating and disseminating the database on resources available internationally for implementation of the Convention</p> <p>Providing support in needs assessment and project development and submission for funding</p>	<p>A comprehensive database of available resources fully operational and actively disseminated by the time of the fourth session of the Conference of the Parties</p> <p>At least 25 Parties supported in needs assessment and development and submission of proposals for funding</p>	850 000
4.2	Promotion of transfer of technical, scientific and legal expertise and technology	<p>Facilitating transfer of technical, scientific and legal expertise in line with implementation guidelines adopted by the Conference of the Parties in relation to Articles of the Convention</p> <p>Preparing a report on the promotion of transfer of expertise and technology under the Convention for consideration at the fourth session of the Conference of the Parties, in line with Article 22.2 of the Convention</p>	<p>At least 25 developing country Parties and Parties with economies in transition assisted for transfer/receiving expertise and technology</p> <p>A Secretariat report on the status and arrangements for promoting the transfer of expertise and technology for consideration of the Conference of the Parties is developed and submitted to the fourth session of the Conference</p>	425 000

	Area of work	Main components/activities	Expected results and indicators	Budget
		Establishing a process to identify and initiate cooperation agreements with Parties wishing to facilitate transfer of expertise and technology	At least three agreements/exchange of letters established with Parties on facilitating the transfer of expertise and technology	
4.3	Advice and support on compilation and communication of information on treaty matters	<p>Dissemination of and awareness-raising on treaty instruments</p> <p>Providing advice on treaty-specific matters, both those frequently requested and those specifically requested by Parties</p> <p>Providing support in preparatory work towards the fourth session of the Conference of the Parties</p> <p>Providing advice and support for the implementation of the treaty measures that require a deadline</p>	<p>Treaty implementation instruments, particularly the guidelines on different Articles, widely acknowledged and utilized in Parties</p> <p>At least 10 inter-country workshops organized in all regions on treaty matters, including dissemination of treaty instruments and assistance provided towards preparations for the fourth session of the Conference of the Parties</p> <p>At least 30 Parties assisted on treaty specific aspects by advice, provision of information and clarifications</p>	775 000
4.4	Promoting South–South cooperation in the exchange of scientific, technical and legal expertise as relevant to the implementation of the Convention	<p>Conducting a review of existing cooperation</p> <p>Expert meeting to elaborate recommendation for strengthening this area of work</p> <p>Four pilot demonstration projects in different regions</p>	<p>Report containing the outcome of the review and expert meeting prepared for submission to the fourth session of the Conference of the Parties</p> <p>Demonstration projects analysed and results disseminated</p>	370 000

	Area of work	Main components/activities	Expected results and indicators	Budget
4.5	Awareness-raising campaign among potential development partners to mobilize financial and technical support for developing country Parties and Parties with economies in transition, to assist them in implementing the Convention	Designing the campaign and identifying potential agencies Campaign launch in early 2010	The campaign launched and the results reflected in the Secretariat report to the fourth session of the Conference of the Parties	180 000
5	Coordination with international and regional intergovernmental organizations and other bodies and other arrangements and activities (Article 24 (e), (f), (g), Article 23 (g) and Article 25)			1 850 000
5.1	Coordination with international and regional intergovernmental organizations and other bodies	Joint reviews and agreements of cooperation with intergovernmental organizations with substantial technical relevance and potential to support the implementation of the decisions of the Conference of the Parties Report of the Secretariat on services and information available in relevant international organizations as a means of strengthening the implementation of the Convention, for the consideration at the fourth session of the Conference of the Parties, in line with Article 23 (g)	At least five reviews and agreements concluded by the fourth session of the Conference of the Parties Review of instruments available for joint use is accomplished with secretariats of treaties in related areas The report prepared and delivered on time for consideration at the fourth session of the Conference Report of the Secretariat prepared and submitted on time for consideration at the fourth session of the Conference	570 000

	Area of work	Main components/activities	Expected results and indicators	Budget
5.2	Review of accreditation of nongovernmental organizations in line with Rule 31.3 of the Rules of Procedure of the Conference of the Parties	Review conducted by the Convention Secretariat or other mechanism identified by the Conference of the Parties	Report submitted on time to the fourth session of the Conference of the Parties	180 000
5.3	Support to the intersessional tasks of the Bureau of the Conference of the Parties and the Bureau of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products	Preparing and convening the meetings of the Bureau Follow-up on decisions of the Bureau	Intersessional meetings of the Bureau of the Conference of the Parties (on average, every three-four months) and the Bureau of the Intergovernmental Negotiating Body (on average, every six months) (additional meetings via videoconference as necessary)	300 000
5.4	General administration and management; budget, finance, planning and fundraising activities		Workplans and administrative arrangements customized and run within WHO`s operational system Payment of voluntary assessed contributions facilitated with the aim of at least 95% collection by the end of biennium Fund-raising mechanism in the Convention Secretariat fully established, and extra-budgetary contributions for fulfilling the 2010–2011 workplan promoted and received	450 000

	Area of work	Main components/activities	Expected results and indicators	Budget
5.5	Participation in professional meetings and staff training, communication, advocacy, web site, publications	<p>Identifying important professional meetings and ensuring that technical staff attend and participate as necessary</p> <p>Developing and implementing communication strategy to ensure public and political awareness and visibility of the Convention, particularly in relation to meetings of the Conference of the Parties and subsidiary bodies and key developments, such as adoption of convention instruments, global progress reports</p> <p>Global advocacy and visibility for the Convention, advisory group to support the process</p>	<p>Each staff member attends at least one training in a year, and each technical officer presents at least once a year in major international meetings</p> <p>Decisions of the Conference of the Parties, as well as documents of the Conference of particular technical importance, such as the summary reports and implementation guidelines, published in all six languages and actively disseminated</p> <p>Press briefings and releases on treaty developments carried out on average every three months, the Framework Convention web site re-designed and updated regularly</p>	350 000

The CHAIR asked the Committee to confine its comments to suggested amendments.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, suggested that the activities described under 2.2 of the draft workplan and budget for 2010–2011 be amended to require one meeting of the Intergovernmental Working Group on guidelines for Articles 9 and 10 of the Convention in place of two; and that the budget figure be halved accordingly from US\$ 450 000 to US\$ 225 000.

Ms SABISTON (Canada), speaking as a Key Facilitator of the Intergovernmental Working Group, warned that with just one meeting it was most unlikely that the working group would manage to have a set of draft guidelines ready for the next session of the Conference of the Parties. Responding to the suggestion by Mr MOHAMEDOUN (Mali) for one extended meeting of the working group with a slightly larger budget, she said that it was a good idea but that the highly technical nature of the subject matter would prevent it from achieving much more than a progress report.

The CHAIR proposed that the main activities for line 2.2 be amended to read “**One meeting** of the Intergovernmental Working Group ...”; that the expected results and indicators be amended to read “Progress report by the working group, including, **if possible**, draft guidelines ...”; and that the budget figure be changed to US\$ 225 000.

It was so agreed.

Responding to a query from Dr MOCHIZUKI-KOBAYASHI (Japan) on how the other US\$ 225 000 would be used, the CHAIR pointed out that they were merely estimated costs. The money did not actually exist but any savings made would ease the pressure on the financing of activities in other areas.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, suggested that the same amendment be made to line 2.3 as had been agreed for line 2.2, namely that the number of Intergovernmental Working Group meetings and the budget figure be halved.

Ms SABISTON (Canada) observed a pattern emerging, which, if extended to lines 2.4 and 2.5, would reduce the Conference of the Parties’ expectation of guidelines for its fourth session to a hope and seriously diminish its programme of work.

The CHAIR acknowledged the truth in the previous speaker’s comments but said that the greater likelihood of the Intergovernmental Negotiating Body completing a draft protocol on illicit trade in tobacco products would result in already considerable work for the Conference of the Parties at its fourth session.

Ms MAIERA (Brazil) asked whether the Intergovernmental Working Group on guidelines for Article 12 might still be able to hold two meetings as planned, with the assistance of WHO’s Tobacco Free Initiative.

Mr TRIVEDI (India) requested clarification from the representative of France on the apparent pattern in its amendment proposals as observed by Canada.

Mr WATNE (Norway) agreed with Ms SABISTON (Canada) that it might be better to allow some of the existing working groups to complete their work rather than delay the delivery of guidelines by every single group.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that regarding the Article 12 guidelines, participants had indicated that they required one meeting for the Key Facilitators, which would not be expensive, and another for the working group itself. He did not propose any changes to the workplan under lines 2.4 and 2.5, but he would propose a change to line 2.6. Responding to a query from Ms SABISTON (Canada) about the rationale in deciding which meetings to cut, he said that the basic aim was to save money. The Article 12 draft guidelines were considered sufficiently advanced that a second meeting could be foregone. Work on the Article 14 draft guidelines (area of work 2.4) would begin if the decision approved by Committee A were adopted by the Conference of the Parties.¹ Article 17 guidelines (area of work 2.5) were regarded as too important, especially to developing country Parties, to make any budget cuts.

¹ See summary record of the seventh meeting of Committee A; the decision was adopted by the Conference of the Parties as decision FCTC/COP3(15).

The CHAIR said that, in the absence of any objections, he would take it that the Committee approved the amendment to line 2.3 as proposed by the representative of France.

It was so agreed.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, suggested that line 2.6 of the workplan be deleted, as intersessional work on measures to promote implementation of Article 19.5 was not a priority. Work on the Group 3 questions (line 3.1) could be postponed: it seemed inappropriate to earmark US\$ 320 000 for the development of the next phase of the reporting instrument given that the Group 2 questions had yet to be agreed.

Dr McCOOL (New Zealand), Dr MOCHIZUKI-KOBAYASHI (Japan) and Ms SÁNCHEZ HERNÁNDEZ (Mexico) endorsed the proposal to delete area of work 3.1.

The CHAIR said that, in the absence of any objections, he would take it that the Committee approved the proposal to delete areas of work 2.6 and 3.1.

It was so agreed.

Mr GUILHOU (France), speaking on behalf of the European Union, said that he did not understand the useful purpose of reviewing the reporting arrangements under the Framework Convention as outlined in line 3.4.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that, if the Conference of the Parties decided to have the reporting arrangements under the Framework Convention reviewed by an external body or mechanism, the money would be required for convening its meetings. If the task were delegated to the Convention Secretariat, it would be used to cover the costs of expertise and the salaries of the staff required to handle all matters related to reporting.

Mr TRIVEDI (India) said that he did not agree that the review of reporting arrangements could be delegated to the Convention Secretariat; therefore the sum earmarked for the activities under item 3.4 should be set aside until the Committee discussed the basic principles.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that decision FCTC/COP2(9) did not justify setting up a mechanism to review arrangements under the Framework Convention. Approval to spend US\$ 180 000 required a detailed plan.

The CHAIR, responding to a comment from Mr TRIVEDI (India), assured the Committee that that budget item would not be closed until each Party found it acceptable. He proposed that consideration of line 3.4 be suspended pending further clarification from the Convention Secretariat.

It was so agreed.

Mr TRIVEDI (India) proposed that the wording of line 4 be amended in keeping with the Paris Declaration on Aid Effectiveness, to read: "Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in transition, with a view to promoting harmonization and alignment of tobacco control policies at country level".

The CHAIR said that, in the absence of any opposition, he would take it that the Committee accepted the amendment proposed by the representative of India.

It was so agreed.

Mr NDAO (Senegal) said that, with regard to line 4.1, developing countries needed assistance in the form of Internet-related technologies.

Dr MOCHIZUKI-KOBAYASHI (Japan) endorsed the philosophy behind the main components of area of work 4.1 but asked how the budget figure of US\$ 850 000 had been calculated and how the expected results of assisting the Parties, as noted under lines 4.4 and 5.4 of the current workplan and budget, would be achieved.

Ms HERNANDEZ (Canada), noting the potential synergy between the Conference of the Parties and WHO's Tobacco Free Initiative in area of work 4.1, asked whether the close collaboration between WHO's country and regional offices and public health ministries could translate into savings on a budget of nearly US\$ 1 million.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Conference of the Parties had called on the Convention Secretariat to undertake the activities described in line 4.1 in the decisions adopted at its first and second sessions. As for the budget, at least half the US\$ 730 000 that remained, after deduction of the 13% standard programme support costs, would go towards the salary of at least one person to handle resource mobilization for the entire biennium. The other half would be divided up among 25 Parties to support access to other internationally available resources; assistance for needs assessment; preparation of project proposals; and submitting those proposals to the right development partners. None of the funds allocated would be used for policy implementation at country level, as that was the job of WHO's Tobacco Free Initiative.

Dr BETTCHER (WHO Secretariat, Tobacco Free Initiative) said that examples of recent work in areas similar to those covered in line 4.1 included, first, assisting governmental and nongovernmental groups to gain access to grants under the Bloomberg Initiative; that experience, gained at the country, regional and headquarters levels could be extended to other funding proposals. Secondly, pilot projects had been launched under its capacity-building programme, with the governments concerned inviting experts, facilitated by WHO, to conduct intensive reviews of their existing capacity; the resulting reports detailed needs assessment and recommendations on future priorities.

Mr TRIVEDI (India), commending the work of WHO's Tobacco Free Initiative in promoting awareness and assistance in proposals for donors at the country level, said that the Convention Secretariat, as a multilateral body, must maintain its broader approach of engaging with multilateral funding agencies, including regional banks. Synergy between the Convention Secretariat and WHO's Tobacco Free Initiative would strengthen the Parties, and he was convinced that they would continue to share their knowledge and best practices.

The CHAIR, noting that the Committee faced the prospect of a night meeting to complete its work, requested the Parties to refrain from making statements and to concentrate instead on firm amendment proposals. In the absence of any objections, he would take it that they approved line 4.1 as it stood.

It was so agreed.

Mr NDAO (Senegal) said that the activities in area of work 4.3 should include the setting up of a knowledge hub, which, according to a WHO workshop in Accra, would help to build the skills of stakeholders in tobacco control. However, he agreed to the suggestion by the CHAIR that his proposal be duly noted by the Committee and taken into account by the Convention Secretariat when implementing the workplan and budget for 2010–2011.

The CHAIR took it that the Committee wished to approve line 4.3 as it stood, bearing in mind that the Convention Secretariat had duly noted the proposal from Mr NDAO (Senegal).

It was so agreed.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, requested a breakdown of the budget for line 3.5 because US\$ 350 000 seemed a large sum for the preparation of a report by the Convention Secretariat, especially as its current report was just 10 pages long.

Returning to line 4.5, he recognized the importance of those activities but questioned whether they lay within the Framework Convention's mandate. WHO had both the mandate and the means to perform such work and it was a priority of the Organization. If, in the spirit of the comments of the representative of India about strengthening the links between WHO's Tobacco Free Initiative and the Convention Secretariat, WHO took care of the associated expenditure, the budget for line 4.5 could be reallocated to the setting up of the knowledge hub referred to by the Parties in the WHO African Region, or a web site to promote best practices for implementing the Framework Convention.

Mr TRIVEDI (India) pointed out that WHO was overstretched in its awareness-raising role and relied on the help of the Parties; it was not just a technical matter and required the strong political will and backing that the Convention Secretariat was well placed to secure.

The CHAIR asked the representative of France whether the Parties in the European Union were proposing that line 4.5 be deleted and some of its elements be moved to another line.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that area of work 4.5 was based entirely on paragraph 14 of decision FCTC/COP1(13), which the Convention Secretariat had believed was important to implement in 2010–2011 as there had been neither the time nor the means to do so in the current biennium.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that the priorities of the Conference of the Parties might have changed since its first session. However, line 4.5 should be retained, renamed and aligned with the recently approved draft decision on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship, which included a recommendation to set up a web site which could be used as a knowledge hub.¹

The CHAIR suggested that consideration of line 4.5 should be suspended pending submission of an amendment in writing on behalf of the Parties in the European Union.

Dr MOCHIZUKI-KOBAYASHI (Japan), noting that the activities in area of work 5.1 stemmed from those described on areas of work 4.1 and 4.2 of the current workplan and budget, as presented in document A/FCTC/COP/2/DIV/9, requested the Convention Secretariat to explain why the budget for line 5.1 was one-and-a-half times more than the combined budgets for lines 4.1 and 4.2.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the needs taken into account when calculating the budget figure for area of work 5.1 had been more tangible than in the case of the workplan and budget for 2008–2009: those tangible needs would include more extensive international coordination recommended by the Intergovernmental Negotiating Body on a draft protocol for illicit trade in tobacco products, and the establishment of certain working groups in order to avoid

¹ Approved by Committee A in its eighth meeting and adopted by the Conference of the Parties as decision FCTC/COP3(14).

duplication through links with other treaty secretariats and international organizations working in similar areas.

The CHAIR said that, in the absence of any proposed amendments, he would take it that the Committee approved line 5.1 as it stood.

It was so agreed.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that the US\$ 180 000 allocated in area of work 5.2 seemed a large figure for reviewing the accreditation of about 50 nongovernmental organizations.

Dr NIKOGOSIAN (Head, Convention Secretariat) agreed that the amount allocated might seem excessive if it were simply a matter of a routine review, but it was one of the first and there was much groundwork to be done. Some of the money would be used for a share of one staff salary, as there was no separate budget line covering overall staffing costs; and the actual amount would come to US\$155 000 after the 13% standard programme support costs had been deducted. It could be further reduced, to US\$ 140 000 for example, if the Conference of the Parties assigned the task to the Convention Secretariat rather than to an external mechanism, thereby eliminating the cost of an additional meeting. The Convention Secretariat had taken both options into account when preparing the budget.

Mr TRIVEDI (India) said that, as a matter of principle, the review could not be delegated to the Convention Secretariat; the rules governing accreditation of nongovernmental organizations with intergovernmental bodies were highly sensitive and must be respected.

The CHAIR asked WHO's Legal Counsel to describe how decisions on the status of nongovernmental organizations were reached at WHO.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) drew attention to paragraph 4.6 of the Principles Governing Relations between the World Health Organization and Nongovernmental Organizations, which required a subcommittee of the Executive Board to conduct a regular triennial review of collaboration with individual nongovernmental organizations, with one third of the total number being assessed each year, to determine the desirability of maintaining official relations.

The CHAIR proposed that the expected results in line 5.2 be amended to include the establishment of procedures similar to those at WHO, with the groundwork done by the Convention Secretariat and the review by a subcommittee to be set up by the Conference of the Parties at its fourth session. In the meantime, the Convention Secretariat should learn from the current difficulties and ensure that future workplans and budgets were presented with a greater degree of detail. The Committee might consider including a note to that effect in its draft decision.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, requested a more specific breakdown of expenditures given that the money would come from public funds; furthermore, many of the nongovernmental organizations in question already had relations and accreditation through WHO. It was also the role of the Bureau to check that information.

The CHAIR said that having the review conducted by the Bureau would be another option, but groundwork would still be needed to check that the activities of the nongovernmental organizations were compatible with the Framework Convention.

He asked the Parties whether they would be willing to accept line 5.2 with a budget figure of US\$ 140 000, while “duly noting the current discussion, in particular relating to the need for more detailed information on the budget and more clarity on the process”.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that there might be more cost-effective and productive ways to review the accreditation of nongovernmental organizations, and that the US\$ 140 000 could be reallocated to other items in greater need of funding.

The CHAIR asked whether he was proposing that line 5.2 be deleted.

Mr TRIVEDI (India) said that he wished to retain line 5.2 and that any disagreement over the figures could be revisited later.

The CHAIR suggested that consideration of line 5.2 be suspended pending proposals on specific amendments that might help to achieve a consensus.

It was so agreed.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, reiterated his delegation’s request for clarification on the fund-raising mechanism referred to in line 5.4, especially its allocated share of the US\$ 450 000 budget.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the budget would cover the salaries of a finance officer and a resource mobilization officer, among others, for the considerable work involved in collecting contributions from nearly 170 States Parties to the Framework Convention; the Convention Secretariat operated its own collection system, outside that of WHO. Some of the money would be used for other work relating to the budget and for administration and management of the Convention Secretariat.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that he could not accept an overall budget figure without further and satisfactory clarification, notably with regard to staffing.

The CHAIR said that he understood fully the important concerns expressed on behalf of Parties in the European Union. Every delegation had a duty to seek the clarification it needed to arrive comfortably at a decision. However, time was short, a night meeting was soon to begin, and the Committee needed to approve the budget for work to continue. He invited the Convention Secretariat to respond to the previous speaker’s comments, specifying in particular how many person-years were required, at what average annual cost per person, and what other costs were expected.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that every item had been carefully costed and the Convention Secretariat could present figures for particular items. However, it had been impractical to include them in a draft decision.

The CHAIR suggested that consideration of line 5.4 be suspended pending a more detailed budget breakdown from the Convention Secretariat.

Mr GUILHOU (France) said that he had the same concerns about area of work 5.5. He was not speaking for himself or for his country but on behalf of 27 Member States of the European Union, whose contributions accounted for nearly 50% of the overall budget; they required the clearest possible explanation of how those funds were to be used. Staffing matters were mentioned in the

documents provided but without the detail he was accustomed to at other organizations regarding numbers, grades and duties.

Dr McCOOL (New Zealand) supported the efforts to seek clarification of the budget. In future, it would benefit the Committee's time if greater budget detail was presented in the documentation.

The CHAIR said that the Convention Secretariat would prepare the relevant details as requested.

The meeting was suspended at 18:05 and resumed at 19:10.

The CHAIR said that the Committee needed to remain efficient and forward looking in order to finalize those lines of the draft workplan and budget for 2010–2011 that remained open, namely lines 3.4, 4.5, 5.2, 5.4 and 5.5.

Dr MOCHIZUKI-KOBAYASHI (Japan) supported the earlier attempt by the European Union to revisit line 3.5, and asked for further clarification on line 4.1, including the kind of staff required, whether developing the database would be part of their work or the remit of an outside company, and what outcomes could be expected.

The CHAIR noted that he was being asked to reopen budget items already approved. The representative of Japan had made a fair point, but a workplan and budget for the next biennium must be agreed by the end of the session and the Committee was going back and forth between open and closed items. Parties with any doubts about any item should flag them before allowing him to declare it approved by consensus.

Mr TRIVEDI (India) said that the Convention Secretariat should be allowed, exceptionally, to respond to the request by the representative of Japan for further clarification, after which questions on closed budget items must cease as the Committee was in danger of not finishing its work.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that the total budget figure of US\$ 750 000 for area of work 4.1, after the 13% standard programme support costs were deducted, would be divided evenly between staffing costs and activity costs: on the one hand, to cover 10% and 50% respectively of the cost of one P-5 and one P-4 professional staff member, and 25% to 30% of a general service staff member's time; and on the other to provide US\$ 15 000 of assistance to each of the 25 Parties supported.

As for line 3.5, the Convention Secretariat had taken the same budget figure for the same activities as approved by the Conference of the Parties at its second session. Most of the expenditure would be on staffing costs: paying people to compile the report of the Convention Secretariat (about US\$ 25 000) would be only a small fraction of the staff costs for performing the Convention Secretariat's relevant functions. Nevertheless, the overall amount could be reduced by recalculating salary costs; he would work out the figures and report back to the Committee.

In response to the request from Ms SÁNCHEZ HERNÁNDEZ (Mexico) for clarification on the mechanism and timeline that the Conference of the Parties was to establish, he said that that was the very point on which the Convention Secretariat was seeking their guidance. According to decision FCTC/COP1(14) it should be an independent assessment conducted in 2009. The Conference of the Parties might choose to change the dates, but must decide whether to set up a special body comprising a limited number of Party representatives to conduct the assessment, in which case the Convention Secretariat would provide all the necessary support.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that, since his delegation had based its consideration of line 3.4 on a different document, and, as it was too late to discuss the cost and remit of a new assessment mechanism, a decision on the matter should be postponed until the following session of the Conference of the Parties. Therefore, line 3.4 should be

deleted or amended to state that the review would be conducted instead by the Convention Secretariat and the Bureau, which would cost considerably less than US\$ 180 000.

The CHAIR requested the representative of France to draft a proposed amendment.

Mr TRIVEDI (India) said that his delegation would examine the proposed amendment, but that it would be unhappy with an ad hoc arrangement pertaining solely to line 3.4. A comprehensive solution must be found as other lines required a review mechanism. Important matters that required multilateral intervention could not be left to either the Bureau or the Convention Secretariat.

Mr MIYASHITA (Japan) said that it was premature to reach a decision on line 3.4, but agreed to listen to the Parties' opinions on the amendment by the representative of France before requesting that the line be deleted.

Dr ANIBUEZE (Nigeria), agreeing with the representative of India, said that a review of reporting arrangements was fundamental and that without a new body to assume the task, the existing mechanisms might be overburdened. He preferred to consider the proposal from the representative of France, and it must be impressed upon the Parties that it was for them, not the Convention Secretariat, to decide.

The CHAIR suggested suspending consideration of line 3.4 pending proposal of an amendment.

It was so agreed.

The CHAIR recalled his suggestion to delete line 4.5 and to move its US\$ 180 000 to budget line 4.3 to be used for an Internet-based knowledge hub to meet the needs of the Parties in the WHO African Region. In response to a query by Ms HERNANDEZ (Canada), he confirmed that access to the web site would be available to all Parties.

Mr TRIVEDI (India) endorsed the Chair's suggestion and proposed, notwithstanding the fact that some of the activities in line 4.3 would be for the WHO African Region, that the US\$ 180 000 should be allocated specifically to the needs of Parties in that Region.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that US\$ 180 000 was far too much for the development of a web site and that a share should be earmarked for other activities to benefit Parties in the WHO African Region.

Dr MOCHIZUKI-KOBAYASHI (Japan) expressed full appreciation of the need to support the Parties in the WHO African Region, and suggested that the Convention Secretariat, when redrafting line 4.3, should coordinate activities with those of WHO's Tobacco Free Initiative in similar areas, including its knowledge hubs for tobacco control.

The CHAIR said that, in the absence of any further amendments, he would take it that the Committee was willing to delete line 4.5 and to move the US\$ 180 000 budget to line 4.3, on the understanding that it would be used expressly to support development of Parties in the WHO African Region, in close coordination with WHO's Tobacco Free Initiative.

It was so agreed.

Dr NIKOGOSIAN (Head, Convention Secretariat), responding to the request for a breakdown of the US\$ 180 000 budget for line 5.2, said that US\$ 21 000 would be deducted for standard programme support costs; US\$ 40 000 would be used to convene a group of some 10 experts; and the remaining US\$ 120 000 would be for staffing costs, namely to pay for 5% of a P-3 grade external

relations officer, a P-3 grade communications officer and a P-4 legal officer, and 20% of general service-grade administrative assistant.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, recalled his request for a clear and detailed breakdown of the budget in the form of a written document, not an oral explanation. After five days of fruitless attempts to obtain such documents, he still had no idea of figures, or of costs to review the accreditation of nongovernmental organizations, or how such a review would take place.

The CHAIR said that he was not unwilling to allow a proper examination of an important matter, but time was running out for finalization of the last four lines of the draft workplan and budget. He suggested that the Committee decide exactly what was needed from the Convention Secretariat, which would then draft a document for its consideration.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) suggested the following draft decision, which might enable the Committee to accept the figures as they stood, pending a special audit under WHO's Financial Regulations: "The Conference of the Parties would decide to request the Convention Secretariat to invite the Director-General of the World Health Organization to provide for a special audit at the mid-term of the 2010–2011 biennium under the Financial Regulations of the World Health Organization. The report of the auditor shall be made available to the Bureau for consideration by the Conference of the Parties."

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that a special audit was not the answer; there was no suggestion that the money was being ill-spent or embezzled. He wanted the Convention Secretariat to provide a detailed breakdown of the budget and its programme of work in the next biennium so that Members of the Union, when asked, could accurately state how the money was to be used.

The CHAIR acknowledged a fair point. However, a full consensus had been reached on all but four lines of the draft workplan and budget for the next biennium, with a level of detail far inferior to that just provided, albeit orally, for line 5.2. Given the time he expected it would take to finalize the draft decision setting the tone and the ground rules for the next biennium, he appealed for some flexibility.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that an agreement could be reached, provided that the Convention Secretariat presented the details of how it had arrived at the final budget figures as an annex to the final report of the Committee to be approved at the next meeting.

The CHAIR, outlining the procedural difficulties involved in producing an acceptable formal annex to the report, suggested, as a compromise, that the Convention Secretariat should produce the requested details as an information document, which it was more than willing to do in order to prove that its figures were sound. He thanked the European Union for its willingness to reach an agreement and, noting that each of the last four budget lines to be finalized was open pending the clarification to be presented in the information document the following morning, he asked the Committee whether it would be prepared to approve all four lines en bloc by consensus.

Mr WATNE (Norway) said that his country would join the consensus.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that he was willing to set aside his reservations and join the consensus. However, if the information document issued the following morning failed to provide a sufficiently clear and precise account of how the US\$ 1 million total budget for the four budget lines in question was to be used, he could not approve a

report containing a workplan and budget that included those lines. The information document should also include the Convention Secretariat's organizational chart.

The CHAIR said that approval of the proposal would speed up the Committee's work, and there would be an opportunity for representatives to work alongside the Convention Secretariat, providing collaborative guidance to ensure that the result, which would be an official document, was acceptable.

Dr ELSUBAI (Sudan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, joined the consensus.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, agreed to join the consensus and offered to send representatives to work with the Convention Secretariat on the document.

It was so agreed.

The CHAIR acknowledged that generous gesture. In the absence of any further objections, he would take it that the Committee wished to approve lines 3.4, 5.2, 5.4 and 5.5 of the workplan and budget for 2010–2011 and to accept the draft workplan and budget itself as the second annex to the draft decision on item 6.3.

It was so agreed.

The CHAIR drew attention to the following explanatory note on the workplan and budget for 2010–2011:

Total budget

1. The total approved budget for the biennium 2008–2009 was US\$ 12 960 000. The proposed total budget for the biennium 2010–2011 is US\$ 13.8 million, which is a projected increase of 6.5% from the current biennium.
2. The WHO Framework Convention on Tobacco Control has been consolidated by the substantial number of new countries that have become Parties to it in recent years. Although this has increased the needs and cost associated with servicing the treaty, the growing number of Parties also provides an opportunity to share this cost increase, maintaining the individual contributions of Parties within the existing range.
3. The Convention is currently in an active stage of progress: new countries are joining, treaty instruments are being developed, immediate deadlines for implementation are being respected and treaty processes established. Budget increases over the first three or four bienniums are in general to be expected for treaty bodies in their early stages. The budget, and particularly the voluntary assessed contributions of Parties, is expected to stabilize after the initial period.

Voluntary assessed contributions

4. The number of Parties to the WHO Framework Convention on Tobacco Control was 113 at the first session of the Conference of the Parties and 146 at the second session. The total amount of voluntary assessed contributions, however, remained unchanged at US\$ 8 010 000 between the budget for the biennium 2006–2007 and the budget for 2008–2009.

5. The number of Parties has since increased to 160 at the third session of the Conference – a 41.6% increase over the first session. This increase, and the growth it implies in work to respond to the needs of the Parties, engenders increased operational expenses. The number of Parties is expected to increase further to at least 165 by the end of 2009, taking into account the ratification processes that have been completed, or that are close to completion, in several countries.

6. Total voluntary assessed contributions in the proposed budget for 2010–2011 are set at US\$ 9.5 million, an 18.7% increase compared with the first and current biennial budgets. However, this increase will not in general affect voluntary assessed contributions paid by individual Parties; according to the proposed budget, these will remain close to the levels identified in the budgets for the biennium 2006–2007 and the biennium 2007–2008, with some differences reflecting variations in WHO's scales of assessment, which serve as the basis for calculations. The difference between the total budget and total voluntary assessed contributions will be covered by voluntary extrabudgetary contributions.

Extrabudgetary funds

7. It is planned that extrabudgetary funds will be US\$ 4.3 million, which should make it possible to respond to the core needs that have been identified in the draft workplan. It should be noted that some items in the workplan may need more funds owing to the increasing needs that arise as more countries become Parties to the Convention, and taking into account the needs assessments to be conducted in several countries. Any additional extrabudgetary funds, beyond the US\$ 4.3 million mentioned above, will be directed at tackling these supplementary needs, with a particular focus on the needs of developing country Parties and Parties with economies in transition.

Workplan

8. The draft workplan in general maintains the composition of the current workplan. It addresses measures outlined in different Articles of the Convention, particularly those specifically requiring or envisaging action by the Conference of the Parties and the Convention Secretariat, as well as decisions taken by the Conference that require action. The structure is slightly modified to give more prominence and clarity to several core activities, such as the elaboration of protocols and guidelines and the provision of implementation assistance to Parties in need – activities that were described under “other arrangements and activities” in the current workplan.

9. Some items of the draft workplan are still pending confirmation and/or elaboration, based on the outcome of the third session of the Conference of the Parties; these include the further work on Articles 9 and 10, Article 12, Article 14 and Article 17 after the review of the relevant reports at the third session of the Conference.

10. A fourth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products is budgeted, based on the report of that body to the Conference of the Parties,¹ outlining the possibility that negotiations may not be finalized at the third session of the Intergovernmental Negotiating Body. The increased cost from US\$ 1.8 million, as adopted by the second session of the Conference of the Parties² for sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products, to US\$ 1.9 million in the proposed budget reflects the support for participation of delegates from low-resource countries that became Parties to the Convention after the second session of the Conference. The budget for the Negotiating Body also

¹ Document FCTC/COP/3/4.

² Decision FCTC/COP2(11).

takes into account the recommendations made by that body for intersessional work and for possible follow-up efforts after the third session of the Intergovernmental Negotiating Body, as well as an additional staff cost in line with the budget for the Intergovernmental Negotiating Body, approved by the Conference of the Parties in decision FCTC/COP2(11). Adjustments may be needed in order to reflect the guidance of the third session of the Conference of the Parties in respect of the Intergovernmental Negotiating Body process.

11. The increased cost for the fourth session of the Conference of the Parties (US\$ 2.4 million) compared with the cost for sessions of the Conference identified in previous biennial budgets (US\$ 1.8 million) reflects the support to additional Parties as described above for the fourth session of the Intergovernmental Negotiating Body, as well the cost for post-session documentation and the staff cost associated with the organization of the Conference previously reflected in other budget lines.

12. It should be noted that the workplan is being adopted relatively early, more than a year before the start of the biennium. Many areas of work are in active development, requiring prompt attention and a continuity of purpose and several of them will also be reported to the fourth session of the Conference of the Parties, scheduled in 2010. Some activities may therefore already require early commencement or initial work in 2009, in order to meet the deadlines in 2010. This was also the case when implementing the current workplan for the period 2008–2009, which was adopted in the summer of 2007.

13. Although the work on treaty instruments would require fewer meetings of subsidiary bodies compared with the current biennium, there are several additional elements in the draft workplan that would require maintaining and even slightly increasing the total biennial budget. First, the plan includes work envisaged by several Articles of the Convention, such as Article 19 (Liability) and Article 22.2 (Transfer of expertise and technology) that were not previously considered. Secondly, plans for assistance to developing country Parties and Parties with economies in transition are being substantially expanded with the coverage of new elements, such as the promotion of South–South cooperation and awareness-raising among potential development partners. Other new elements of the draft workplan include several reports concerning international coordination and observer organizations to be presented at the fourth session of the Conference of the Parties in line with the provisions of the Convention, the decisions of the Conference and the review of the reporting arrangements under the Convention.

Mr WATNE (Norway), supported by Mr GUILHOU (France) on behalf of the Parties in the European Union, suggested that the explanatory note should be approved, with the figures corrected to reflect the amendments to the draft workplan and budget and that the reference to Article 19 of the Framework Convention in paragraph 13 should be deleted to reflect the deletion of line 2.6.

Ms CAVALCANTE (Brazil) said, with regard to Article 19, that she had consulted WHO's Tobacco Free Initiative and that it was willing to prepare a background paper for the next session of the Conference of the Parties.

The CHAIR said that, in the absence of any objection, he would take it that the Committee approved the explanatory note, with the amendments proposed by the representative of Norway.

It was so agreed.

The CHAIR drew attention to a draft decision on the draft workplan and budget 2010–2011 proposed by the Convention Secretariat, which read:

The Conference of the Parties,

Reaffirming its decision FCTC/COP1(9) on adoption of the Financial Rules of the Conference of the Parties to the WHO Framework Convention on Tobacco Control;

Recalling its decision FCTC/COP2(11) on the budget and workplan for 2008–2009,

DECIDES:

(1) to adopt the total budget of US\$ 13 800 000 for the financial period 2010–2011 as follows:

	US\$
I. Fourth session of the Conference of the Parties	2 400 000
II. Elaboration of protocols, guidelines and other possible instruments for the implementation of the Convention	5 200 000
III. Reporting arrangements under the Convention (including the report of the Convention Secretariat on its activities)	1 750 000
IV. Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in transition	2 650 000
V. Coordination with international and regional intergovernmental organizations and other bodies and other arrangements and activities	1 850 000
Total	13 800 000

(2) to adopt the workplan for the financial period 2010–2011 as indicated in Annex 1, taking into account the decisions taken by the Conference of the Parties at its third session;

(3) to adopt the table showing the distribution of voluntary assessed contributions for financial period 2010–2011 as indicated in Annex 2 to this decision;

(4) to request the Head of the Convention Secretariat to implement the Conference of the Parties budget and submit to the Conference of the Parties at its fourth session an interim performance report based on the budget structure annexed to this decision (Annex 1) along with a final performance report for the 2008–2009 budget, and a final report on the 2010–2011 budget to the Conference of the Parties at its fifth session in line with the model used by WHO in its performance reports to Member States;

(5) to authorize the Convention Secretariat to seek and receive voluntary extra budgetary contributions for activities in line with the workplan;

(6) to encourage Parties to the Convention to provide extra budgetary contributions for meeting the objectives of the workplan.

The CHAIR asked the Convention Secretariat to check the figures against the amended draft workplan and budget for 2010–2011. He invited the Committee to consider the draft decision paragraph by paragraph.

The preambular paragraphs of the draft decision were approved.

The CHAIR announced that there were several amendments to the figures in paragraph 1 of the draft decision: the figure for part II of the budget should read US\$ 4 600 000 instead of

US\$ 5 200 000; for part III it should be US\$ 1 430 000 instead of US\$ 1 750 000; and for section IV, US\$ 2 600 000 instead of US\$ 2 650 000; with the total budget figure on the first and last lines of the paragraph reading US\$ 12 880 000 in place of US\$ 13 800 000.

Paragraph 1, as amended, was approved.

The CHAIR noted that there were no objections to paragraphs 2 or 3 of the draft decision.

Paragraphs 2 and 3 were approved.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, suggested, with regard to paragraph 4, that the words “based on the budget structure annexed to this decision (Annex 1)” should be deleted, and the word “detailed” inserted before “final performance report”. Paragraph 4 would then read: “to request the Head of the Convention Secretariat to implement the Conference of the Parties budget and submit to the Conference of the Parties at its fourth session an interim performance report along with a detailed final performance report for the 2008–2009 budget [...]”.

Paragraph 4, as amended, was approved.

The CHAIR asked the Committee if it was willing to approve paragraphs 5 and 6.

Paragraphs 5 and 6 were approved.

Mr LINDGREN (Norway), recalling previous consideration of the need to establish an order of priorities in the workplan and to provide the Convention Secretariat with guidance to prepare for the eventuality of voluntary assessed contributions falling short of the total budget requirement, proposed that a new paragraph 7 should be added to the end of the draft decision, reading: “to request the Head of the Convention Secretariat to give priority to activities under areas of work I, II and III, above, in the event that the Secretariat is unable to raise the extrabudgetary funds required to fully implement the workplan 2010–2011.”

Mr TRIVEDI (India) asked if it might not be prudent to defer the decision on an order of priorities to the next session of the Conference of the Parties, thereby allowing more time for consideration of the availability of extrabudgetary funds.

Dr ANIBUEZE (Nigeria) associated himself with the position of the previous speaker. The proposal by the representative of Norway omitted what his country and, he believed, the other Parties in the WHO African Region regarded as the top priority, namely area of work IV, assistance to Parties in implementing the Framework Convention. Furthermore, the text should reflect the Convention Secretariat’s enormous task of coordinating the setting of priorities among the Parties.

Dr BLOOMFIELD (New Zealand) supported the concept behind the proposal of the representative of Norway but joined the previous speaker’s emphasis on the need to prioritize area of work IV. As the Conference of the Parties would have an opportunity to review progress in delivery of the workplan and expenditure against the budget at its fourth session, almost midway through the biennium, he proposed an alternative version of paragraph 7, reading: “to review progress with the workplan and budget 2010–2011 at its fourth session and to revise it, in the event that the Convention Secretariat is unable to raise the extrabudgetary funds required to fully implement the workplan 2010–2011”.

Mr LINDGREN (Norway), responding to the concerns of the representative of Nigeria, did not consider the activities under section IV to be unimportant. He had merely sought to identify the areas of work that could be done by the Convention Secretariat alone, and to rely on significant assistance

from WHO's Tobacco Free Initiative for the rest. Having listened to the comments from other speakers, he was prepared to withdraw his proposal in favour of a review by the Conference of the Parties at its fourth session.

Mr TRIVEDI (India) suggested a further amendment, endorsed by Dr BLOOMFIELD (New Zealand), reading: "to review progress with the workplan and budget 2010–2011 at its fourth session and to revise it, if necessary, in the light of the availability of funds that are necessary to fully implement the workplan and budget 2010–2011".

New paragraph 7, as amended, was approved.

Ms SÁNCHEZ HERNÁNDEZ (Mexico) suggested that a new paragraph 8 should be added to the draft decision, reading: "to request more effective coordination between WHO's Tobacco Free Initiative and the Convention Secretariat in order to avoid duplication of activities and to maximize the use of available resources".

Mr TRIVEDI (India) said that the call for synergy with WHO's Tobacco Free Initiative had been adequately expressed in decision FCTC/COP2(10) on Financial resources and mechanisms of assistance. He wondered whether the Tobacco Free Initiative could be expected to adhere to the formulation proposed by the representative of Mexico. Furthermore, the thrust of the proposal was already reflected in the draft decision proposed in the previous meeting.

The CHAIR said that the level of commitment of WHO's Tobacco Free Initiative to the proposal by the representative of Mexico should not prevent the Parties from approving it. He recalled, with regard to the proposal by the representative of New Zealand, that the Committee had agreed not to discuss it as a separate draft decision but to incorporate the relevant elements into the draft decision on the workplan and budget for 2010–2011.

Mr WALTON-GEORGE (European Community) suggested adding the words "and expenditure" to the proposed new paragraph 8, which would read: "... to avoid duplication of activities and expenditure and to maximize the use of available resources".

New paragraph 8, as amended, was approved.

Mr TRIVEDI (India) stressed the importance of giving intergovernmental legitimacy to the review and other mechanisms provided for in the draft workplan and budget for 2010–2011. A standing intergovernmental body should oversee and report back on the work of the Conference of the Parties to ensure that there were no loopholes. He suggested that a new paragraph 9 should be added to the draft decision, reading: "to establish an ad hoc open-ended working group to deliberate on the issues of needs assessment, national implementation plans, review and reporting mechanisms and other matters during the intersessional period".

The CHAIR noted that the text of the proposed new paragraph 9 was taken from paragraph 1 of the draft decision proposed by India and rejected earlier that day by the Committee at its seventh meeting.

Dr QOTBA (Qatar), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, and Dr BLOOMFIELD (New Zealand), after consulting his colleagues from Japan, said that they could not accept the proposed new paragraph 9.

The CHAIR said that the proposal by the representative of India could not be approved without consensus. However, the Committee might consider the concerns expressed by the representative of India at the end of the meeting, which would give WHO's Legal Counsel and others time to reflect on the matter.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, proposed that a new paragraph 9 be added to the draft decision to read: “to call on the Head of the Convention Secretariat to submit to Parties, no later than 60 days in advance of the fourth session of the Conference of the Parties to the Convention, a complete proposed workplan and budget for the biennium 2012–2013 that contains suggested priorities for the work, a detailed explanation of suggested work and a detailed budget for each major area of work, including staffing costs; and to keep the Bureau regularly updated on the status of the budgets and workplans agreed by the Conference of the Parties”.

The CHAIR said that, in the absence of any comments, he would take it that the Committee wished to approve the new paragraph 9 proposed by the representative of France.

New paragraph 9 was approved.

Dr BLOOMFIELD (New Zealand) drew attention to two paragraphs from the proposed draft decision on agenda item 5.1 presented at the seventh meeting of the Committee, which, with amendments by the European Union, could be incorporated into the draft decision on the workplan and budget for the next biennium. The first would read: “to call upon developing country Parties and Parties with economies in transition to request support, if required, from the Convention Secretariat specifically for the purpose of conducting needs assessment, and to communicate their prioritized needs to potential donors so that they can work towards implementing all provisions of the Convention”. The second would read: “to call upon Parties, international organizations and other development partners to actively explore opportunities to provide technical, legal and financial assistance, including extrabudgetary contributions, to assist developing country Parties and Parties with economies in transition with the implementation of the Convention”.

The CHAIR asked the Committee if it was willing to accept those proposals as new paragraphs 10 and 11 of the draft decision.

Mr TRIVEDI (India) said that his delegation’s proposal to the set up an intergovernmental mechanism dealt with the matter of needs assessment more comprehensively in a single paragraph than in the two paragraphs proposed by the representative of New Zealand. He could not accept an amendment that did not include such a mechanism to oversee implementation of the workplan and budget for 2010–2011, and requested that his proposal be reconsidered and reflected in a footnote.

Dr ANIBUEZE (Nigeria) considered the proposal by the representative of New Zealand acceptable and an entirely separate matter from the intergovernmental mechanism proposed by the representative of India.

The CHAIR said that the Indian delegation’s concerns would be reflected in the summary records and that, in the absence of consensus on the new paragraphs 10 and 11 proposed by the representative of New Zealand, the draft decision on the workplan and budget for 2010–2011 would end with the new paragraph 9 just approved. He asked the Committee to confirm that it approved the draft decision as amended, together with its annexes and amended explanatory note.

The draft decision, as amended, including its annexes and amended explanatory note were approved.¹

¹ The text, as further amended by the Committee in its ninth meeting, section 1, was transmitted to the Conference of the Parties and adopted as decision FCTC/COP3(19).

3. OTHER MATTERS IDENTIFIED IN THE ARTICLES OF THE CONVENTION AND DECISIONS OF THE CONFERENCE OF THE PARTIES: Item 5 of the Agenda (resumed)

Reporting and exchange of information: Item 5.3 of the Agenda (resumed)

Reporting instrument – Group 2 questions (decision FCTC/COP2(9): Item 5.3.3 of the Agenda (Document FCTC/COP/3/16 Rev.1) (resumed from section 1)

The CHAIR invited the representative of Canada to summarize the conclusions of the open-ended working group on the reporting instrument and the follow-up required to finalize the agenda item.

Mr HAZLEWOOD (Canada) stated the main recommendations of the open-ended informal working group, namely that: both the Group 1 and Group 2 questions, as revised by the working group, be adopted; the Convention Secretariat be mandated to develop a set of step-by-step instructions to assist in completing Group 2 questions, and to make it available to the Parties via the Internet within six months of the adjournment of the third session of the Conference of the Parties; and the Bureau be mandated to make minor amendments to the Group 2 questions, should that become necessary during the development of the step-by-step instructions.

The CHAIR thanked the representative of Canada for his able leadership of the working group and asked the Parties if they were willing to authorize the Convention Secretariat to prepare the final version of the report of Committee B overnight, on the basis of the working group's recommendations.

It was so agreed.

He drew attention to the conclusions of the open-ended working group on the revision of the Group 2 questions, which read:

Reporting instrument – Group 2 questions¹

1. In accordance with decision FCTC/COP2(9) of the second session of the Conference of the Parties, the Convention Secretariat, under the guidance of the Bureau and with the assistance of competent departments within the WHO and other international experts, elaborated a draft of the Group 2 questions (phase 2) of the reporting instrument of the WHO Framework Convention on Tobacco Control. More than 15 national focal points and experts in all WHO regions provided input during preparation of this draft in the form of suggestions received during revision of the first phase of the questionnaire and at the consultation organized by the Convention Secretariat on 4 July 2008 in Geneva.

2. Overall, the proposed second phase (Group 2 questions) of the reporting instrument incorporates or reflects the following:

- recommendations and guidance contained in decisions FCTC/COP1(14) and FCTC/COP2(9) of the Conference of the Parties on preparation of the reporting instrument;

¹ The reporting instrument – Group 2 questions – is reproduced in the Annex to decision FCTC/COP3(17).

- retention of most Group 1 questions (phase 1 of the reporting instrument), in order to ensure continuity and comparability for tracking progress over different reporting periods;
- new questions that reflect developments, needs and requirements for a five-year implementation period;
- changes to the format and resolved technical problems identified during revision of phase 1 of the reporting instrument at the request of the Conference of the Parties;
- Parties' feedback and suggestions made in their initial reports after the first two-year implementation period;
- feedback received from representatives of Parties and experts in WHO regions who participated in pilot testing of the revised phase 1 of the reporting instrument earlier in 2008, particularly suggestions that went beyond the scope of the revision requirements and which were kept for reflection during preparation of the second phase;
- elements of existing guidelines for implementation of Article 8 and draft guidelines proposed by working groups for implementing Articles 5.3, 11 and 13 of the Convention;
- the results of further review of the text of the Convention to ensure that phase 2 adequately reflects reporting needs and requirements that were not incorporated in phase 1; and
- questions that were optional in the first phase of reporting that are now proposed as mandatory; it was considered that most Parties would be able to provide the requested information after the five-year implementation period.

3. In addition, decision FCTC/COP2(9) provides specific guidance for preparation of Group 2 questions. The table below shows how the recommendations were addressed.

Issue to be addressed	Relevant section	How the issue was addressed
Increasing comparability of national data over time	All	Most of the original questions have been retained in order to ensure comparability with the phase 1 reporting instrument. In section 2, the use of standard age groups and definitions comparable with those reported in the phase 1 instrument has been maintained.
Provision of data in a standardized way	2	Standard categories for reporting the prevalence of tobacco use were proposed, such as "current", "daily", "occasional", "former" and "never" smokers or tobacco users, as well as standard age groups in 10-year categories (e.g. 25–34, 35–44).
Clear definitions and standards	2 and 3	The step-by-step instructions booklet contains definitions of the categories used and clarifies the terms used in legislative measures, such as "complete" or "partial" ban on tobacco use in public places or "comprehensive" or "partial" ban on tobacco advertising, promotion and sponsorship.

Issue to be addressed	Relevant section	How the issue was addressed
Level of detail and comprehensiveness of documentation	2–4	As a general rule, the aim of the proposed Group 2 questions is to collect clear, comparable, analysable data. Parties are therefore requested to provide data in the format given in the questionnaire (data entry fields, spaces, tables). For example, quantitative data are required in the spaces provided. Parties that wish to submit additional or supporting documentation can do so by sending it to the Secretariat as attachments. Reporting on legislative measures is now in the form of yes–no questions. Additional data entry fields are provided at the end of all subsections in sections 3 and 4 for more detailed information, and separate spaces are provided for brief descriptions of the progress made in the area covered by that subsection. More detailed documents (e.g. texts of legislation or other regulation) can be sent to the Secretariat as attachments.
Data entry formats	All	Standardization of data entry formats was begun during revision of the phase 1 instrument and has continued in phase 2. The proposed instrument is in tabular format with numbering, allowing easy reference to questions. Most of the open-ended questions have been changed to multiple choice, yes–no questions. Data can also be entered into the fields at the end of the questions.
Harmonization, synergy and avoidance of duplication	All	Section 1 (“Origin of the report”), has been simplified, and only the name of the contact person and of the official responsible for submitting the report are requested. Section 2 of the revised phase 1 instrument (“Demographics”), has been deleted, as these data, if needed, can be obtained from the WHO web site. ¹ Efforts have been made to harmonize questions, definitions and standards in section 2 with those in other data collection systems. Provision of these data does not impose an additional burden on reporting Parties, as data collected by different systems can be reported.

¹ http://www.who.int/whosis/database/core/core_select.cfm.

Issue to be addressed	Relevant section	How the issue was addressed
Indicators of gender-sensitive policies	2 and 3	New gender-specific indicators have been introduced, such as in the subsection on the prevalence of tobacco use, which are also requested for young people. Gender-specific data can also be provided for the new question on exposure to tobacco smoke. Another new question, requesting quantitative data on tobacco growing, requires that the data be broken down by gender, if these are available. In section 3, information is requested on gender-specific programmes with respect to implementation of Articles 12 and 14. In addition, step-by-step instructions on the Convention Secretariat's web site will provide guidance on where gender-specific data can be reported.
Revision of the format	All	The format of all sections of the questionnaire has been consolidated, and the numbering has been simplified to give a stepwise approach. In section 3 (legislation, regulations, policies), the order of subsections now follows the flow of Articles in the Convention, with questions on: General obligations (Article 5), Measures relating to the reduction of demand for tobacco (Articles 6–14), Measures relating to the reduction of supply of tobacco (Articles 15–17) and Other measures and policies (Articles 18–20). All subsections have a header, and, at the end of each, a brief description is requested of progress made by Parties in that area over the past three years or after submission of the previous report. Further space is provided for any other information related to the issue.

The CHAIR recalled that the Committee had reached a consensus on agenda items 5.1, 5.2, 5.3.1, 5.3.2, 5.4, 6.1, 6.2 and 6.3, and pointed out that its final report, to be considered at the next meeting, would contain all the texts relevant to those items.

It was so agreed.

The meeting rose at 22:20.

NINTH MEETING

Saturday, 22 November 2008, at 10:15

Chair: Mr M. RAJALA (European Community)

1. DRAFT REPORT OF COMMITTEE B (Document FCTC/COP/3/23)

The CHAIR drew attention to the draft report of Committee B, which contained three draft decisions, on reporting and exchange of information, consideration of a logo of the WHO Framework Convention on Tobacco Control, and the workplan and budget 2010–2011, with a recommendation on the projected shortfall in the budget for the period 2008–2009. Time was too short for the Parties to consider the report in detail or to deliver statements. Any concerns, including errors, that the previous day's agreed amendments were not reflected in the text should be brought to the attention of the Convention Secretariat so that the necessary corrections could be made.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, noted that the Committee was being asked to approve a 72-page document of fundamental importance to the future work of the Convention Secretariat in a matter of a few minutes, even though it contained a number of errors. The agreements reached during the previous day's discussions should be reflected in the document in a constructive manner.

Dr ZAIN (Malaysia), referring to paragraph 4 of the draft decision on reporting and exchange of information, suggested that the word "minor" be deleted to allow for a more substantial revision of the Group 2 questions, if so required. The paragraph as it stood did not take into account requests from a number of Parties that the Bureau be mandated to make any necessary amendments, minor or otherwise. In addition, the last part of the paragraph, beginning with the words "should that become necessary", should also be deleted.

Ms SABISTON (Canada), speaking in her capacity as chair of the open-ended informal working group that had helped produce the draft decision, said that the wording of the paragraph reflected the will of the Parties that had participated in the working group. However, other Parties had had very little time to examine the draft decision and she was therefore prepared to endorse the amendment proposed by the representative of Malaysia.

Dr McCOOL (New Zealand), Ms KIPTUI (Kenya) and Dr ANIBUEZE (Nigeria), speaking on behalf of the Parties in the WHO African Region, supported the amendment proposed by the representative of Malaysia.

The CHAIR said that, in the absence of any objection, he would take it that the proposed amendment was acceptable.

It was so agreed.

Mr NDAO (Senegal) commended both the efforts of the representative of France on behalf of the European Union to make the workplan and budget for 2010–2011 more transparent and the work

of the Convention Secretariat in producing document FCTC/COP/3/23. Item 4.5 of the workplan and budget had been deleted and the corresponding allocation of US\$ 180 000 had been transferred to item 4.3, in accordance with the consensus reached at the previous meeting. However, there was no mention under the latter item of the activity to which the money was meant to be reallocated, namely to create a web site and to ensure coordination between WHO's Tobacco Free Initiative and the Convention Secretariat for the setting up of knowledge hubs.

The CHAIR said that the language of item 4.3 did not need amending as the statements made on the use of the money concerned had been recorded and the official records would provide the Convention Secretariat with the necessary guidance.

Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, said that he saw no sign in the report of the organizational chart which the Convention Secretariat had undertaken to prepare. Moreover, section 5.2 of the workplan and budget for 2010–2011 had not been amended to reflect his concerns about the size of the budget for reviewing the accreditation of nongovernmental organizations: the corresponding figure should have been reduced from US\$ 180 000 to US\$ 140 000. Nor did the text take into account his suggestion that the review should be carried out by the Convention Secretariat and the Bureau. In addition, the draft decision on reporting and exchange of information appeared on the second page of the English version of the report but on page 65 of the French; and the word “voluntary” should be inserted between “potential” and “assessed contributions” in the title of Annex 2 in the English version.

The CHAIR said that the errors noted by the representative of France would be corrected.

Ms SÁNCHEZ HERNÁNDEZ (Mexico), speaking on behalf of the Parties in the WHO Region of the Americas, supported the comments of the representative of France on the subject of missing documentation. She endorsed the proposal made by the representative of Brazil at the previous meeting that a background paper on Article 19 of the Framework Convention be submitted by WHO's Tobacco Free Initiative at the fourth session of the Conference of the Parties. She noted that the Spanish version of the report was 10 pages shorter than the English.

Mr TRIVEDI (India), referring to the comments of the representative of France, reiterated his unwavering opposition to the possibility of the review of the accreditation of nongovernmental organizations or, for that matter, of reporting arrangements under the Framework Convention being carried out by the Convention Secretariat. The latter did not have a mandate for that work; all such reviews must be conducted by the Parties themselves; and they could not go ahead without an agreement to establish an intergovernmental mechanism, which might not be reached before the next session of the Conference of the Parties.

Mr NDAO (Senegal), Ms CAVALCANTE (Brazil), Mr PAREDES (Costa Rica), Dr ELSUBAI (Sudan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, Dr ANIBUEZE (Nigeria), speaking on behalf of the Parties in the WHO African Region, and Mr GUILHOU (France), speaking on behalf of the Parties in the European Union, endorsed the draft report of Committee B, as amended.

The CHAIR said that, in the absence of any objection, and bearing in mind that any discrepancies between document FCTC/COP/3/23 and the amendments agreed in the course of its deliberations would be corrected, he would take it that the Parties wished to approve the report of Committee B with its three draft decisions, as amended.

The Committee approved the three draft decisions, as amended,¹ and adopted its report.

2. CLOSURE

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

The meeting rose at 11:10.

¹ Transmitted to the Conference of the Parties in the Committee's report and adopted as decisions FCTC/COP3(17), FCTC/COP3(18) and FCTC/COP3(19).

PART II
REPORTS OF COMMITTEES

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

CREDENTIALS

Report¹

[FCTC/COP/3/21 – 19 November 2008]

1. The Bureau of the Conference of the Parties examined the credentials delivered to the Convention Secretariat, in accordance with Rule 18 of the Rules of Procedure for the Conference of the Parties.
2. The credentials of the representatives of the Parties shown in the Annex below were found to be in conformity with the Rules of Procedure. It is therefore proposed that the Conference of the Parties recognize their validity.
3. The Bureau examined notifications received from the Parties listed below which, because they were not original documents, could not be considered as constituting formal credentials. It is therefore recommended to the Conference of the Parties that they be entitled to participate provisionally in the session with all rights in the session, pending the arrival of their formal credentials:

Algeria, Barbados, Botswana, Canada, Colombia, Costa Rica, Egypt, Estonia, Finland, Italy, Kyrgyzstan, Mauritius, Netherlands, Pakistan, Papua New Guinea, Philippines, Qatar, Saint Lucia, Spain, Syrian Arab Republic and Tonga.

ANNEX

Albania, Angola, Armenia, Australia, Austria, Bahrain, Bangladesh, Belgium, Benin, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Comoros, Congo, Cook Islands, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, European Community, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Mongolia, Myanmar, Namibia, Nauru, Nepal, New Zealand, Nigeria, Niue, Norway, Oman, Palau, Panama, Paraguay, Peru, Portugal, Republic of Korea, Romania, Russian Federation, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Sri Lanka, Sudan, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Turkey, Uganda, Ukraine, United Arab

¹ Amended and approved by the Conference of the Parties at its third and fourth plenary meetings; see decision FCTC/COP3(2).

Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Yemen and Zambia.

COMMITTEE A

First report^{1,2}

[FCTC/COP3/22 – 22 November 2008]

Committee A recommends to the Conference of the Parties the adoption of nine decisions under the following agenda items:

4. Matters identified in decisions taken by the Conference of the Parties at its second session

4.1 Elaboration of a protocol on illicit trade in tobacco products – report of the Intergovernmental Negotiating Body (decision FCTC/COP2(12))

Elaboration of a protocol on illicit trade in tobacco products [FCTC/COP3(6)]

4.3 Elaboration of guidelines for implementation of Articles 9 and 10 of the Convention (decision FCTC/COP2(14)): Progress report of the working group

Elaboration of guidelines for implementation of Articles 9 and 10 (*Regulation of the contents of tobacco products and Regulation of tobacco product disclosures*) [FCTC/COP3(9)]

4.4 Elaboration of guidelines for implementation of Article 11 of the Convention (decision FCTC/COP2(14))

Guidelines for implementation of Article 11 (*Packaging and labelling of tobacco products*) [FCTC/COP3(10)]

4.5 Elaboration of guidelines for implementation of Article 12 of the Convention (decision FCTC/COP2(14)): Progress report of the working group

Elaboration of guidelines for implementation of Article 12 (*Education, communication, training and public awareness*) [FCTC/COP3(11)]

4.6 Elaboration of guidelines for implementation of Article 13 of the Convention (decision FCTC/COP2(8))

Guidelines for implementation of Article 13 (*Tobacco advertising, promotion and sponsorship*) [FCTC/COP3(12)]

Recommendations on possible key elements of a protocol on cross-border advertising, promotion and sponsorship (in relation to Article 13) [FCTC/COP3(13)]

¹ Approved by the Conference of the Parties at its fourth plenary meeting.

² For the second report of Committee A, see verbatim record of the fourth plenary meeting.

Measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship (in relation to Article 13) [FCTC/COP3(14)]

4.7 Report on tobacco dependence and cessation (in relation to Article 14 of the Convention) (decision FCTC/COP2(14))

Elaboration of guidelines for implementation of Article 14 (*Demand reduction measures concerning tobacco dependence and cessation*) [FCTC/COP3(15)]

4.8 Study group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) (decision FCTC/COP2(13))

Working group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18) [FCTC/COP3(16)]

The Committee agreed not to take action on a draft decision entitled “Rule 28.1 of the Rules of Procedure of the Conference of the Parties”. However, in view of the ambiguity arising from the interpretation of the word “term” in Rule 28.1, the Committee recommends that the Conference of the Parties, when establishing future subsidiary bodies under Rule 25 of its Rules of Procedure, consider adoption of the following recommendation regarding the duration of the term of office of the officers of those bodies.

Recommendation by Committee A [FCTC/COP3(20)]

COMMITTEE B

Report¹

[FCTC/COP/3/23 – 22 November 2008]

Committee B recommends to the Conference of the Parties the adoption of three decisions under the following agenda items:

5. Other matters identified in the Articles of the Convention and decisions of the Conference of the Parties

5.3 Reporting and exchange of information

5.3.2 Reporting instrument – revised format for Group 1 questions (decision FCTC/COP2(9))

5.3.3 Reporting instrument – Group 2 questions (decision FCTC/COP2(9))

Reporting and exchange of information [FCTC/COP3(17)]

5.4 Consideration of a logo of the WHO Framework Convention on Tobacco Control

Logo of the WHO Framework Convention on Tobacco Control [FCTC/COP3(18)]

¹ Approved by the Conference of the Parties at its fourth plenary meeting.

6. Budget and programme of work of the Conference of the Parties

6.2 Interim performance report for the 2008–2009 budget and workplan (decision FCTC/COP2(11))

Recommendation by Committee B [FCTC/COP3(21)]

6.3 The next budget and workplan of the Conference of the Parties

Workplan and budget for the financial period 2010–2011 [FCTC/COP3(19)]

In addition to these decisions, the Committee considered under agenda item 6.2 the Interim Performance Report for 2008–2009 workplan (decision FCTC/COP1(11)) and in this connection, noted the Secretariat's projections contained in the attached White Paper No. 3 of a budget gap for the period 2008–2009 of approximately US\$ 1 035 000. With respect to this gap, the Committee recommended that, should it occur as projected, the Convention Secretariat address it by giving priority to its work to organize the Conference of the Parties and its subsidiary bodies.
