



## WHO framework convention on tobacco control

### Report by the Secretariat

1. By resolution WHA52.18 the Fifty-second World Health Assembly established an Intergovernmental Negotiating Body, open to all Member States, to draft and negotiate the proposed WHO framework convention on tobacco control and possible related protocols. The present report outlines key outcomes of the first session of the Negotiating Body. A report on the second session will be presented in an addendum to this document.
2. The first session of the Intergovernmental Negotiating Body was preceded by two days of public hearings. WHO received 514 written submissions. During the hearings, testimonies were given by representatives of 144 private sector and nongovernmental organizations and institutions, covering all regions of the world.
3. The hearings highlighted the key differences between the position of tobacco companies and related bodies and public health institutions and organizations on the role of taxes on tobacco products; the risk of environmental tobacco smoke and passive smoking; and the contribution of advertising to smoking, especially among youth. Most tobacco companies questioned whether the convention could be a single global regulation, citing national sovereignty, the appropriateness of regulation at the national level, and self-regulation. Representatives of public health institutions on the other hand, strongly argued that a truly viable tobacco control had to be global in reach, while respecting country and culture-specific solutions.
4. The first session of the Intergovernmental Negotiating Body on the WHO framework convention on tobacco control (Geneva, 16 to 21 October 2000) was attended by representatives of 148 Member States, and observers from the European Community, nine other intergovernmental organizations, and 25 nongovernmental organizations.
5. The Negotiating Body elected Mr C.L. Nunes Amorim (Brazil) as Chairman. Representatives of six Member States – one from each WHO region – were elected to serve as Vice-Chairmen: Australia, India, the Islamic Republic of Iran, South Africa, Turkey and the United States of America. The representatives of South Africa and Turkey were appointed to serve concurrently as Rapporteurs.
6. The Negotiating Body decided to begin its substantive work with a discussion on the proposed draft elements for the framework convention, as prepared by the working group on the framework convention (October 1999 and March 2000).<sup>1</sup> There was wide agreement that the final report of the working group<sup>2</sup> was a sound reference document for initiating negotiations.

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<sup>1</sup> Document A/FCTC/INB1/2.

<sup>2</sup> Documents A53/12 and A53/12 Corr.1.

7. The review of core obligations and guiding principles helped the discussion of what should be included in the framework convention itself and what might be included in protocols. It also provided guidance for the future work of the three working groups established by the Negotiating Body on the Chairman's proposal. The objective of the working groups is to advance negotiations by way of drafting clear texts, reaching compromise solutions, and reducing the number of options. Working group 1 is assigned research; regulation of tobacco product disclosures; tobacco sales to youth; packaging and labelling; treatment of tobacco dependence; media, communications and education; exposure to tobacco smoke; regulation of the contents of tobacco products; and advertising, promotion and sponsorship. Working group 2 will address surveillance; information exchange; tobacco taxes; tax-free and duty-free sales; subsidies; measures to eliminate smuggling; other trade-related issues; and economic and agricultural transition. Working group 3 is assigned institutions; implementation (including settlement of disputes); liability and compensation; development of the convention; final clauses; financial mechanisms and financial resources; and cooperation in the scientific, technical and legal fields. The preamble, definitions, objectives and guiding principles of the convention will be dealt with in plenary meetings. Each of the three working groups will have two co-Chairs. The co-Chairs of working group 1 would be nominated by France and Thailand. Those of working group 2 would be nominated by Canada and one as-yet-undetermined African country to be designated by the African region. The co-Chairs of working group 3 would be nominated by Egypt and New Zealand.

8. The Negotiating Body agreed that the Chairman should prepare a draft text indicating possible compromises and a reduced number of options as compared to the reference document, as well as containing some reorganization of the draft elements, on the basis of comments made during the first session.<sup>1</sup> In preparing the Chair's text, each of the textual proposals submitted and recommendations made by Member States<sup>2</sup> were thoroughly reviewed and compared with the reference document, the structure of the proposed draft elements document was also carefully considered. The draft provisions contained in the Chair's text represent a compromise reached by the Chair after the review, taking into account the request of the Negotiating Body that he should prepare a clean text and exercise his best judgement in so doing.

9. The Chair's text also proposes the negotiation of three initial protocols, either before adoption of the convention, under the auspices of the Negotiating Body, or after its entry into force, by the Conference of the Parties, in the areas of tobacco advertising, promotion and sponsorship; elimination of illicit trade in tobacco products; and regulation of the contents of tobacco products, tobacco product disclosures, and packaging and labelling of tobacco products. The Chair explained in his letter to Member States<sup>3</sup> that a considerable degree of support was expressed during the first session for protocols to be formulated on these subjects.

10. The Chair's text of a framework convention on tobacco control was dispatched well in advance of the second session of the Negotiating Body, providing Member States adequate time to review it, and to prepare their comments accordingly.

11. Canada and Thailand co-chaired an informal working group on the question of extended participation of nongovernmental organizations in the work of the Negotiating Body, in accordance with resolution WHA53.16 and in response to demands for them to play a role in the negotiating process. A number of Member States expressed a preference for such organizations to participate in

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<sup>1</sup> Document A/FCTC/INB2/2.

<sup>2</sup> Document A/FCTC/INB2/3.

<sup>3</sup> Document A/FCTC/INB2/DIV/1.

accordance with WHO's existing rules. On the recommendation of the informal working group, the Negotiating Body agreed on the following points:

- (1) nongovernmental organizations in official relations with WHO should have access, as observers, to the plenary and working groups that functioned as committees of the whole;
- (2) other groups established for a particular purpose should be closed, but a limited number of nongovernmental organizations might be invited by the chairman, with the agreement of Member States participating in those groups, to make presentations in order to clarify issues of relevance to the discussion;
- (3) time should be scheduled at the end of every morning or afternoon meeting for nongovernmental organizations to make statements in accordance with paragraph 6.1(i) of the WHO Principles Governing Relations between the World Health Organization and Nongovernmental Organizations;
- (4) copies of statements should be provided to the Chairman sufficiently in advance to ensure their review.

The Negotiating Body also agreed to encourage the Executive Board to explore ways of expediting the review of applications for official relations from organizations seeking the necessary standing during the negotiations.

12. The Executive Board, in decision EB107(2), authorized the Chairman of the Executive Board, acting jointly with the Chairman of the Standing Committee on Nongovernmental Organizations, to admit provisionally nongovernmental organizations into official relations with WHO. This decision will remain applicable, unless terminated or revised by the Board, until the adoption of the framework convention. The facility established by this decision will apply to nongovernmental organizations that request official relations solely or also for the purpose of participating in the work of the Negotiating Body, subject to the following conditions:

- (1) nongovernmental organizations must be in working relations with WHO at the time of submission of their application, so that approximately two years of working relations will have elapsed by the time the Executive Board formally reviews their applications under point (3) below, and must otherwise meet the criteria established in section 3 of the Principles Governing Relations between the World Health Organization and Nongovernmental Organizations;*
- (2) the mandates of the nongovernmental organizations concerned must be relevant to the work of the Negotiating Body;*
- (3) the Executive Board will review nongovernmental organizations in provisional relations at its January session subsequent to their admission into provisional official relations, for the purpose of confirming or terminating such relations in accordance with normal procedures.*

13. Member States also called for technical work to be continued on issues such as trade in tobacco products, technical support to countries, compensation and liability, monitoring and implementation, and financial mechanisms. WHO has convened a panel of legal experts (Geneva, 9 to 10 April 2001) to review the nature and scope of possible liability and compensation provisions for the framework convention.

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**ACTION BY THE HEALTH ASSEMBLY**

14. The Health Assembly is invited to note the above report.

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