



WORLD HEALTH ORGANIZATION

FIFTY-SIXTH WORLD HEALTH ASSEMBLY
Provisional agenda item 13

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WHO framework convention on tobacco control: report by the Chair of the Intergovernmental Negotiating Body

1. In May 1999 the Fifty-second World Health Assembly paved the way for multilateral negotiations on the WHO framework convention on tobacco control and possible related protocols. By resolution WHA52.18 it established two bodies in order to draft the framework convention, to complete the negotiations and to submit the final text for consideration by the Fifty-sixth World Health Assembly: a technical working group, to prepare the proposed draft elements of the framework convention; and an intergovernmental negotiating body, to draft and negotiate the proposed framework convention and possible related protocols. Both bodies were open to all Member States and regional economic integration organizations to which their Member States had transferred competence over matters related to tobacco control.

2. The working group held two sessions, both in Geneva (25-29 October 1999 and 27-29 March 2000). Its output was a document with provisional texts of proposed draft elements for the framework convention, which was submitted to the Fifty-third World Health Assembly with the comments of the working group.¹ In resolution WHA53.16 the Health Assembly called upon the Intergovernmental Negotiating Body to commence negotiations with an initial focus on the draft framework convention, without prejudice to future discussions on possible protocols, to report progress to the Fifty-fourth World Health Assembly, and to examine the question of extended participation by nongovernmental organizations as observers.

3. The first session of the Intergovernmental Negotiating Body (Geneva, 16-21 October 2000) was preceded by a public hearing on issues surrounding the framework convention, convened by the Director-General in order to provide a forum for the public health community, the tobacco industry and farmers' groups to submit their case; records of the proceedings were made available to the Negotiating Body and, through the WHO web site, to the public. At the first session itself, Ambassador Celso Amorim of Brazil was elected as Chair, and a bureau was established with Vice-Chairs from Australia, India, Islamic Republic of Iran, South Africa, Turkey and the United States of America.² The provisional texts of the proposed draft elements for a WHO framework convention on tobacco control,³ which had been prepared by the working group, were accepted as a sound basis for

¹ Document A53/12.

² Annex 1 lists the Chairs, Vice-Chairs and facilitators throughout the process of preparing and negotiating the framework convention on tobacco control.

³ Document A/FCTC/INB1/2.

initiating negotiations. Subsequently, Ambassador Amorim prepared a Chair's text of the framework convention on tobacco control;¹ this first draft was released in January 2001 as a basis for further negotiations at the second session.

4. A report on participation of nongovernmental organizations in the work of the Intergovernmental Negotiating Body was presented to the Executive Board at its 107th session in January 2001.² In accordance with the provisions of decision EB107(2) of the Executive Board, the Chairman of the Board acting jointly with the Chairman of the Standing Committee on Nongovernmental Organizations admitted two nongovernmental organizations, the International Non-Governmental Coalition Against Tobacco and Infact, into official relations with WHO as of 26 April 2001.³

5. In further preparation for the second session of the Negotiating Body, regional intersessional consultations were convened in most regions and subregions. (Additional regional and subregional intersessional consultations took place in preparation for each of the subsequent sessions of the Negotiating Body, see Annex 2.)

6. At the second session of the Intergovernmental Negotiating Body (Geneva, 30 April – 5 May 2001), responsibility for consideration of the proposed draft elements was divided between three working groups. The principal output was the set of three Co-Chairs' working papers, an inventory of textual proposals made at the session merged with the Chair's original text. These working papers became the rolling draft text of the framework convention.

7. At the third session (Geneva, 22-28 November 2001), two working groups issued revised texts and Working Group 1 later drafted a text. These documents were used to further the negotiations during the fourth session.

8. Having taken over as Permanent Representative of Brazil in Geneva in replacement of Ambassador Amorim, I was elected as Chair of the Intergovernmental Negotiating Body on the WHO framework convention on tobacco control during its fourth session (Geneva, 18-23 March 2002). It was agreed that I should prepare a new Chair's text, which would form the basis of negotiations during the fifth session of the Negotiating Body (14-25 October 2002). The text was released in July 2002. An international technical conference on illicit trade in tobacco products was hosted by the United States of America at the United Nations headquarters in New York (30 July – 1 August 2002).

9. The first four sessions of the Negotiating Body had considered numerous textual alternatives. Concerted deliberations at the fifth session narrowed the options, resulting in more focused negotiations. After a first reading, in plenary, of the new Chair's text, six issues were identified and discussed in open-ended informal meetings: advertising, promotion and sponsorship; financial resources; illicit trade in tobacco products; liability and compensation; packaging and labelling; and trade and health. Informal groups also held discussions on legal, institutional and procedural issues and use of terms. Substantial advances in the negotiations were made and consensus was reached in several areas. On the basis of the outputs of the informal sessions and the intersessional consultations

¹ Document A/FCTC/INB2/2.

² Document EB107/19.

³ Document A/FCTC/INB2/6 Add.1.

with various delegations and groups of delegations, I issued a revised Chair's text of a framework convention on tobacco control on 13 January 2003.

10. The sixth and final session of the Intergovernmental Negotiating Body ran from 17 February to 1 March 2003. The negotiations were intense and broad ranging. Two important issues, advertising, promotion and sponsorship and financial resources, were discussed in two informal groups. At the final plenary meeting, the Negotiating Body agreed to transmit the text to the Fifty-sixth World Health Assembly for consideration for adoption in accordance with Article 19 of the Constitution. The draft WHO framework convention on tobacco control¹ is thus submitted to the Health Assembly for consideration for adoption, pursuant to resolution WHA52.18. At its final plenary meeting, the Negotiating Body agreed that I should draft a resolution recommending adoption of the WHO framework convention on tobacco control by the Health Assembly.²

11. Resolution WHA52.18 established the Negotiating Body to negotiate both the framework convention and possible related protocols. Negotiation of protocols alongside that of the convention had been discussed at several sessions of the Negotiating Body, and it had been agreed that priority should be given to the completion of the convention so that it could be adopted according to the originally defined target date of May 2003.³

12. At its sixth session the Negotiating Body agreed that discussion on the negotiation of protocols should take place at the Fifty-sixth World Health Assembly.⁴ On the basis of the draft text of the WHO Framework Convention on Tobacco Control, two initial areas were identified for protocols: cross-border advertising, promotion and sponsorship of tobacco products and illicit trade in tobacco products.⁵

13. Two options have been set out for the timing of negotiation of protocols: either between adoption of the Convention and its entry into force, or after its entry into force.⁶ Should Member States decide to initiate negotiation on protocols following the planned adoption of the Convention by the Fifty-sixth World Health Assembly, a resolution by the Health Assembly would be required. If protocols are to be negotiated by the Conference of the Parties after entry into force of the Convention, no further action is required. There are precedents for both approaches in the negotiation of previous treaties.

¹ See document A56/8, Annex.

² The draft resolution is contained in document A56/8 Rev.1.

³ Document A/FCTC/INB5/PL/SR/7.

⁴ Document A/FCTC/INB6/PL/SR/4, section 2.

⁵ See document A56/8, Annex, Article 13, paragraph 8, and Article 15, footnote.

⁶ See document A/FCTC/INB6/INF.DOC./2.

14. At a meeting of the Permanent Missions to the United Nations in Geneva with the Chair of the Negotiating Body (22 April 2003), the prevailing view was that negotiation on protocols should be left until after entry into force of the Convention and the convening of the first Conference of the Parties. It was argued that the efforts of Member States at this stage should concentrate on assuring entry into force of the Convention and that negotiation of protocols might divert attention from that objective. This approach would also ensure that only Parties to the Convention would be involved in protocol negotiations, in conformity with the Framework Convention, Article 33, paragraph 4.

15. The agreed text is a landmark for the future of global public health and has major implications for WHO's health goals. The conclusion of the negotiating process of the WHO framework convention on tobacco control, in full accordance with Health Assembly resolutions, represents a milestone for the promotion of public health and provides new legal dimensions for international health cooperation.

ANNEX 1

**LIST OF CHAIRS, VICE-CHAIRS AND FACILITATORS IN THE PROCESS OF
PREPARING AND NEGOTIATING THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL**

Prenegotiation working group

Chair

K. LEPPÖ (Finland)

Vice-Chairs

BRAZIL (V.L. da Costa e Silva)

HONG KONG SPECIAL ADMINISTRATIVE REGION (CHINA) (M. Chan)

Rapporteurs

JAPAN (Y.M. Kobayashi)

MOROCCO (N. Chaouki)

Intergovernmental Negotiating Body on the WHO framework convention on tobacco control

Chair

C. AMORIM, (Brazil) (October 2000 – November 2001)

D. HOHMAN (United States of America) (November 2001 – March 2002)

L.F. DE SEIXAS CORRÊA (Brazil) (March 2002 – March 2003)

Bureau members

AUSTRALIA (J. Bennett)

INDIA (S. Kunadi and H.S. Puri)

ISLAMIC REPUBLIC OF IRAN (A. Khorram and A.M. Shabestari)

SOUTH AFRICA (P. Lambert)

TURKEY (H. Dilemre)

UNITED STATES OF AMERICA (D. Hohman and R. Forbes)

Co-Chairs of the three formal working groups in the second, third and fourth sessions of the Intergovernmental Negotiating Body

Working Group 1

FRANCE (J.-F. Girard)

THAILAND (Hatai Chitanondh and Virasakdi Futrakul)

Working Group 2

CANADA (E. Aiston)
ZIMBABWE (T. Stamps¹ and B.G. Chidyausiku²)

Working Group 3

EGYPT (I. Seddik)
NEW ZEALAND (R. Farrel¹ and T. Caughley²)

Facilitators of informal groups for the fifth session of the Intergovernmental Negotiating Body

CANADA (E. Aiston)
MALAWI (W.O.O. Sangala)
NEW ZEALAND (T. Caughley)
NORWAY (T. Hetland)
PHILIPPINES (A. Padilla)
SAINT LUCIA (E. Emmanuel)

Facilitators of informal groups for the sixth session of the Intergovernmental Negotiating Body

CANADA (E. Aiston)
PHILIPPINES (A. Padilla)
SOUTH AFRICA (P. Lambert)

¹ For the second and third sessions of the Intergovernmental Negotiating Body.

² For the fourth session of the Intergovernmental Negotiating Body.

ANNEX 2

**INTERSESSIONAL MEETINGS
FOR THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL**

Meeting	Venue, date
In preparation for the second session of the Intergovernmental Negotiating Body	
Consultative meeting of Member States in the African Region on the framework convention on tobacco control (preparatory meeting: 21 African countries)	Johannesburg, South Africa, 12-14 March 2001
Preparatory meeting on the framework convention on tobacco control for the South-East Asia Region	Jakarta, 5-6 April 2001
Preparatory meeting on the framework convention on tobacco control for the Caribbean	Kingston, 9-11 April 2001
In preparation for the third session of the Intergovernmental Negotiating Body	
First regional meeting for Member States in the Eastern Mediterranean Region	Tehran, 15-16 September 2001
Consultative meeting of Member States in the African Region	Algiers, 2-4 October 2001
Consultative meeting of Pacific island Member States	Sydney, Australia, 12-13 October 2001
Consultative meeting of Member States of the South-East Asia Region	Thimphu, 30-31 October 2001
Consultative meeting of Commonwealth of Independent States	Moscow, 28-29 September 2001
Latin American Symposium on the framework convention on tobacco control	Rio de Janeiro, Brazil, 5-8 November 2001
Consultation on the framework convention on tobacco control to develop a common position of the Baltic States	Tallinn, 16 November 2001
In preparation for the fourth session of the Intergovernmental Negotiating Body	
Consultative meeting of Member States in the South-East Asia Region	Jaipur, India, 13-15 February 2002
WHO European Ministerial Conference for a Tobacco-Free Europe	Warsaw, 18-19 February 2002
Consultative meeting of Member States in the African Region	Abidjan, Côte d'Ivoire, 26 February – 1 March 2002
Meeting of Member States in the Eastern Mediterranean Region	Cairo, 2-4 March 2002

Meeting	Venue, date
Meeting of English-speaking Caribbean Member States	Lima, 4-5 March 2002
Intersessional meeting on the framework convention for tobacco control for the Association of South East Asian Nations	Penang, Malaysia, 4-6 March 2002
Meeting of Latin American and Caribbean Group Member States	Lima, 6-7 March 2002
In preparation for the fifth session of the Intergovernmental Negotiating Body	
International Conference on Illicit Trade in Tobacco	New York, 30 July – 1 August 2002
Second intersessional meeting for the Pacific island States	Nouméa, New Caledonia, 19-22 August 2002
Fourth South-East Asian intersessional consultation	Yangon, 28-30 August 2002
Subregional consultative meeting of south-east European countries	Sofia, 30-31 August 2002
Second intersessional meeting of Member States in the Association of South-East Asian Nations	Thailand, 2-4 September 2002
Fourth subregional consultative meeting of African countries	Lilongwe, 2-6 September 2002
Subregional consultative meeting of Member States in the Commonwealth of Independent States	Moscow, 6-7 September 2002
Second subregional consultative meeting of Member States in the Baltic region	Tallinn, 9 September 2002
Third Regional Seminar of Latin America and the Caribbean on the Framework Convention on Tobacco Control	Mexico City, 10-13 September 2002
Third intersessional meeting of the Eastern Mediterranean Region	Manama, 15-20 September 2002
European Region consultative meeting	Helsingør, Denmark, 23-24 September 2002
In preparation for the sixth session of the Intergovernmental Negotiating Body	
Group of the Americas, preparatory meeting	Geneva, 13-15 February 2003
Fifth regional consultative meeting of Member States of the African Region	Dakar, 6-10 February 2003
Intersessional meeting of Member States in the Eastern Mediterranean Region	Geneva, 16 February 2003
European regional preparatory meeting	Geneva, 6-7 February 2003
Fifth intersessional meeting of Member States of the South-East Asia Region	Geneva, 15-16 February 2003

Meeting	Venue, date
Third intersessional meeting of Member States of the Western Pacific Region and Pacific island States	Geneva, 14-15 February 2003
Third intersessional meeting of Member States of the Western Pacific Region and of the Association of South East Asian Nations	Geneva, 15 February 2003

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