The Conference of the Parties (COP),

Recalling the report by the Convention Secretariat on liability contained in document FCTC/COP/5/11;

Noting the report by the expert group on liability that was established pursuant to decision FCTC/COP5(9) contained in document FCTC/COP/6/8;

Recognizing that, as outlined in the expert group’s report, “the marketing of an inherently deadly and addictive product, promoted as a lifestyle consumer good and subject to gradual and still evolving regulation has few, if any, historical parallels”;

Recognizing that, as highlighted in the guiding principles of the WHO FCTC (Article 4.5), “issues relating to liability … are an important part of comprehensive tobacco control” and that Article 19 presents the Parties with an opportunity to hold the tobacco industry legally liable for the harms it causes;

Noting that, according to the expert group’s report contained in document FCTC/COP/6/8, very few Parties have launched any criminal and/or civil liability action and even fewer have taken any legislative, executive, administrative and/or other action against the tobacco industry for full or partial reimbursement of medical, social and other relevant costs related to tobacco use in their jurisdiction, and that Parties require additional guidance to advance implementation,

1. INVITES Parties to share, through the Convention Secretariat’s information platform, relevant information regarding implementation of Article 19; experiences with issues related to tobacco liability; and expertise;
2. REQUESTS the Convention Secretariat to:

(a) develop a database of public institutions and legal and scientific experts, nominated by Parties, with experience in tobacco litigation related to liability, and establish a mechanism for the recommendation of experts, at the request of Parties, engaged in relevant actions; and

(b) prepare, maintain and make available to Parties a comprehensive list of the existing resources that may assist Parties in dealing with civil and criminal liability and other legal challenges where necessary;

3. DECIDES to extend the mandate of the expert group, which shall continue its work as set out in decision FCTC/COP5(9), and shall, prior to COP7, provide a final report on approaches that may assist Parties to strengthen civil liability mechanisms across a variety of legal systems. It shall also report on progress made in the other areas of its mandate;

4. DECIDES that, with the aim of ensuring balanced representation from developed and developing nations, the expert group shall comprise 3 experts per WHO region, and two observers per WHO region with specific expertise in the area of the expert group invited by the Convention Secretariat;

5. REQUESTS the expert group to take into account document FCTC/COP6/8 in its deliberations;

6. FURTHER REQUESTS the Convention Secretariat to make the necessary arrangements including budgetary arrangements, for the expert group to complete its work.

(Fifth plenary meeting, 18 October 2014)