



WORLD HEALTH ORGANIZATION

INTERGOVERNMENTAL NEGOTIATING BODY
ON THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

A/FCTC/INB2/WG2/Conf.Paper No.2

2 May 2001

Second session
Agenda item 4

WHO framework convention on tobacco control

**Textual proposals made in the second meeting of Working Group 2,
Wednesday, 2 May 2001, on sections I.1-7, I.7bis (new), I.13-14, and
I.14bis (new) of document A/FCTC/INB2/2**

[Extract from document A/FCTC/INB2/2]

I. Measures related to the supply of tobacco

(Illicit trade in tobacco products)

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling and counterfeiting, is an essential component of tobacco control.

[End of extract]

Text proposed by Canada

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products and raw leaf tobacco, including smuggling, illicit manufacturing and counterfeiting, is an essential component of tobacco control.

Text proposed by China

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, in particular smuggling and counterfeiting, is an essential component of tobacco control.

Text proposed by the Russian Federation

1. After the words "including smuggling and counterfeiting" insert the phrase "and the improvement and harmonization of national legislation to control the illegal trade in tobacco products", are essential components of tobacco control.

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Text proposed by Syrian Arab Republic

New title: *(Illicit trade in raw tobacco (non-manufactured), tobacco growing and manufacturing equipment (additives, paper, filters) and tobacco products (cigarettes, cigars, pipe tobacco, hukkah tobacco))*

[Extract from document A/FCTC/INB2/2]

2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their international obligations.

[End of extract]

Text proposed by Australia

2. The Parties agree that their measures to address illicit trade in tobacco products shall be transparent and non-discriminatory.

Text proposed by India (on behalf of Member States of the WHO South-East Asian Region)

2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their national and international obligations.

Text proposed by Myanmar

2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their national and international obligations.

Text proposed by Thailand (on behalf of Member States of the WHO South-East Asian Region)

2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their national and international obligations.

[Extract from document A/FCTC/INB2/2]

3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products for retail or wholesale use that are sold or manufactured under its jurisdiction:

- (a) carry a statement indicating the name of the manufacturer, the country of origin, and the product batch-number, including the date of production and expiry;

- (b) carry the statement: "Sales only allowed in [the country where the product is to be placed on the market]."

[End of extract]

Text proposed by Algeria (cosponsored by Member States of the WHO African Region) (see note at the end of the document)

3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products intended for sale, sold or manufactured under its jurisdiction are hermetically sealed. They should also:

- (a) carry a statement indicating the name of the manufacturer, the country of origin, and the product batch-number, including the date of production and expiry;
- (b) carry the statement: "Sales only allowed in [the country where the product is to be placed on the market]";
- (c) carry a general warning and a health information message, as stipulated in article G.1(d)(iv).

Text proposed by Belarus

3. Each Party shall adopt appropriate measures to ensure that all unit packages of any tobacco products and any outside packaging of tobacco products for retail or wholesale use that are sold or manufactured in areas subject to its national legislation:

Text proposed by Brazil

3.

- (b) carry the statement: "Sales only allowed in [the country, subnational, regional or federal unit, where the product is to be placed on the market]."

Text proposed by Canada

3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products and raw leaf tobacco for retail or wholesale use that are sold or manufactured in its territory.

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Text proposed by Cuba

3.

(b) carry the statement: "Sales only allowed [in the country where the product is to be placed on the market]", ensuring that the information appears in the principal language or languages of the country in which the product is to be placed on the market.

(N.B. This amendment entails the deletion of paragraph I.4).

Text proposed by the European Community (and on behalf of its Member States)

3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products for retail or wholesale use that are sold or manufactured under its jurisdiction. Carry a marking in any appropriate manner in order to enable the origin of the product to be identified, to ensure traceability and to enable the place and time of manufacture to be determined such as through the use of approved batch numbering or equivalent.

Text proposed by Israel

(b) Delete.

Text proposed by Jordan

(b) carry the statement: Sales only allowed in the countries where the product is to be placed on the market.

Text proposed by Oman

(a) carry a statement indicating the names of the manufacturer and the importer in the importing country, the country of origin, and the product batch and number, including the date of production and expiry;

Text proposed by Republic of Korea

3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco for retail or wholesale use that are sold or manufactured under its jurisdiction carry a statement indicating the name of the manufacturer and the country of origin, and other statement decided to specify Conference of the Parties.

(N.B. (a) and (b) should be deleted.)

Text proposed by the United States of America

3. Each Party shall take appropriate measures in order to prevent and combat smuggling of tobacco products.

Text proposed by Uzbekistan

3. Each Party shall adopt appropriate measures to ensure that the outside packaging of all unit packets or packages of tobacco products for retail or wholesale use is produced in conformity with national legislation on consumer information in force in the country in which the tobacco product is sold.

(N.B. subparagraphs (a) and (b) should be deleted).

[Extract from document A/FCTC/INB2/2]

4. Each Party shall adopt appropriate measures to ensure that the packaging information specified in paragraph 3 above shall appear in the principal language or languages of the country in whose territory the product is placed on the market.

[End of extract]

Text proposed by Cuba

4. Delete paragraph.

Text proposed by the European Community (and on behalf of its Member States)

4. Each Party shall adopt appropriate measures to ensure that the packaging information specified in paragraph 3 above shall appear in the principal language or languages of the country in whose territory the product is placed on the market, or that the data is presented in another approved form.

Text proposed by the United States of America

4. Delete paragraph.

[Extract from document A/FCTC/INB2/2]

5. Each Party shall undertake the following legislative, executive, and administrative measures in order to prevent and combat illicit trade in tobacco products.

- (a) monitoring and collection of data on cross-border trade in tobacco products, including illicit trade;

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- (b) enactment and/or strengthening of criminal legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition;
- (c) appropriate steps to ensure that all confiscated counterfeit and contraband cigarettes and other such tobacco products are destroyed.

[End of extract]

Text proposed by Australia

5. Each Party shall undertake the following measures in order to prevent and combat illicit trade in tobacco products:

Text proposed by Brazil

- 5.
- (c) appropriate steps to ensure that all confiscated counterfeit and contraband cigarettes and other such tobacco products are destroyed using non-polluting methods.

Text proposed by Canada

5. Each Party shall undertake the following measures in order to prevent and combat illicit trade in tobacco products and raw leaf tobacco:

- (a) by establishing data collection mechanisms to ensure that information on the production and subsequent distribution of all tobacco products and raw leaf tobacco, including imports and exports, is collected and analysed;
- (b) by enacting legislation and regulatory measures, with appropriate penalties and civil remedies, to prohibit the illicit tobacco trade, including illicit manufacturing, smuggling, counterfeiting, and contraband;
- (c) by adopting measures to enable authorities to seize as forfeit contraband tobacco products, including raw leaf tobacco, and other offence-related property, such as tobacco manufacturing equipment and conveyances and to ensure that forfeited tobacco products are destroyed;
- (d) by adopting measures to monitor, document and control the distribution and movement of duty-free and tax-free tobacco products, including raw leaf tobacco;
- (e) by adopting measures to enable the confiscation of proceeds derived from the commission of criminal offences related to the illicit tobacco trade.

Text proposed by China

5.

- (c) Delete paragraph.

Text proposed by the European Community (and on behalf of its Member States)

5. Each Party shall undertake the following legislative, executive, and administrative measures in order to prevent and combat illicit trade in tobacco products:

- (b) prohibition of production of counterfeit tobacco products, trade in contraband tobacco products, and taking of appropriate steps to enforce such prohibition;
- (c) appropriate steps to ensure that all confiscated counterfeit cigarettes and other tobacco products are destroyed, and that contraband tobacco products are either destroyed or are placed on the market according to national legislation.

Text proposed by Georgia

- (b) enactment and/or strengthening of criminal legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition; strengthening punitive sanctions for smuggling so that it is no longer profitable;

Text proposed by India

- (b) enactment and/or strengthening of legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition;

Text proposed by Rwanda

- (b) enactment and/or strengthening of severe criminal legislation, with harsh penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition;

Text proposed by Sudan

5.

- (b) Enactment and strengthening of strict criminal legislation with deterrent penalties and prohibiting the production of and trade in counterfeit and contraband cigarettes and other tobacco products and taking of appropriate steps to enforce such prohibition;

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Text proposed by Syrian Arab Republic

5.

(b) enacting strict criminal legislation providing for deterrent penalties that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition.

(c) determining the fate of counterfeit and contraband tobacco products shall be left to the countries concerned; in cases where they wish to destroy such products, the convention should include texts on a safe method for destroying such products that does not cause damage to the environment and population.

Text proposed by Tunisia

5.

(b) Enactment and strengthening of legislation with appropriate penalties, that prohibits the production of and trade in counterfeit and contraband cigarettes and other such tobacco products, including the prohibition of counterfeiting and initiating the external packaging of such products, and taking of appropriate steps to enforce such prohibition.

Text proposed by the United States of America

5. Delete paragraph.

Text proposed by Venezuela

(a) monitoring and collecting data on cross border trade in tobacco products, including illicit trade, and exchanging information among customs and tax authorities concerned with the trade.

[Extract from document A/FCTC/INB2/2]

6. The Parties shall strengthen cooperation between different national and international agencies in promoting investigations, judicial prosecutions and proceedings relating to illicit trade in tobacco products. The Parties shall further cooperate to promote regular exchange of information to prevent such trade pursuant to Annex [INSERT] to this convention.

[End of extract]

Text proposed by Bolivia

6. The Parties shall strengthen cooperation between different national and international agencies in promoting investigations, judicial prosecutions and proceedings relating to illicit trade in tobacco products. The Parties shall further cooperate in widespread dissemination and promotion of exchanges of information to prevent such trade pursuant to Annex [INSERT] to this convention.

Text proposed by the European Community and on behalf of its Member States)

6. The Parties shall cooperate to promote regular exchange of information to prevent illicit trade pursuant to Annex [INSERT] to this convention.

Text proposed by Israel

6. In accordance with their national legislation and their commitments under international treaties, the Parties shall strengthen cooperation between different national and international agencies in promoting investigations, judicial prosecutions and proceedings relating to illicit trade in tobacco products and cooperate to promote regular exchange of information to prevent such trade pursuant to Annex [INSERT] to this convention.

Text proposed by Latvia

6. The Parties shall cooperate to promote regular exchange of information to prevent illicit trade pursuant to Annex [TO BE INSERTED] to this convention. Special emphasis shall be placed on concerted action of cooperation on regional and subregional levels as the most effective prerequisite for combating smuggling and illicit trade of tobacco products.

Text proposed by Papua New Guinea

6. The Parties shall strengthen cooperation between different national, regional and international agencies in promoting investigations, judicial prosecutions and proceedings relating to illicit trade in tobacco products. The Parties shall further cooperate to promote regular exchange of information to prevent such trade pursuant to Annex [INSERT] to this convention.

Text proposed by the United States of America

6. Delete paragraph 6.

[Extract from document A/FCTC/INB2/2]

7. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures for the elimination of all forms of illicit trade in tobacco products¹

[End of extract]

¹ This provision would be omitted if the Intergovernmental Negotiating Body prepares a protocol on this subject to be adopted simultaneously with the convention.

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Text proposed by Australia

7. [The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures for the elimination of all forms of illicit trade in tobacco products].

Text proposed by the European Community (and on behalf of its Member States)

7. The Conference of the Parties shall either initiate or take forward, the preparation of a protocol setting out appropriate rules and procedures for the elimination of all forms of illicit trade in tobacco products.

[This provision would be omitted if the Intergovernmental Negotiating Body prepares a protocol on this subject to be adopted simultaneously with the convention.]

Text proposed by Iran

7.bis Each Party shall prohibit international delivery or sending of tobacco products, and mail order sales and internet sales, unless the delivery or sending is within the tobacco trade.

[Extract from document A/FCTC/INB2/2]

(Licensing)

13. The Parties recognize that an effective licensing system for retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to children and young persons.

14. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures to licence all tobacco-product retailers.

[End of extract]

Text proposed by Algeria (cosponsored by Member States of the WHO African Region) (see Note at the end of the document)

14. Each Party shall take legislative, executive and administrative measures to subject the sale of tobacco products to the licensing of manufacturers, wholesalers and retailers.

Text proposed by Belarus

13. and 14. In the Russian text only: for the English word "retailers", replace "torgovtsov" by "prodavtsov".

Text proposed by Bosnia and Herzegovina

14. Each party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures to licence all tobacco-product retailers especially vendors of tobacco products in the street, health institutions/hospitals, rehabilitation centres, etc.

Text proposed by Canada

13. The Parties recognize that an effective licensing system for the manufacture, distribution and sale of tobacco products and raw leaf tobacco is an important mechanism to curb illicit trade and to prevent sales to children and young persons.

Text proposed by China

14.

(a) each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures to licence tobacco-product manufacturers, wholesalers and retailers;

(b) legislation and law enforcement shall be reinforced against illegal retail activities by distributors who, after inspection, did not receive a licence, and such sales shall be banned.

Text proposed by Georgia

14. Each Party shall, within the means at its disposal and its capabilities, adopt the legislative, executive and administrative measures for all producers and distributors to be suitably licensed.

Text proposed by India

13. Delete paragraph.

14. Delete paragraph.

Text proposed by Iran

13. The Parties recognize that effective licensing systems for manufacturers, importers, exporters, distributors, and retailers of tobacco products is an important mechanism to implement tobacco control, including effective means to curb illicit trade in tobacco products.

Text proposed by Jordan

13. The Parties recognize that an effective licensing system for retailers of tobacco products and a ban on sales of individual cigarettes constitute an important mechanism.

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Text proposed by Malaysia

14. Each Party shall adopt legislative, executive and administrative measures to license all tobacco product manufacturers, wholesalers, importers, exporters and warehouse operators.

Text proposed by New Zealand

13. The Parties recognize that an effective licensing system for manufacturers importers and distributors is an important mechanism to curb illicit trade in tobacco products. Licensing of retailers may be useful to prevent sales of tobacco products to children and young people.

14. Delete paragraph

Text proposed by Oman

13. The Parties recognize that an effective licensing system for retailers or wholesalers of tobacco or tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to children and young persons.

14. Each Party shall adopt legislative, executive and administrative measures to licence all tobacco-product retailers.

Text proposed by Rwanda

13. The Parties recognize that an effective licensing system for retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to children and young persons, and is also a means of making thousands of petty retailers in developing countries aware of the fact that tobacco is a product that is very dangerous to health.

Text proposed by Saint Lucia

14. The Parties recognize that an effective licensing system for retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to young persons.

**Text proposed by South Africa (cosponsored by Member States of the WHO African Region)
(see note at the end of the document)**

13. The Parties recognize that an effective licensing system for manufacturers, wholesalers and retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent the sales and supply of tobacco products to young persons under the age of 18.

Text proposed by Sweden (and on behalf of the European community and its Member States)

13. The Parties recognize that an effective licensing or registration system for retailers of tobacco products can be *one* mechanism to curb illicit trade in tobacco products and to prevent sales of tobacco products to children and young persons, subject to local conditions.

14. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures to exercise efficient control over all tobacco retailers for example by means of a licensing or tax registration system, or provide other means to identify and regulate the retail trade in these products.

Text proposed by Trinidad and Tobago

13. The Parties recognize that an effective licensing system for manufacturers, importers, exporters, distributors and retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products.

14. The Parties recognize that an effective licensing system is an important mechanism to prevent sales of tobacco products to persons under the age of 18 years.

14.bis Each Party shall adopt legislative, executive and administrative measures to license manufacturers, importers, exporters, distributors and retailers of tobacco products.

Text proposed by the United States of America

13. Delete paragraph

14. Delete paragraph

Text proposed by Uzbekistan

14. Each Party shall adopt legislative, executive and administrative measures to license all tobacco-product wholesalers and retailers.

Note: Member States of the WHO African Region present at INB2: Algeria, Angola, Benin, Burkina Faso, Botswana, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Eritrea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, São Tome and Príncipe, Senegal, Seychelles, Sierra Leone, South Africa, Swaziland, Togo, United Republic of Tanzania, Uganda, Zambia, Zimbabwe.

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